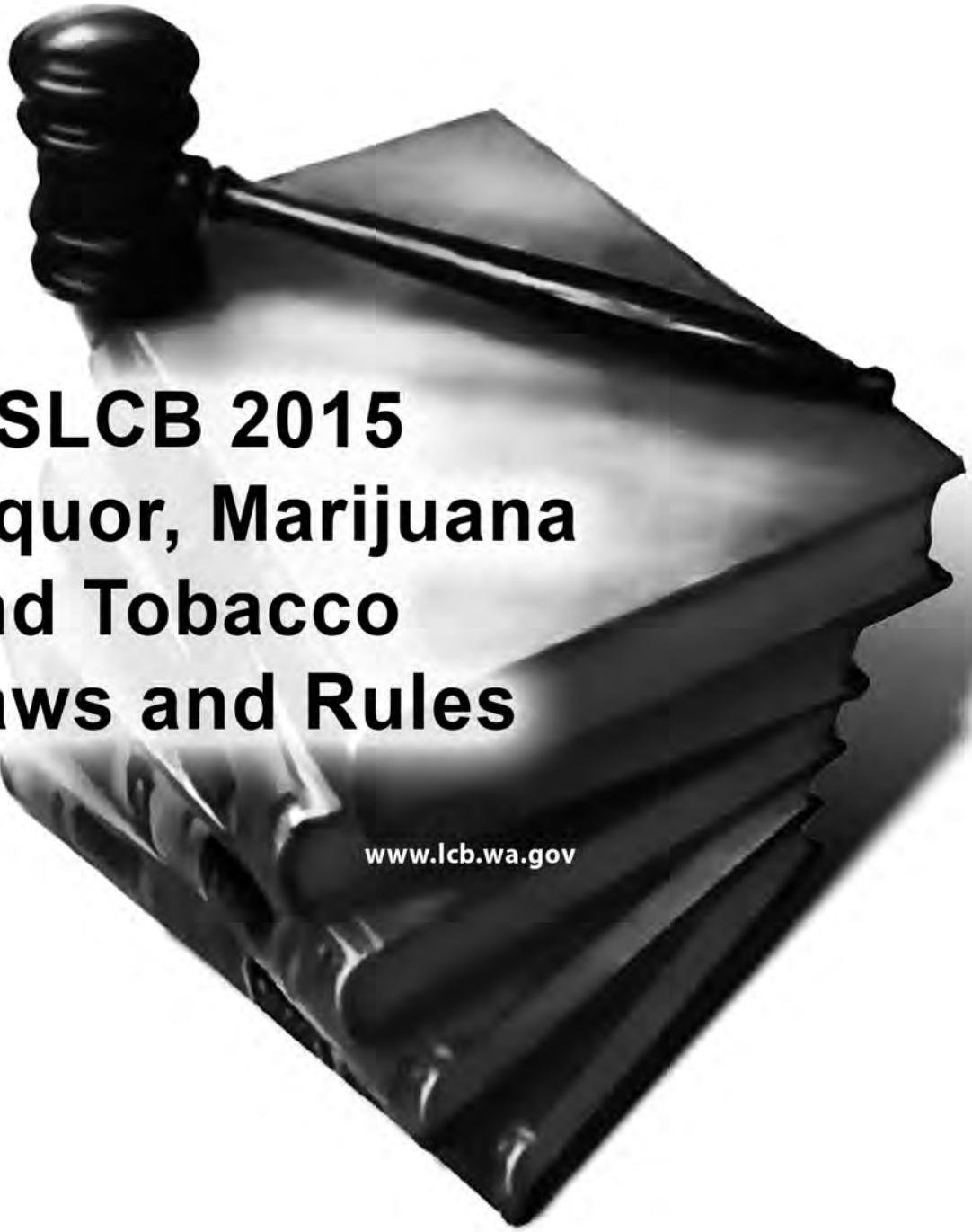
Washington State
Liquor Control Board



WSLCB 2015 Liquor, Marijuana and Tobacco Laws and Rules

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Title 66
ALCOHOLIC BEVERAGE CONTROL

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Chapter 66.04 RCW
DEFINITIONS

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66.04.010 Definitions.
66.04.011 "Public place" not to include certain parks and picnic areas.
66.04.021 "Retailer," "spirits distributor," and "spirits importer."

66.04.010 Definitions. In this title, unless the context otherwise requires:

(1) "Alcohol" is that substance known as ethyl alcohol, hydrated oxide of ethyl, or spirit of wine, which is commonly produced by the fermentation or distillation of grain, starch, molasses, or sugar, or other substances including all dilutions and mixtures of this substance. The term "alcohol" does not include alcohol in the possession of a manufacturer or distiller of alcohol fuel, as described in RCW 66.12.130, which is intended to be denatured and used as a fuel for use in motor vehicles, farm implements, and machines or implements of husbandry.

(2) "Authorized representative" means a person who:

(a) Is required to have a federal basic permit issued pursuant to the federal alcohol administration act, 27 U.S.C. Sec. 204;

(b) Has its business located in the United States outside of the state of Washington;

(c) Acquires ownership of beer or wine for transportation into and resale in the state of Washington; and which beer or wine is produced by a brewery or winery in the United States outside of the state of Washington; and

(d) Is appointed by the brewery or winery referenced in (c) of this subsection as its authorized representative for marketing and selling its products within the United States in accordance with a written agreement between the authorized representative and such brewery or winery pursuant to this title.

(3) "Beer" means any malt beverage, flavored malt beverage, or malt liquor as these terms are defined in this chapter.

(4) "Beer distributor" means a person who buys beer from a domestic brewery, microbrewery, beer certificate of approval holder, or beer importers, or who acquires foreign produced beer from a source outside of the United States, for the purpose of selling the same pursuant to this title, or who represents such brewer or brewery as agent.

(5) "Beer importer" means a person or business within Washington who purchases beer from a beer certificate of approval holder or who acquires foreign produced beer from a source outside of the United States for the purpose of selling the same pursuant to this title.

(6) "Board" means the liquor control board, constituted under this title.

(7) "Brewer" or "brewery" means any person engaged in the business of manufacturing beer and malt liquor. Brewer includes a brand owner of malt beverages who holds a brewer's notice with the federal bureau of alcohol, tobacco, and firearms at a location outside the state and whose malt beverage is contract-produced by a licensed in-state brewery, and who may exercise within the state, under a domestic brewery license, only the privileges of storing, selling to licensed beer distributors, and exporting beer from the state.

(8) "Club" means an organization of persons, incorporated or unincorporated, operated solely for fraternal, benevolent, educational, athletic, or social purposes, and not for pecuniary gain.

(9) "Confection" means a preparation of sugar, honey, or other natural or artificial sweeteners in combination with chocolate, fruits, nuts, dairy products, or flavorings, in the form of bars, drops, or pieces.

(10) "Consume" includes the putting of liquor to any use, whether by drinking or otherwise.

(11) "Contract liquor store" means a business that sells liquor on behalf of the board through a contract with a contract liquor store manager.

(12) "Craft distillery" means a distillery that pays the reduced licensing fee under RCW 66.24.140.

(13) "Dentist" means a practitioner of dentistry duly and regularly licensed and engaged in the practice of his or her profession within the state pursuant to chapter 18.32 RCW.

(14) "Distiller" means a person engaged in the business of distilling spirits.

(15) "Domestic brewery" means a place where beer and malt liquor are manufactured or produced by a brewer within the state.

(16) "Domestic winery" means a place where wines are manufactured or produced within the state of Washington.

(17) "Druggist" means any person who holds a valid certificate and is a registered pharmacist and is duly and regularly engaged in carrying on the business of pharmaceutical chemistry pursuant to chapter 18.64 RCW.

(18) "Drug store" means a place whose principal business is, the sale of drugs, medicines, and pharmaceutical preparations and maintains a regular prescription department and employs a registered pharmacist during all hours the drug store is open.

(19) "Employee" means any person employed by the board.

(20) "Flavored malt beverage" means:

(a) A malt beverage containing six percent or less alcohol by volume to which flavoring or other added nonbeverage ingredients are added that contain distilled spirits of not more than forty-nine percent of the beverage's overall alcohol content; or

(b) A malt beverage containing more than six percent alcohol by volume to which flavoring or other added nonbeverage ingredients are added that contain distilled spirits of not more than one and one-half percent of the beverage's overall alcohol content.

(21) "Fund" means 'liquor revolving fund.'

(22) "Hotel" means buildings, structures, and grounds, having facilities for preparing, cooking, and serving food, that are kept, used, maintained, advertised, or held out to the public to be a place where food is served and sleeping accommodations are offered for pay to transient guests, in which twenty or more rooms are used for the sleeping accommodation of such transient guests. The buildings, structures, and grounds must be located on adjacent property either owned or leased by the same person or persons.

(23) "Importer" means a person who buys distilled spirits from a distillery outside the state of Washington and imports such spirituous liquor into the state for sale to the board or for export.

(24) "Imprisonment" means confinement in the county jail.

(25) "Liquor" includes the four varieties of liquor herein defined (alcohol, spirits, wine, and beer), and all fermented, spirituous, vinous, or malt liquor, or combinations thereof, and mixed liquor, a part of which is fermented, spirituous, vinous or malt liquor, or otherwise intoxicating; and every liquid or solid or semisolid or other substance, patented or not, containing alcohol, spirits, wine, or beer, and all drinks or drinkable liquids and all preparations or mixtures capable of human consumption, and any liquid, semisolid, solid, or other substance, which contains more than one percent of alcohol by weight shall be conclusively deemed to be intoxicating. Liquor does not include confections or food products that contain one percent or less of alcohol by weight.

(26) "Malt beverage" or "malt liquor" means any beverage such as beer, ale, lager beer, stout, and porter obtained by the alcoholic fermentation of an infusion or decoction of pure hops, or pure extract of hops and pure barley malt or other wholesome grain or cereal in pure water containing not more than eight percent of alcohol by weight, and not less than one-half of one percent of alcohol by volume. For the purposes of this title, any such beverage containing more than eight percent of alcohol by weight shall be referred to as "strong beer."

(27) "Manufacturer" means a person engaged in the preparation of liquor for sale, in any form whatsoever.

(28) "Nightclub" means an establishment that provides entertainment and has as its primary source of revenue (a) the sale of alcohol for consumption on the premises, (b) cover charges, or (c) both.

(29) "Package" means any container or receptacle used for holding liquor.

(30) "Passenger vessel" means any boat, ship, vessel, barge, or other floating craft of any kind carrying passengers for compensation.

(31) "Permit" means a permit for the purchase of liquor under this title.

(32) "Person" means an individual, copartnership, association, or corporation.

(33) "Physician" means a medical practitioner duly and regularly licensed and engaged in the practice of his or her profession within the state pursuant to chapter 18.71 RCW.

(34) "Prescription" means a memorandum signed by a physician and given by him or her to a patient for the obtaining of liquor pursuant to this title for medicinal purposes.

(35) "Public place" includes streets and alleys of incorporated cities and towns; state or county or township highways or roads; buildings and grounds used for school purposes; public dance halls and grounds adjacent thereto; those parts of establishments where beer may be sold under this title, soft drink establishments, public buildings, public meeting halls, lobbies, halls and dining rooms of hotels, restaurants, theatres, stores, garages and filling stations which are open to and are generally used by the public and to which the public is permitted to have unrestricted access; railroad trains, stages, and other public conveyances of all kinds and character, and the depots and waiting rooms used in conjunction therewith which are open to unrestricted use and access by the public; publicly owned bathing beaches, parks, and/or playgrounds; and all other places of like or similar nature to which the general public has unrestricted right of access, and which are generally used by the public.

(36) "Regulations" means regulations made by the board under the powers conferred by this title.

(37) "Restaurant" means any establishment provided with special space and accommodations where, in consideration of payment, food, without lodgings, is habitually furnished to the public, not including drug stores and soda fountains.

(38) "Sale" and "sell" include exchange, barter, and traffic; and also include the selling or supplying or distributing, by any means whatsoever, of liquor, or of any liquid known or described as beer or by any name whatever commonly used to describe malt or brewed liquor or of wine, by any person to any person; and also include a sale or selling within the state to a foreign consignee or his or her agent in the state. "Sale" and "sell" shall not include the giving, at no charge, of a reasonable amount of liquor by a person not licensed by the board to a person not licensed by the board, for personal use only. "Sale" and "sell" also does not include a raffle authorized under RCW 9.46.0315: PROVIDED, That the nonprofit organization conducting the raffle has obtained the appropriate permit from the board.

(39) "Service bar" means a fixed or portable table, counter, cart, or similar work station primarily used to prepare, mix, serve, and sell alcohol that is picked up by employees or customers. Customers may not be seated or allowed to consume food or alcohol at a service bar.

(40) "Soda fountain" means a place especially equipped with apparatus for the purpose of dispensing soft drinks, whether mixed or otherwise.

(41) "Spirits" means any beverage which contains alcohol obtained by distillation, except flavored malt beverages, but including wines exceeding twenty-four percent of alcohol by volume.

(42) "Store" means a state liquor store established under this title.

(43) "Tavern" means any establishment with special space and accommodation for sale by the glass and for consumption on the premises, of beer, as herein defined.

(44) "VIP airport lounge" means an establishment within an international airport located beyond security checkpoints that provides a special space to sit, relax, read, work, and enjoy beverages where access is controlled by the VIP airport lounge operator and is generally limited to the following classifications of persons:

(a) Airline passengers of any age whose admission is based on a first-class, executive, or business class ticket;

(b) Airline passengers of any age who are qualified members or allowed guests of certain frequent flyer or other loyalty incentive programs maintained by airlines that have agreements describing the conditions for access to the VIP airport lounge;

(c) Airline passengers of any age who are qualified members or allowed guests of certain enhanced amenities programs maintained by companies that have agreements describing the conditions for access to the VIP airport lounge;

(d) Airport and airline employees, government officials, foreign dignitaries, and other attendees of functions held by the airport authority or airlines related to the promotion of business objectives such as increasing international air traffic and enhancing foreign trade where access to the VIP airport lounge will be controlled by the VIP airport lounge operator; and

(e) Airline passengers of any age or airline employees whose admission is based on a pass issued or permission given by the airline for access to the VIP airport lounge.

(45) "VIP airport lounge operator" means an airline, port district, or other entity operating a VIP airport lounge that: Is accountable for compliance with the alcohol beverage control act under this title; holds the license under chapter 66.24 RCW issued to the VIP airport lounge; and provides a point of contact for addressing any licensing and enforcement by the board.

(46)(a) "Wine" means any alcoholic beverage obtained by fermentation of fruits (grapes, berries, apples, et cetera) or other agricultural product containing sugar, to which any saccharine substances may have been added before, during or after fermentation, and containing not more than twenty-four percent of alcohol by volume, including sweet wines fortified with wine spirits, such as port, sherry, muscatel, and angelica, not exceeding twenty-four percent of alcohol by volume and not less than one-half of one percent of alcohol by volume. For purposes of this title, any beverage containing no more than fourteen percent of alcohol by volume when bottled or packaged by the manufacturer shall be referred to as "table wine," and any beverage containing alcohol in an amount more than fourteen percent by volume when bottled or packaged by the manufacturer shall be referred to as "fortified wine." However, "fortified wine" shall not include: (i) Wines that are both sealed or capped by cork closure and aged two years or more; and (ii) wines that contain more than fourteen percent alcohol by volume solely as a result of the natural fermentation process and that have not been produced with the addition of wine spirits, brandy, or alcohol.

(b) This subsection shall not be interpreted to require that any wine be labeled with the designation "table wine" or "fortified wine."

(47) "Wine distributor" means a person who buys wine from a domestic winery, wine certificate of approval holder, or wine importer, or who acquires foreign produced wine from a source outside of the United States, for the purpose of selling the same not in violation of this title, or who represents such vintner or winery as agent.

(48) "Wine importer" means a person or business within Washington who purchases wine from a wine certificate of approval holder or who acquires foreign produced wine from a source outside of the United States for the purpose of selling the same pursuant to this title.

(49) "Winery" means a business conducted by any person for the manufacture of wine for sale, other than a domestic winery. [2012 c 117 § 264. Prior: 2011 c 325 § 2; 2011 c 195 § 3; prior: 2009 c 373 § 1; 2009 c 271 § 2; 2008 c 94 § 4; (2008 c 94 § 3 expired July 1, 2008); prior: 2007 c 370 § 10; 2007 c 226 § 1; prior: 2006 c 225 § 1; 2006 c 101 § 1; 2005 c 151 § 1; 2004 c 160 § 1; 2000 c 142 § 1; 1997 c 321 § 37; 1991 c 192 § 1; 1987 c 386 § 3; 1984 c 78 § 5; 1982 c 39 § 1; 1981 1st ex.s. c 5 § 1; 1980 c 140 § 3; 1969 ex.s. c 21 § 13; 1935 c 158 § 1; 1933 ex.s. c 62 § 3; RRS § 7306-3. Formerly RCW 66.04.010 through 66.04.380.]

Effective date—2008 c 94 §§ 4 and 11: "Sections 4 and 11 of this act take effect July 1, 2008." [2008 c 94 § 13.]

Expiration date—2008 c 94 § 3: "Section 3 of this act expires July 1, 2008." [2008 c 94 § 12.]

Effective date—2007 c 370 §§ 10-20: "Sections 10 through 20 of this act take effect July 1, 2008." [2007 c 370 § 23.]

Finding and declaration—Severability—1984 c 78: See notes following RCW 66.12.160.

Additional notes found at www.leg.wa.gov

66.04.011 "Public place" not to include certain parks and picnic areas. "Public place" as defined in this title shall not include (a) any of those parks under the control of the state parks and recreation commission, nor, (b) parks and picnic areas adjacent to and held by the same ownership as licensed brewers and domestic wineries for the consumption of beer and wine produced by the respective brewery or winery, as prescribed by regulation adopted by the board pursuant to chapter 34.05 RCW. [1977 ex.s. c 219 § 1; 1971 ex.s. c 208 § 3.]

66.04.021 "Retailer," "spirits distributor," and "spirits importer." In this title, unless the context otherwise requires:

(1) "Retailer" except as expressly defined by RCW 66.28.285(5) with respect to its use in RCW 6.28.280 [66.28.280] through 66.28.315, means the holder of a license or permit issued by the board authorizing sale of liquor to consumers for consumption on and/or off the premises. With respect to retailer licenses, "on-sale" refers to the license privilege of selling for consumption upon the licensed premises.

(2) "Spirits distributor" means a person, other than a person who holds only a retail license, who buys spirits from a domestic distiller, manufacturer, supplier, spirits distributor, or spirits importer, or who acquires foreign-produced spirits from a source outside of the United States, for the purpose of reselling the same not in violation of this title, or who represents such distiller as agent.

(3) "Spirits importer" means a person who buys distilled spirits from a distiller outside the state of Washington and imports such spirits into the state for sale or export. [2012 c 2 § 125 (Initiative Measure No. 1183, approved November 8, 2011).]

Finding—Application—Rules—Effective date—Contingent effective date—2012 c 2 (Initiative Measure No. 1183): See notes following RCW 66.24.620.

Chapter 66.08 RCW
LIQUOR CONTROL BOARD—GENERAL PROVISIONS

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66.08.010 Title liberally construed.
66.08.012 Creation of board—Chair—Quorum—Salary.
66.08.014 Terms of members—Vacancies—Principal office—Removal—Devotion of time to duties—Bond—Oath.
66.08.016 Employees of the board.
66.08.020 Liquor control board to administer.
66.08.022 Attorney general is general counsel of board—Duties—Assistants.
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66.08.050 Powers of board in general.
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66.08.170 Liquor revolving fund—Creation—Composition—State treasurer as custodian—Daily deposits, exceptions—Budget and accounting act applicable.
66.08.180 Liquor revolving fund—Distribution—Reserve for administration—Disbursement to universities and state agencies.
66.08.190 Liquor revolving fund—Disbursement of excess funds to border areas, counties, cities, and towns—Disbursements to the municipal research and services center.
66.08.195 Liquor revolving fund—Definition of terms relating to border areas.
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66.08.200 Liquor revolving fund—Computation for distribution to counties—"Unincorporated area" defined.
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66.08.230 Initial disbursement to wine commission—Repayment.
66.08.240 Transfer of funds pursuant to government service agreement.
66.08.250 Report on streamlining liquor tax collection.

Minors, access to tobacco, role of liquor control board: Chapter 70.155 RCW.

Public bodies may retain collection agencies to collect public debts—Fees: RCW 19.16.500.

66.08.010 Title liberally construed. This entire title shall be deemed an exercise of the police power of the state, for the protection of the welfare, health, peace, morals, and safety of the people of the state, and all its provisions shall be liberally construed for the accomplishment of that purpose. [1933 ex.s. c 62 § 2; RRS § 7306-2.]

66.08.012 Creation of board—Chair—Quorum—Salary. There shall be a board, known as the "Washington state liquor control board," consisting of three members, to be appointed by the governor, with the consent of the senate, who shall each be paid an annual salary to be fixed by the governor in accordance with the provisions of RCW 43.03.040. The governor may, in his or her discretion, appoint one of the members as chair of the board, and a majority of the members shall constitute a quorum of the board. [2012 c 117 § 265; 1961 c 307 § 7; 1949 c 5 § 8; 1945 c 208 § 1; 1937 c 225 § 1; 1933 ex.s. c 62 § 63; Rem. Supp. 1949 § 7306-63. Formerly RCW 43.66.010.]

Additional notes found at www.leg.wa.gov

66.08.014 Terms of members—Vacancies—Principal office—Removal—Devotion of time to duties—Bond—Oath. (1) The members of the board to be appointed after December 2, 1948, shall be appointed for terms beginning January 15, 1949, and expiring as follows: One member of the board for a term of three years from January 15, 1949; one member of the board for a term of six years from January 15, 1949; and one member of the board for a term of nine years from January 15, 1949. Each of the members of the board appointed hereunder shall hold office until his or her successor is appointed and qualified. After June 11, 1986, the term that began on January 15, 1985, will end on January 15, 1989, the term beginning on January 15, 1988, will end on January 15, 1993, and the term beginning on January 15, 1991, will end on January 15, 1997. Thereafter, upon the expiration of the term of any member appointed after June 11, 1986, each succeeding member of the board shall be appointed and hold office for the term of six years. In case of a vacancy, it shall be filled by appointment by the governor for the unexpired portion of the term in which said vacancy occurs. No vacancy in the membership of the board shall impair the right of the remaining member or members to act, except as herein otherwise provided.

(2) The principal office of the board shall be at the state capitol, and it may establish such other offices as it may deem necessary.

(3) Any member of the board may be removed for inefficiency, malfeasance, or misfeasance in office, upon specific written charges filed by the governor, who shall transmit such written charges to the member accused and to the chief justice of the supreme court. The chief justice shall thereupon designate a tribunal composed of three judges of the superior court to hear and adjudicate the charges. Such tribunal shall fix the time of the hearing, which shall be public, and the procedure for the hearing, and the decision of such tribunal shall be final and not subject to review by the supreme court. Removal of any member of the board by the tribunal shall disqualify such member for reappointment.

(4) Each member of the board shall devote his or her entire time to the duties of his or her office and no member of the board shall hold any other public office. Before entering upon the duties of his or her office, each of said members of the board shall enter into a surety bond executed by a surety

company authorized to do business in this state, payable to the state of Washington, to be approved by the governor in the penal sum of fifty thousand dollars conditioned upon the faithful performance of his or her duties, and shall take and subscribe to the oath of office prescribed for elective state officers, which oath and bond shall be filed with the secretary of state. The premium for said bond shall be paid by the board. [2012 c 117 § 266; 1986 c 105 § 1; 1949 c 5 § 9; 1947 c 113 § 1; 1945 c 208 § 2; 1933 ex.s. c 62 § 64; Rem. Supp. 1949 § 7306-64. Formerly RCW 43.66.020.]

Additional notes found at www.leg.wa.gov

66.08.016 Employees of the board. The board may employ such number of employees as in its judgment are required from time to time. [1961 c 1 § 30 (Initiative Measure No. 207, approved November 8, 1960); 1947 c 113 § 2; 1933 ex.s. c 62 § 65; Rem. Supp. 1947 § 7306-65. Formerly RCW 43.66.030.]

66.08.020 Liquor control board to administer. The administration of this title is vested in the liquor control board, constituted under this title. [2012 c 2 § 202 (Initiative Measure No. 1183, approved November 8, 2011); 1933 ex.s. c 62 § 5; RRS § 7306-5.]

Finding—Application—Rules—Effective date—Contingent effective date—2012 c 2 (Initiative Measure No. 1183): See notes following RCW 66.24.620.

66.08.022 Attorney general is general counsel of board—Duties—Assistants. The attorney general shall be the general counsel of the liquor control board and he or she shall institute and prosecute all actions and proceedings which may be necessary in the enforcement and carrying out of the provisions of this chapter and this title.

He or she shall assign such assistants as may be necessary to the exclusive duty of assisting the liquor control board in the enforcement of this title. [2012 c 117 § 267; 1961 ex.s. c 6 § 2; 1933 ex.s. c 62 § 66; RRS § 7306-66. Formerly RCW 43.66.140.]

Additional notes found at www.leg.wa.gov

66.08.024 Annual audit—State auditor's duties—Additional audits—Public records. The state auditor shall audit the books, records, and affairs of the board annually. The board may provide for additional audits by certified public accountants. All such audits shall be public records of the state. The payment of the audits provided for in this section shall be paid as provided in RCW 66.08.026 for other administrative expenses. [1987 c 74 § 1; 1981 1st ex.s. c 5 § 2; 1961 ex.s. c 6 § 3; 1937 c 138 § 1; 1935 c 174 § 12; 1933 ex.s. c 62 § 71; RRS § 7306-71. Formerly RCW 43.66.150.]

Additional notes found at www.leg.wa.gov

66.08.026 Appropriation and payment of administrative expenses from liquor revolving fund—"Administrative expenses" defined. Administrative expenses of the board must be appropriated and paid from the liquor revolving fund. These administrative expenses include, but not be [are not] limited to: The salaries and expenses of the board and its employees, legal services, pilot projects, annual or other audits, and other general costs of conducting the business of the board. The administrative expenses do not include those amounts distributed pursuant to RCW 66.08.180, 66.08.190, 66.08.200, or 66.08.210. Agency commissions for contract liquor stores must be established by the liquor control board after consultation with and approval by the director of the office of financial management. All expenditures and payment of obligations authorized by this section are subject to the allotment requirements of chapter 43.88 RCW. [2012 c 2 § 203 (Initiative Measure No. 1183, approved November 8, 2011); 2008 c 67 § 1; 2005 c 151 § 2; 2004 c 63 § 1; 2001 c 313 § 1; 1998 c 265 § 2; 1997 c 148 § 1; 1996 c 291 § 3; 1983 c 160 § 2; 1963 c 239 § 1; 1961 ex.s. c 6 § 4. Formerly RCW 43.66.161.]

Finding—Application—Rules—Effective date—Contingent effective date—2012 c 2 (Initiative Measure No. 1183): See notes following RCW 66.24.620.

Effective date—2008 c 67: "This act takes effect July 1, 2009." [2008 c 67 § 2.]

Intent—1998 c 265: "It is the intent of the legislature that expenditures associated with the implementation of using credit and debit cards in state liquor stores and agency liquor vendor stores not have a negative impact to the liquor revolving fund balance and that transfers to the state general fund, the cities, and the counties not be reduced because of these costs." [1998 c 265 § 1.]

Additional notes found at www.leg.wa.gov

66.08.030 Regulations—Scope. The power of the board to make regulations under chapter 34.05 RCW extends to:

(1) Prescribing the duties of the employees of the board, and regulating their conduct in the discharge of their duties;

(2) Prescribing an official seal and official labels and stamps and determining the manner in which they must be attached to every package of liquor sold or sealed under this title, including the prescribing of different official seals or different official labels for different classes of liquor;

(3) Prescribing forms to be used for purposes of this title or the regulations, and the terms and conditions to be contained in permits and licenses issued under this title, and the qualifications for receiving a permit or license issued under this title, including a criminal history record information check. The board may submit the criminal history record information check to the Washington state patrol and to the identification division of the federal bureau of investigation in order that these agencies may search their records for prior arrests and convictions of the individual or individuals who filled out the forms. The board must require fingerprinting of any applicant whose criminal history record information check is submitted to the federal bureau of investigation;

(4) Prescribing the fees payable in respect of permits and licenses issued under this title for which no fees are prescribed in this title, and prescribing the fees for anything done or permitted to be done under the regulations;

(5) Prescribing the kinds and quantities of liquor which may be kept on hand by the holder of a special permit for the purposes named in the permit, regulating the manner in which the same is kept and disposed of, and providing for the inspection of the same at any time at the instance of the board;

(6) Regulating the sale of liquor kept by the holders of licenses which entitle the holder to purchase and keep liquor for sale;

(7) Prescribing the records of purchases or sales of liquor kept by the holders of licenses, and the reports to be made thereon to the board, and providing for inspection of the records so kept;

(8) Prescribing the kinds and quantities of liquor for which a prescription may be given, and the number of prescriptions which may be given to the same patient within a stated period;

(9) Prescribing the manner of giving and serving notices required by this title or the regulations, where not otherwise provided for in this title;

(10) Regulating premises in which liquor is kept for export from the state, or from which liquor is exported, prescribing the books and records to be kept therein and the reports to be made thereon to the board, and providing for the inspection of the premises and the books, records and the liquor so kept;

(11) Prescribing the conditions and qualifications requisite for the obtaining of club licenses and the books and records to be kept and the returns to be made by clubs, prescribing the manner of licensing clubs in any municipality or other locality, and providing for the inspection of clubs;

(12) Prescribing the conditions, accommodations, and qualifications requisite for the obtaining of licenses to sell beer, wines, and spirits, and regulating the sale of beer, wines, and spirits thereunder;

(13) Specifying and regulating the time and periods when, and the manner, methods and means by which manufacturers must deliver liquor within the state; and the time and periods when, and the manner, methods and means by which liquor may lawfully be conveyed or carried within the state;

(14) Providing for the making of returns by brewers of their sales of beer shipped within the state, or from the state, showing the gross amount of such sales and providing for the inspection of brewers' books and records, and for the checking of the accuracy of any such returns;

(15) Providing for the making of returns by the wholesalers of beer whose breweries are located beyond the boundaries of the state;

(16) Providing for the making of returns by any other liquor manufacturers, showing the gross amount of liquor produced or purchased, the amount sold within and exported from the state, and to whom so sold or exported, and providing for the inspection of the premises of any such liquor manufacturers, their books and records, and for the checking of any such return;

(17) Providing for the giving of fidelity bonds by any or all of the employees of the board. However, the premiums therefor must be paid by the board;

(18) Providing for the shipment of liquor to any person holding a permit and residing in any unit which has, by election pursuant to this title, prohibited the sale of liquor therein;

(19) Prescribing methods of manufacture, conditions of sanitation, standards of ingredients, quality and identity of alcoholic beverages manufactured, sold, bottled, or handled by licensees and the board; and conducting from time to time, in the interest of the public health and general welfare, scientific studies and research relating to alcoholic beverages and the use and effect thereof;

(20) Seizing, confiscating and destroying all alcoholic beverages manufactured, sold or offered for sale within this state which do not conform in all respects to the standards prescribed by this title or the regulations of the board. However, nothing herein contained may be construed as authorizing the liquor board to prescribe, alter, limit or in any way change the present law as to the quantity or percentage of alcohol used in the manufacturing of wine or other alcoholic beverages;

(21) Monitoring and regulating the practices of license holders as necessary in order to prevent the theft and illegal trafficking of liquor pursuant to RCW 66.28.350. [2014 c 63 § 2; 2012 c 2 § 204 (Initiative Measure No. 1183, approved November 8, 2011); 2002 c 119 § 2; 1977 ex.s. c 115 § 1; 1971 c 62 § 1; 1943 c 102 § 1; 1933 ex.s. c 62 § 79; RRS § 7306-79. Formerly RCW 66.08.030 and 66.08.040.]

Finding—Application—Rules—Effective date—Contingent effective date—2012 c 2 (Initiative Measure No. 1183): See notes following RCW 66.24.620.

66.08.050 Powers of board in general. The board, subject to the provisions of this title and the rules, must:

(1) Determine the nature, form and capacity of all packages to be used for containing liquor kept for sale under this title;

(2) Execute or cause to be executed, all contracts, papers, and documents in the name of the board, under such regulations as the board may fix;

(3) Pay all customs, duties, excises, charges and obligations whatsoever relating to the business of the board;

(4) Require bonds from all employees in the discretion of the board, and to determine the amount of fidelity bond of each such employee;

(5) Perform services for the state lottery commission to such extent, and for such compensation, as may be mutually agreed upon between the board and the commission;

(6) Accept and deposit into the general fund-local account and disburse, subject to appropriation, federal grants or other funds or donations from any source for the purpose of improving public awareness of the health risks associated with alcohol consumption by youth and the abuse of alcohol by adults in Washington state. The board's alcohol awareness program must cooperate with federal and state agencies, interested organizations, and individuals to effect an active public beverage alcohol awareness program;

(7) Monitor and regulate the practices of licensees as necessary in order to prevent the theft and illegal trafficking of liquor pursuant to RCW 66.28.350;

(8) Perform all other matters and things, whether similar to the foregoing or not, to carry out the provisions of this title, and has full power to do each and every act necessary to the conduct of its regulatory functions, including all supplies procurement, preparation and approval of forms, and every other undertaking necessary to perform its regulatory functions whatsoever, subject only to audit by the state auditor. However, the board has no authority to regulate the content of spoken language on licensed premises where wine and other liquors are served and where there is not a clear and present danger of disorderly conduct being provoked by such language or to restrict advertising of lawful prices. [2014 c 63 § 3; 2012 c 2 § 107 (Initiative Measure No. 1183, approved

November 8, 2011); (2011 1st sp.s. c 45 § 7 repealed by 2012 c 2 § 216 (Initiative Measure No. 1183)); (2011 c 186 § 2 expired December 1, 2012); 2005 c 151 § 3; 1997 c 228 § 1; 1993 c 25 § 1; 1986 c 214 § 2; 1983 c 160 § 1; 1975 1st ex.s. c 173 § 1; 1969 ex.s. c 178 § 1; 1963 c 239 § 3; 1935 c 174 § 10; 1933 ex.s. c 62 § 69; RRS § 7306-69.]

Finding—Application—Rules—Effective date—Contingent effective date—2012 c 2 (Initiative Measure No. 1183): See notes following RCW 66.24.620.

Spirit sampling—Liquor store pilot project—2011 c 186: "(1) The liquor control board shall establish a pilot project to allow spirits sampling in state liquor stores as defined in RCW 66.16.010 and contract stores as defined in RCW 66.04.010(11) for the purpose of promoting the sponsor's products. For purposes of this section, "sponsors" means: A domestic distiller licensed under RCW 66.24.140 or an accredited representative of a distiller, manufacturer, importer, or distributor of spirituous liquor licensed under RCW 66.24.310.

(a) The pilot project shall consist of thirty locations with at least six samplings to be conducted at each location between September 1, 2011, and September 1, 2012. However, no state liquor store or contract store may hold more than one spirits sampling per week during the project period.

(b) The pilot project locations shall be determined by the board. Before the board determines which state liquor stores or contract stores will be eligible to participate in the sampling pilot, it shall give:

(i) Due consideration to the location of the state liquor store or contract store with respect to the proximity of places of worship, schools, and public institutions;

(ii) Due consideration to motor vehicle accident data in the proximity of the state liquor store or contract store; and

(iii) Written notice by certified mail of the proposed spirits sampling to places of worship, schools, and public institutions within five hundred feet of the liquor store proposed to offer spirits sampling.

(c) Sampling must be conducted under the following conditions:

(i) Sampling may take place only in an area of a state liquor store or contract store in which access to persons under twenty-one years of age is prohibited;

(ii) Samples may be provided free of charge;

(iii) Only persons twenty-one years of age or over may sample spirits;

(iv) Each sample must be one-quarter ounce or less, with no more than one ounce of samples provided per person per day;

(v) Only sponsors may serve samples;

(vi) Any person involved in the serving of such samples must have completed a mandatory alcohol server training program;

(vii) No person who is apparently intoxicated may sample spirits;

(viii) The product provided for sampling must be available for sale at the state liquor store or contract store where the sampling occurs at the time of the sampling; and

(ix) Customers must remain on the state liquor store or contract store premise while consuming samples.

(d) The liquor control board may prohibit sampling at a pilot project location that is within the boundaries of an alcohol impact area recognized by resolution of the board if the board finds that the sampling activities at the location are having an adverse effect on the reduction of chronic public inebriation in the area.

(e) All other criteria needed to establish and monitor the pilot project shall be determined by the board.

(f) The board shall report on the pilot project to the appropriate committees of the legislature by December 1, 2012. The board's report shall include the results of a survey of liquor store managers and contract liquor store managers.

(2) The liquor control board may adopt rules to implement this section." [2011 c 186 § 1.]

Expiration date—2011 c 186: "This act expires December 1, 2012." [2011 c 186 § 5.]

Minors, access to tobacco, role of liquor control board: Chapter 70.155 RCW.

Additional notes found at www.leg.wa.gov

66.08.0501 Adoption of rules. The liquor control board may adopt appropriate rules pursuant to chapter 34.05 RCW for the purpose of carrying out the provisions of chapter 321, Laws of 1997. [1997 c 321 § 56.]

Additional notes found at www.leg.wa.gov

66.08.055 Oaths may be administered and affidavits, declarations received. Every member of the board, and every employee authorized by the board to issue permits under this title may administer any oath and take and receive any affidavit or declaration required under this title or the regulations. [1933 ex.s. c 62 § 80; RRS § 7306-80. Formerly RCW 43.66.050.]

66.08.060 Advertising regulations. The board has power to adopt any and all reasonable rules as to the kind, character, and location of advertising of liquor. [2012 c 2 § 108 (Initiative Measure No. 1183, approved November 8, 2011); 2005 c 231 § 3; 1933 ex.s. c 62 § 43; RRS § 7306-43.]

Finding—Application—Rules—Effective date—Contingent effective date—2012 c 2 (Initiative Measure No. 1183): See notes following RCW 66.24.620.

66.08.080 Interest in manufacture or sale of liquor prohibited. Except as provided by chapter 42.52 RCW, no member of the board and no employee of the board shall have any interest, directly or indirectly, in the manufacture of liquor or in any liquor sold under this title, or derive any profit or remuneration from the sale of liquor, other than the salary or wages payable to him or her in respect of his or her office or position, and shall receive no gratuity from any person in connection with such business. [2012 c 117 § 268; 1994 c 154 § 313; 1981 1st ex.s. c 5 § 3; 1933 ex.s. c 62 § 68; RRS § 7306-68.]

Additional notes found at www.leg.wa.gov

66.08.090 Sale of liquor by employees of board. No employee shall sell liquor in any other place, nor at any other time, nor otherwise than as authorized by the board under this title and the regulations. [1933 ex.s. c 62 § 31; RRS § 7306-31.]

66.08.095 Liquor for training or investigation purposes. The liquor control board may provide liquor at no charge, including liquor forfeited under chapter 66.32 RCW, to recognized law enforcement agencies within the state when the law enforcement agency will be using the liquor for bona fide law enforcement training or investigation purposes. [1993 c 26 § 3.]

66.08.100 Jurisdiction of action against board—Immunity from personal liability of members. No court of the state of Washington other than the superior court of Thurston county shall have jurisdiction over any action or proceeding against the board or any member thereof for anything done or omitted to be done in or arising out of the performance of his or her or their duties under this title. Neither the board nor any member or members thereof shall be personally liable in any action at law for damages sustained by any person because of any acts performed or done or omitted to be done by the board or any employee of the board in the performance of his or her duties and in the administration of this title. [2012 c 117 § 269; 1935 c 174 § 9 (adding new section 62-A to 1933 ex.s. c 62); RRS § 7306-62A. Formerly RCW 66.08.100 and 66.08.110.]

66.08.120 Preemption of field by state—Exception. No municipality or county shall have power to license the sale of, or impose an excise tax upon, liquor as defined in this title, or to license the sale or distribution thereof in any manner; and any power now conferred by law on any municipality or county to license premises which may be licensed under this section, or to impose an excise tax upon liquor, or to license the sale and distribution thereof, as defined in this title, shall be suspended and shall be of no further effect: PROVIDED, That municipalities and counties shall have power to adopt police ordinances and regulations not in conflict with this title or with the regulations made by the board. [1933 ex.s. c 62 § 29; RRS § 7306-29.]

66.08.130 Inspection of books and records—Goods possessed or shipped—Refusal as violation. For the purpose of obtaining information concerning any matter relating to the administration or enforcement of this title, the board, or any person appointed by it in writing for the purpose, may inspect the books and records of

(1) any manufacturer;

(2) any license holder;

(3) any drug store holding a permit to sell on prescriptions;

(4) the freight and express books and records and all waybills, bills of lading, receipts and documents in the possession of any common carrier doing business within the state, containing any information or record relating to any goods shipped or carried, or consigned or received for shipment or carriage within the state. Every manufacturer, license holder, drug store holding a permit to sell on prescriptions, and common carrier, and every owner or officer or employee of the foregoing, who neglects or refuses to produce and submit for inspection any book, record or document referred to in this section when requested to do so by the board or by a person so appointed by it shall be guilty of a violation of this title. [1981 1st ex.s. c 5 § 4; 1933 ex.s. c 62 § 56; RRS § 7306-56.]

Additional notes found at www.leg.wa.gov

66.08.140 Inspection of books and records—Financial dealings—Penalty for refusal. For the purpose of obtaining information concerning any matter relating to the administration or enforcement of this title, the board, or any person appointed by it in writing for the purpose, may inspect the books, documents and records of any person lending money to or in any manner financing any license, holder or applicant for license insofar as such books, documents and/or records pertain to the financial transaction involved. Every person who neglects or refuses to produce and submit for inspection any book, record or document as required by this section when requested to do so by the board or by a person duly appointed by it shall be guilty of a violation of this title. [1945 c 48 § 1 (adding new section 56-A to 1933 ex.s. c 62); RRS § 7306-56A.]

66.08.145 Subpoena issuing authority. (1) The liquor control board may issue subpoenas in connection with any investigation, hearing, or proceeding for the production of books, records, and documents held under this chapter or chapters 70.155, 70.158, 82.24, and 82.26 RCW, and books and records of common carriers as defined in RCW 81.80.010, or vehicle rental agencies relating to the transportation or possession of cigarettes or other tobacco products.

(2) The liquor control board may designate individuals authorized to sign subpoenas.

(3) If any person is served a subpoena from the board for the production of records, documents, and books, and fails or refuses to obey the subpoena for the production of records, documents, and books when required to do so, the person is subject to proceedings for contempt, and the board may institute contempt of court proceedings in the superior court of Thurston county or in the county in which the person resides. [2007 c 221 § 1.]

66.08.150 Board's action as to permits and licenses—Administrative procedure act, applicability—Adjudicative proceeding—Opportunity for hearing—Summary suspension. The action, order, or decision of the board as to any denial of an application for the reissuance of a permit or license or as to any revocation, suspension, or modification of any permit or license must be an adjudicative proceeding and subject to the applicable provisions of chapter 34.05 RCW.

(1) An opportunity for a hearing may be provided an applicant for the reissuance of a permit or license prior to the disposition of the application, and if no such opportunity for a prior hearing is provided then an opportunity for a hearing to reconsider the application must be provided the applicant.

(2) An opportunity for a hearing must be provided a permittee or licensee prior to a revocation or modification of any permit or license and, except as provided in subsection (4) of this section, prior to the suspension of any permit or license.

(3) No hearing may be required until demanded by the applicant, permittee, or licensee.

(4) The board may summarily suspend a license or permit for a period of up to one hundred eighty days without a prior hearing if it finds that public health, safety, or welfare imperatively require emergency action, and it incorporates a finding to that effect in its order. Proceedings for revocation or other action must be promptly instituted and determined. An administrative law judge may extend the summary suspension period for up to one calendar year in the event the proceedings for revocation or other action cannot be completed during the initial one hundred eighty day period due to actions by the licensee or permittee. The board's enforcement division must complete a preliminary staff investigation of the violation before requesting an emergency suspension by the board.

(5) The issues that may be considered at a hearing to contest a suspension of a license or the denial of an application for a new license or renewal of an existing license, under RCW 66.24.010(3)(c), do not include the right to challenge the amount of any spirits taxes assessed against the licensee or applicant by the department of revenue. For purposes of this subsection, "spirits taxes" has the same meaning as in RCW 82.08.155. [2012 c 39 § 5; 2007 c 370 § 3; 2003 c 320 § 1; 1989 c 175 § 122; 1967 c 237 § 23; 1933 ex.s. c 62 § 62; RRS § 7306-62.]

Construction—Effective date—2012 c 39: See notes following RCW 82.08.155.

Additional notes found at www.leg.wa.gov

66.08.170 Liquor revolving fund—Creation—Composition—State treasurer as custodian—Daily deposits, exceptions—Budget and accounting act applicable. There shall be a fund, known as the "liquor revolving fund", which shall consist of all license fees, permit fees, penalties, forfeitures, and all other moneys, income, or revenue received by the board. The state treasurer shall be custodian of the fund. All moneys received by the board or any employee thereof, except for change funds and an amount of petty cash as fixed by the board within the authority of law shall be deposited each day in a depository approved by the state treasurer and transferred to the state treasurer to be credited to the liquor revolving fund. During the 2009-2011 fiscal biennium, the legislature may transfer funds from the liquor revolving account [fund] to the state general fund and may direct an additional amount of liquor profits to be distributed to local governments. Neither the transfer of funds nor the additional distribution of liquor profits to local governments during the 2009-2011 fiscal biennium may reduce the excess fund distributions that otherwise would occur under RCW 66.08.190. During the 2011-2013 fiscal biennium, the state treasurer shall transfer from the liquor revolving fund to the state general fund forty-two million five hundred thousand dollars for fiscal year 2012 and forty-two million five hundred thousand dollars for fiscal year 2013. The transfer during the 2011-2013 fiscal biennium may not reduce the excess fund distributions that otherwise would occur under RCW 66.08.190. Sales to licensees are exempt from any liquor price increases that may result from the transfer of funds from the liquor revolving fund to the state general fund during the 2011-2013 fiscal biennium. Disbursements from the revolving fund shall be on authorization of the board or a duly authorized representative thereof. In order to maintain an effective expenditure and revenue control the liquor revolving fund shall be subject in all respects to chapter 43.88 RCW but no appropriation shall be required to permit expenditures and payment of obligations from such fund. [2011 1st sp.s. c 50 § 959; 2009 c 564 § 947; 2002 c 371 § 917; 1961 ex.s. c 6 § 1; 1933 ex.s. c 62 § 73; RRS § 7306-73. Formerly RCW 43.66.060.]

Effective dates—2011 1st sp.s. c 50: See note following RCW 15.76.115.

Effective date—2009 c 564: See note following RCW 2.68.020.

Transfer of liquor revolving fund to state treasurer—Outstanding obligations: "On June 30, 1961, the Washington state liquor control board shall deliver and transfer to the state treasurer, as custodian, all moneys and accounts which comprise the liquor revolving fund, except change funds and petty cash, and the state treasurer shall assume custody thereof. All obligations outstanding as of June 30, 1961 shall be paid out of the liquor revolving fund." [1961 ex.s. c 6 § 5.]

Additional notes found at www.leg.wa.gov

66.08.180 Liquor revolving fund—Distribution—Reserve for administration—Disbursement to universities and state agencies. Except as provided in RCW 66.24.290(1), moneys in the liquor revolving fund shall be distributed by the board at least once every three months in accordance with RCW 66.08.190, 66.08.200 and 66.08.210. However, the board shall reserve from distribution such amount not exceeding five hundred thousand dollars as may be necessary for the proper administration of this title.

(1) All license fees, penalties, and forfeitures derived under chapter 13, Laws of 1935 from spirits, beer, and wine restaurant; spirits, beer, and wine private club; hotel; spirits, beer, and wine nightclub; spirits, beer, and wine VIP airport lounge; and sports entertainment facility licenses shall every three months be disbursed by the board as follows:

(a) Three hundred thousand dollars per biennium, to the death investigations account for the state toxicology program pursuant to RCW 68.50.107; and

(b) Of the remaining funds:

(i) 6.06 percent to the University of Washington and 4.04 percent to Washington State University for alcoholism and drug abuse research and for the dissemination of such research; and

(ii) 89.9 percent to the general fund to be used by the department of social and health services solely to carry out the purposes of RCW 70.96A.050;

(2) The first fifty-five dollars per license fee provided in RCW 66.24.320 and 66.24.330 up to a maximum of one hundred fifty thousand dollars annually shall be disbursed every three months by the board to the general fund to be used for juvenile alcohol and drug prevention programs for kindergarten through third grade to be administered by the superintendent of public instruction;

(3) Twenty percent of the remaining total amount derived from license fees pursuant to RCW 66.24.320, 66.24.330, 66.24.350, and 66.24.360, shall be transferred to the general fund to be used by the department of social and health services solely to carry out the purposes of RCW 70.96A.050; and

(4) One-fourth cent per liter of the tax imposed by RCW 66.24.210 shall every three months be disbursed by the board to Washington State University solely for wine and wine grape research, extension programs related to wine and wine grape research, and resident instruction in both wine grape production and the processing aspects of the wine industry in accordance with RCW 28B.30.068. The director of financial management shall prescribe suitable accounting procedures to ensure that the funds transferred to the general fund to be used by the department of social and health services and appropriated are separately accounted for. [2011 c 325 § 7; 2009 c 271 § 3; 2007 c 370 § 14; 2000 c 192 § 1. Prior: 1999 c 281 § 1; 1999 c 40 § 7; prior: 1997 c 451 § 3; 1997 c 321 § 57; 1995 c 398 § 16; 1987 c 458 § 10; 1986 c 87 § 1; 1981 1st ex.s. c 5 § 6; 1979 c 151 § 166; 1967 ex.s. c 75 § 1; 1965 ex.s. c 143 § 2; 1949 c 5 § 10; 1935 c 13 § 2; 1933 ex.s. c 62 § 77; Rem. Supp. 1949 § 7306-77. Formerly RCW 43.66.080.]

Effective date—2007 c 370 §§ 10-20: See note following RCW 66.04.010.

Distribution for state toxicological lab: RCW 68.50.107.

Wine grape industry, instruction relating to—Purpose—Administration: RCW 28B.30.067 and 28B.30.068.

Additional notes found at www.leg.wa.gov

66.08.190 Liquor revolving fund—Disbursement of excess funds to border areas, counties, cities, and towns—Disbursements to the municipal research and services center. (1) Prior to making distributions described in subsection (2) of this section, amounts must be retained to support allotments under RCW 43.88.110 from any legislative appropriation for municipal research and services. The legislative appropriation for such services must be in the amount specified under RCW 66.24.065.

(2) When excess funds are distributed during the months of June, September, December, and March of each year, all moneys subject to distribution must be disbursed to border areas, counties, cities, and towns as provided in RCW 66.24.065.

(3) The amount remaining after distributions under subsections (1) and (2) of this section must be deposited into the general fund. [2012 2nd sp.s. c 5 § 8; 2011 1st sp.s. c 50 § 960; 2003 1st sp.s. c 25 § 927; 2002 c 38 § 2; 2000 c 227 § 2; 1995 c 159 § 1; 1991 sp.s. c 32 § 34; 1988 c 229 § 4; 1957 c 175 § 6. Prior: 1955 c 109 § 2; 1949 c 187 § 1, part; 1939 c 173 § 1, part; 1937 c 62 § 2, part; 1935 c 80 § 1, part; 1933 ex.s. c 62 § 78, part; Rem. Supp. 1949 § 7306-78, part. Formerly RCW 43.66.090.]

Effective date—2012 2nd sp.s. c 5: See note following RCW 43.135.045.

Effective dates—2011 1st sp.s. c 50: See note following RCW 15.76.115.

Finding—1988 c 229: "The legislature finds and declares that certain counties and municipalities near international borders are subjected to a constant volume and flow of travelers and visitors for whom local government services must be provided. The legislature further finds that it is in the public interest and for the protection of the health, property, and welfare of the residents and visitors to provide supplemental resources to augment and maintain existing levels of police protection in such areas and to alleviate the impact of such added burdens." [1988 c 229 § 2.]

Additional notes found at www.leg.wa.gov

66.08.195 Liquor revolving fund—Definition of terms relating to border areas. For the purposes of this chapter:

(1) "Border area" means any incorporated city or town, or unincorporated area, located within seven miles of the Washington-Canadian border or any unincorporated area that is a point of land surrounded on three sides by saltwater and adjacent to the Canadian border.

(2) "Border area per-capita law-enforcement spending" equals total per capita expenditures in a border area on: Law enforcement operating costs, court costs, law enforcement-related insurance, and detention expenses, minus funds allocated to a border area under RCW 66.08.190 and 66.08.196.

(3) "Border-crossing traffic total" means the number of vehicles, vessels, and aircraft crossing into the United States through a United States customs service border crossing that enter into the border area during a federal fiscal year, using border crossing statistics and criteria included in guidelines adopted by the *department of community, trade, and economic development.

(4) "Border-related crime statistic" means the sum of infractions and citations issued, and arrests of persons permanently residing outside Washington state in a border area during a calendar year. [2001 c 8 § 1; 1995 c 159 § 2; 1988 c 229 § 3.]

***Reviser's note:** The "department of community, trade, and economic development" was renamed the "department of commerce" by 2009 c 565.

Finding—Effective date—1988 c 229: See notes following RCW 66.08.190.

Additional notes found at www.leg.wa.gov

66.08.196 Liquor revolving fund—Distribution of funds to border areas. (1) Distribution of funds to border areas under RCW 66.08.190 and 66.24.290 (1)(c) and (4) is as follows:

(a) Sixty-five percent of the funds must be distributed to border areas ratably based on border area traffic totals;

(b) Twenty-five percent of the funds must be distributed to border areas ratably based on border-related crime statistics; and

(c) Ten percent of the funds must be distributed to border areas ratably based upon border area per capita law enforcement spending.

(2) Distributions to an unincorporated area must be made to the county in which such an area is located and may only be spent on services provided to that area. [2012 2nd sp.s. c 5 § 9; 2001 c 8 § 2; 1997 c 451 § 4; 1995 c 159 § 3.]

Effective date—2012 2nd sp.s. c 5: See note following RCW 43.135.045.

Additional notes found at www.leg.wa.gov

66.08.198 Liquor revolving fund—Distribution of funds to border areas—Guidelines adoption. The *department of community, trade, and economic development shall develop guidelines to determine the figures used under the three distribution factors defined in RCW 66.08.195. At the request of any border community, the department may review these guidelines once every three years. [1995 c 159 § 4.]

***Reviser's note:** The "department of community, trade, and economic development" was renamed the "department of commerce" by 2009 c 565.

Additional notes found at www.leg.wa.gov

66.08.200 Liquor revolving fund—Computation for distribution to counties—"Unincorporated area" defined. With respect to the distribution of funds to the counties, the computations for distribution must be made by the state agency responsible for collecting the same as follows:

(1) The share coming to each eligible county must be determined by a division among the eligible counties according to the relation which the population of the unincorporated area of such eligible county, as last determined by the office of financial management, bears to the population of the total combined unincorporated areas of all eligible counties, as determined by the office of financial management. However, no county in which the sale of liquor is forbidden in the unincorporated area thereof as the result of an election is entitled to share in such distribution. "Unincorporated area" means all that portion of any county not included within the limits of incorporated cities and towns.

(2) When a special county census has been conducted for the purpose of determining the population base of a county's unincorporated area for use in the distribution of liquor funds, the census figure becomes effective for the purpose of distributing funds as of the official census date once the census results have been certified by the office of financial management and officially submitted to the office of the secretary of state. [2012 2nd sp.s. c 5 § 10; 1979 c 151 § 167; 1977 ex.s. c 110 § 2; 1957 c 175 § 7. Prior: 1955 c 109 § 3; 1949 c 187 § 1, part; 1939 c 173 § 1, part; 1937 c 62 § 2, part; 1935 c 80 § 1, part; 1933 ex.s. c 62 § 78, part; Rem. Supp. 1949 § 7306-78, part. Formerly RCW 43.66.100.]

Effective date—2012 2nd sp.s. c 5: See note following RCW 43.135.045.

Population determinations, office of financial management: Chapter 43.62 RCW.

66.08.210 Liquor revolving fund—Computation for distribution to cities. (1) With respect to the distribution of funds to the incorporated cities and towns under RCW 66.24.290(1)(c), the computations for distribution must be made by the state agency responsible for collecting the same as provided in subsection (2) of this section.

(2) The share coming to each eligible city or town must be determined by a division among the eligible cities and towns within the state ratably on the basis of population as last determined by the office of financial management. However, no city or town in which the sale of liquor is forbidden as the result of an election is entitled to any share in such distribution. [2012 2nd sp.s. c 5 § 11; 1979 c 151 § 168; 1977 ex.s. c 110 § 3; 1957 c 175 § 8. Prior: 1949 c 187 § 1, part; 1939 c 173 § 1, part; 1937 c 62 § 2, part; 1935 c 80 § 1, part; 1933 ex.s. c 62 § 78, part; Rem. Supp. 1949 § 7306-78, part. Formerly RCW 43.66.110.]

Effective date—2012 2nd sp.s. c 5: See note following RCW 43.135.045.

Allocation of state funds on population basis: RCW 43.62.020, 43.62.030.

Determining population of territory annexed to city: RCW 35.13.260.

66.08.230 Initial disbursement to wine commission—Repayment. To provide for the operation of the wine commission prior to its first quarterly disbursement, the liquor control board shall, on July 1, 1987, disburse one hundred ten thousand dollars to the wine commission. However, such disbursement shall be repaid to the liquor control board by a reduction from the quarterly disbursements to the wine commission under RCW 66.24.210 of twenty-seven thousand five hundred dollars each quarter until such amount is repaid. These funds shall be used to establish the Washington wine commission and the other purposes delineated in chapter 15.88 RCW. [1987 c 452 § 12.]

Additional notes found at www.leg.wa.gov

66.08.240 Transfer of funds pursuant to government service agreement. Funds that are distributed to counties, cities, or towns pursuant to this chapter may be transferred by the recipient county, city, or town to another unit of government pursuant to a government service agreement as provided in RCW 36.115.040 and 36.115.050. [1994 c 266 § 10.]

66.08.250 Report on streamlining liquor tax collection. By September 30, 2013, and in compliance with RCW 43.01.036, the board and the department of revenue must make recommendations to the legislature that detail the statutory changes necessary to: Streamline the collection of liquor taxes, fees, and reports; and require a singular state agency to be responsible for the collection of this revenue and information. [2013 c 95 § 2.]

Findings—2013 c 95: "The legislature finds that the adoption of Initiative Measure No. 1183 by the voters in 2011 privatized the sale and distribution of spirits in Washington. The legislature also finds that reporting requirements for all liquor taxes and fees are administratively complex and require payment and reporting to multiple state agencies." [2013 c 95 § 1.]

Chapter 66.12 RCW
EXEMPTIONS

Sections

66.12.010 Wine or beer manufactured for home use.
66.12.020 Sales of liquor to board.
66.12.030 Licensed manufacturers not prevented from storing liquor—Transshipment in interstate, foreign commerce—Interstate, foreign transactions protected.
66.12.060 Pharmaceutical preparations, patent medicines, denatured alcohol.
66.12.070 Medicinal, culinary, and toilet preparations not usable as beverages—Sample and analysis—Clearly labeled.
66.12.110 Duty-free alcoholic beverages for personal use.
66.12.120 Bringing alcoholic beverages into state from another state—Payment of markup and tax.
66.12.125 Alcohol for use as fuel—Legislative finding and declaration.
66.12.130 Alcohol for use as fuel in motor vehicles, farm implements, machines, etc., or in combination with other petroleum products for use as fuel.
66.12.140 Use of alcoholic beverages in culinary, restaurant, or food fermentation courses.
66.12.145 Persons engaged in medical or dental pursuits—Persons engaged in mechanical, manufacturing, or scientific pursuits.
66.12.150 Beer or wine offered by hospital or nursing home for consumption on the premises.
66.12.160 Manufacture or sale of confections or food containing liquor.
66.12.170 Obtaining liquor for manufacturing confections or food products.
66.12.180 Wine commission—Wine donations—Promotional activities.
66.12.185 Beer commission—Beer or malt donations—Promotional activities.
66.12.195 Legislative gift center—Selling wine for off-premises consumption.
66.12.230 Washington grain commission.
66.12.240 Wedding boutiques and art galleries.

66.12.010 Wine or beer manufactured for home use. Nothing in this title, other than RCW 66.28.140, applies to wine or beer manufactured in any home for private consumption, and not for sale. [2009 c 360 § 1; 1981 c 255 § 1; 1955 c 39 § 1; 1933 ex.s. c 62 § 32; RRS § 7306-32.]

66.12.020 Sales of liquor to board. Nothing in this title shall apply to or prevent the sale of liquor by any person to the board. [1933 ex.s. c 62 § 48; RRS § 7306-48.]

66.12.030 Licensed manufacturers not prevented from storing liquor—Transshipment in interstate, foreign commerce—Interstate, foreign transactions protected. (1) Nothing in this title shall prevent any person licensed to manufacture liquor from keeping liquor in his or her warehouse or place of business.

(2) Nothing in this title shall prevent the transshipment of liquor in interstate and foreign commerce; but no person shall import liquor into the state from any other state or country, except, as herein otherwise provided, for use or sale in the state, except the board.

(3) Every provision of this title which may affect transactions in liquor between a person in this state and a person in another state or in a foreign country shall be construed to affect such transactions so far only as the legislature has power to make laws in relation thereto. [2012 c 117 § 270; 1933 ex.s. c 62 § 49; RRS § 7306-49. Formerly RCW 66.12.030, 66.12.040, and 66.12.050.]

66.12.060 Pharmaceutical preparations, patent medicines, denatured alcohol. Nothing in this title shall apply to or prevent the sale, purchase or consumption

(1) of any pharmaceutical preparation containing liquor which is prepared by a druggist according to a formula of the pharmacopoeia of the United States, or the dispensatory of the United States; or

(2) of any proprietary or patent medicine; or

(3) of wood alcohol or denatured alcohol, except in the case of the sale, purchase, or consumption of wood alcohol or denatured alcohol for beverage purposes, either alone or combined with any other liquid or substance. [1933 ex.s. c 62 § 50; RRS § 7306-50.]

66.12.070 Medicinal, culinary, and toilet preparations not usable as beverages—Sample and analysis—Clearly labeled. (1) Where a medicinal preparation contains liquor as one of the necessary ingredients thereof, and also contains sufficient medication to prevent its use as an alcoholic beverage, nothing in this title shall apply to or prevent its composition or sale by a druggist when compounded from liquor purchased by the druggist under a special permit held by him or her, nor apply to or prevent the purchase or consumption of the preparation by any person for strictly medicinal purposes.

(2) Where a toilet or culinary preparation, that is to say, any perfume, lotion, or flavoring extract or essence, or dietary supplement as defined by the federal food and drug administration, contains liquor and also contains sufficient ingredient or medication to prevent its use as a beverage, nothing in this title shall apply to or prevent the sale or purchase of that preparation by any druggist or other person who manufactures or deals in the preparation, nor apply to or prevent the purchase or consumption of the preparation by any person who purchases or consumes it for any toilet or culinary purpose.

(3) In order to determine whether any particular medicinal, toilet, dietary supplement, or culinary preparation referred to in this section contains sufficient ingredient or medication to prevent its use as an alcoholic beverage, the board may cause a sample of the preparation, purchased or obtained from any person whomsoever, to be analyzed by an analyst appointed or designated by the board; and if it appears from a certificate signed by the analyst that he or she finds the sample so analyzed by him or her did not contain sufficient ingredient or medication to prevent its use as an alcoholic beverage, the certificate shall be conclusive evidence that the preparation, the sample of which was so analyzed, is not a preparation the sale or purchase of which is permitted by this section.

(4) Dietary supplements that contain more than one-half of one percent alcohol which are prepared and sold under this section shall be clearly labeled and the ingredients listed on the label in accordance with the provisions of the federal

food, drug, and cosmetics act (21 U.S.C. Sec. 321) as now or hereafter amended. [2012 c 117 § 271; 1999 c 88 § 1; 1933 ex.s. c 62 § 51; RRS § 7306-51. Formerly RCW 66.12.070, 66.12.080, and 66.12.090.]

66.12.110 Duty-free alcoholic beverages for personal use. A person twenty-one years of age or over may bring into the state from without the United States, free of tax and markup, for his or her personal or household use such alcoholic beverages as have been declared and permitted to enter the United States duty free under federal law.

Such entry of alcoholic beverages in excess of that herein provided may be authorized by the board upon payment of an equivalent markup and tax as would be applicable to the purchase of the same or similar liquor at retail from a Washington state liquor store. The board shall adopt appropriate regulations pursuant to chapter 34.05 RCW for the purpose of carrying out the provisions of this section. The board may issue a spirits, beer, and wine private club license to a charitable or nonprofit corporation of the state of Washington, the majority of the officers and directors of which are United States citizens and the minority of the officers and directors of which are citizens of the Dominion of Canada, and where the location of the premises for such spirits, beer, and wine private club license is not more than ten miles south of the border between the United States and the province of British Columbia. [2012 c 117 § 272; 1999 c 281 § 3; 1975-'76 2nd ex.s. c 20 § 1. Prior: 1975 1st ex.s. c 256 § 1; 1975 1st ex.s. c 173 § 2; 1967 c 38 § 1.]

Additional notes found at www.leg.wa.gov

66.12.120 Bringing alcoholic beverages into state from another state—Payment of markup and tax. Notwithstanding any other provision of Title 66 RCW, a person twenty-one years of age or over may, free of tax and markup, for personal or household use, bring into the state of Washington from another state no more than once per calendar month up to two liters of spirits or wine or two hundred eighty-eight ounces of beer. Additionally, such person may be authorized by the board to bring into the state of Washington from another state a reasonable amount of alcoholic beverages in excess of that provided in this section for personal or household use only upon payment of an equivalent markup and tax as would be applicable to the purchase of the same or similar liquor at retail from a state liquor store. The board shall adopt appropriate regulations pursuant to chapter 34.05 RCW for the purpose of carrying into effect the provisions of this section. [1995 c 100 § 1; 1975 1st ex.s. c 173 § 3.]

Additional notes found at www.leg.wa.gov

66.12.125 Alcohol for use as fuel—Legislative finding and declaration. The legislature finds that the production of alcohol for use as a fuel or fuel supplement is of great importance to the state. Alcohol, when used as a fuel source, is less polluting to the atmosphere than conventional fuels and its use reduces the state's dependence on limited oil resources. Production of alcohol for use as a fuel provides a new use and market for Washington agricultural products and aids Washington farmers in producing food and fiber for the citizens of the state, nation, and world. Therefore, the legislature declares public policy to be one of encouragement toward the production and use of alcohol as a fuel or fuel supplement. [1980 c 140 § 1.]

66.12.130 Alcohol for use as fuel in motor vehicles, farm implements, machines, etc., or in combination with other petroleum products for use as fuel. Nothing in this title shall apply to or prevent the sale, importation, purchase, production, or blending of alcohol used solely for fuel to be used in motor vehicles, farm implements, and machines or implements of husbandry or in combination with gasoline or other petroleum products for use as such fuel. Manufacturers and distillers of such alcohol fuel are not required to obtain a license under this title. Alcohol which is produced for use as fuel shall be denatured in accordance with a formula approved by the federal bureau of alcohol, tobacco and firearms prior to the removal of the alcohol from the premises as described in the approved federal permit application: PROVIDED, That alcohol which is being transferred between plants involved in the distillation or manufacture of alcohol fuel need not be denatured if it is transferred in accordance with federal bureau of alcohol, tobacco and firearms regulation 27 C.F.R. 19.996 as existing on July 26, 1981. The exemptions from the state liquor control laws provided by this section only apply to distillers and manufacturers of alcohol to be used solely for fuel as long as the manufacturers and distillers are the holders of an appropriate permit issued under federal law. [1981 c 179 § 1; 1980 c 140 § 2.]

66.12.140 Use of alcoholic beverages in culinary, restaurant, or food fermentation courses. (1) Nothing in this title shall prevent the use of beer, wine, and/or spirituous liquor, for cooking purposes only, in conjunction with a culinary or restaurant course offered by a college, university, community college, area vocational technical institute, or private vocational school. Further, nothing in this title shall prohibit the making of beer or wine in food fermentation courses offered by a college, university, community college, area vocational technical institute, or private vocational school.

(2) "Culinary or restaurant course" as used in this section means a course of instruction which includes practical experience in food preparation under the supervision of an instructor who is twenty-one years of age or older.

(3) Persons under twenty-one years of age participating in culinary or restaurant courses may handle beer, wine, or spirituous liquor for purposes of participating in the courses, but nothing in this section shall be construed to authorize consumption of liquor by persons under twenty-one years of age or to authorize possession of liquor by persons under twenty-one years of age at any time or place other than while preparing food under the supervision of the course instructor.

(4) Beer, wine, and/or spirituous liquor to be used in culinary or restaurant courses shall be purchased at retail from the board or a retailer licensed under this title. All such liquor shall be securely stored in the food preparation area and shall not be displayed in an area open to the general public.

(5) Colleges, universities, community colleges, area vocational technical institutes, and private vocational schools shall obtain the prior written approval of the board for use of beer, wine, and/or spirituous liquor for cooking purposes in their culinary or restaurant courses. [1982 c 85 § 8.]

66.12.145 Persons engaged in medical or dental pursuits—Persons engaged in mechanical, manufacturing, or scientific pursuits. (1) Any person engaged in medical or dental pursuits, any person in charge of an institution regularly conducted as a hospital or sanitarium for the care of persons in ill health, or a home devoted exclusively to the care of aged persons, may obtain alcohol in a nonbeverage form directly from a supplier under a permit issued under RCW 66.20.010(1).

(2) Any person engaged in the mechanical or manufacturing business or in scientific pursuits requiring the use of alcohol may obtain alcohol in a nonbeverage form directly from a supplier under a permit issued under RCW 66.20.010(2). [2008 c 64 § 1.]

66.12.150 Beer or wine offered by hospital or nursing home for consumption on the premises. Nothing in this title shall apply to or prevent a hospital, as defined in *RCW 70.39.020, or a nursing home as defined in RCW 18.51.010, from offering or supplying without charge beer or wine by the individual glass to any patient, member of a patient's family, or patient visitor, for consumption on the premises: PROVIDED, That such patient, family member, or visitor shall be at least twenty-one years of age, and that the beer or wine shall be purchased under this title. [1982 c 85 § 9.]

***Reviser's note:** RCW 70.39.020 was repealed by 1982 c 223 § 10, effective June 30, 1990.

66.12.160 Manufacture or sale of confections or food containing liquor. Nothing in this title shall apply to or prevent the manufacture or sale of confections or food products containing alcohol or liquor if: (1) The confection or food product does not contain more than one percent of alcohol by weight; and (2) the confection or food product has a label stating: "This product contains liquor and the alcohol content is one percent or less of the weight of the product." Manufacturers of confections or food products are not required to obtain a license under this title. [1984 c 78 § 3.]

Finding and declaration—1984 c 78: "The legislature finds that confectioners operating in the state are at an economic disadvantage due to a continued prohibition on the use of natural alcohol flavor in candies and that other related business entities, such as bakeries and delicatessens, may use natural alcohol flavors in the preparation of food for retail sale. Therefore, the legislature declares that the use of natural alcohol flavorings in an amount not to exceed the limit established in RCW 69.04.240 presents no threat to the public health and safety." [1984 c 78 § 1.]

Additional notes found at www.leg.wa.gov

66.12.170 Obtaining liquor for manufacturing confections or food products. Nothing in this title shall be construed as limiting the right of any manufacturer of confections or food products from obtaining liquor from any source whatsoever if: (1) It is acquired pursuant to a permit issued under RCW 66.20.010(5); and (2) the applicable taxes imposed by this title are paid. [1984 c 78 § 4.]

Finding and declaration—Severability—1984 c 78: See notes following RCW 66.12.160.

66.12.180 Wine commission—Wine donations—Promotional activities. The Washington wine commission created under RCW 15.88.030 may purchase or receive donations of wine from wineries and may use such wine for promotional purposes. Wine furnished to the commission under this section which is used within the state is subject to the taxes imposed under RCW 66.24.210. No license, permit, or bond is required of the Washington wine commission under this title for promotional activities conducted under chapter 15.88 RCW. [1993 c 160 § 1; 1987 c 452 § 14.]

Additional notes found at www.leg.wa.gov

66.12.185 Beer commission—Beer or malt donations—Promotional activities. The Washington beer commission created under RCW 15.89.030 may purchase or receive donations of beer or malt beverages from any brewery, in any state, or in any country and may use such beer or malt beverages for any promotional purposes as outlined in RCW 15.89.070. Beer and malt beverages that are furnished to the commission under this section that are used within the state are subject to the taxes imposed under RCW 66.24.290. No license, permit, or bond is required of the Washington beer commission under this title for promotional activities conducted under chapter 15.89 RCW. [2006 c 330 § 23.]

Construction—Severability—2006 c 330: See RCW 15.89.900 and 15.89.901.

66.12.195 Legislative gift center—Selling wine for off-premises consumption. Nothing in this title shall apply to or prevent the legislative gift center created in chapter 44.73 RCW from selling at retail for off-premises consumption wine produced in Washington by a licensed domestic winery. [2009 c 228 § 2.]

Findings—Intent—2009 c 228: "The legislature finds that the production of wine grapes in the state is an important segment of Washington agriculture as evidenced by the continued investments made by the state in developing the wine industry, including the creation of viticulture and enology programs at Washington State University and wine technology programs at community and technical colleges. The legislature further finds that the promotion and sale of Washington wine at the legislative gift center is harmonious with the purpose of the gift center, which is to promote the state and the goods produced around the state. Therefore, the legislature intends to allow the legislative gift center to sell wine produced in Washington to visitors of legal drinking age." [2009 c 228 § 1.]

66.12.230 Washington grain commission. The Washington grain commission created under RCW 15.115.040 may purchase or receive donations of liquor produced from wheat or barley grown in Washington and may use the liquor for the promotional purposes specified in RCW 15.115.170(2). Liquor furnished to the commission under this section which is used within the state is subject to the taxes imposed under RCW 66.24.210. A license, permit, or bond is not required of the Washington grain commission under this title for the promotional purposes specified in RCW 15.115.170(2). [2009 c 33 § 18.]

66.12.240 Wedding boutiques and art galleries. (1) Nothing in this title applies to or prevents a wedding boutique or art gallery from offering or supplying without charge wine or beer by the individual glass to a customer for consumption on the premises. However, the customer must be at least twenty-one years of age and may only be offered one glass of wine or beer, and wine or beer served or consumed shall be purchased from a Washington state licensed retailer or a Washington state liquor store or agency at full retail price. A wedding boutique or art gallery offering wine or beer without charge may not advertise the service of complimentary wine

or beer and may not sell wine or beer in any manner. Any employee involved in the service of wine or beer must complete a board-approved limited alcohol server training program.

(2) For the purposes of this section:

(a) "Art gallery" means a room or building devoted to the exhibition and/or sale of the works of art.

(b) "Wedding boutique" means a business primarily engaged in the sale of wedding merchandise. [2009 c 361 § 1.]

Chapter 66.16 RCW
LIQUOR PURCHASE RECORDS

(Formerly: State Liquor Stores)

Sections

66.16.090 Record of individual purchases confidential—Penalty for disclosure.

66.16.090 Record of individual purchases confidential—Penalty for disclosure. All records whatsoever of the board showing purchases by any individual of liquor shall be deemed confidential, and, except subject to audit by the state auditor, shall not be permitted to be inspected by any person whatsoever, except by employees of the board to the extent permitted by the regulations; and no member of the board and no employee whatsoever shall give out any information concerning such records and neither such records nor any information relative thereto which shall make known the name of any individual purchaser shall be competent to be admitted as evidence in any court or courts except in prosecutions for illegal possession of and/or sale of liquor. Any person violating the provisions of this section shall be guilty of a misdemeanor. [1933 ex.s. c 62 § 89; RRS § 7306-89.]

Chapter 66.20 RCW
LIQUOR PERMITS

Sections

66.20.010 Permits classified—Issuance—Fees—Waiver of provisions during state of emergency.
66.20.020 Permits not transferable—False name or address prohibited—Sacramental liquor, wine.
66.20.040 Applicant must sign permit.
66.20.060 Duration.
66.20.070 Suspension or cancellation.
66.20.080 Surrender of suspended or canceled permit—New permit, when.
66.20.085 License suspension—Noncompliance with support order—Reissuance.
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66.20.100 Physician may prescribe or administer liquor—Penalty.
66.20.110 Dentist may administer liquor—Penalty.
66.20.120 Hospital, etc., may administer liquor—Penalty.
66.20.140 Limitation on application after cancellation or suspension.
66.20.150 Purchases prohibited under canceled, suspended permit, or under another's permit.
66.20.160 Licensee definition.
66.20.170 Card of identification may be accepted as identification card and evidence of legal age.
66.20.180 Card of identification to be presented on request of licensee.
66.20.190 Identification card holder may be required to sign certification card—Contents—Procedure—Statement.
66.20.200 Unlawful acts relating to identification or certification card—Penalties.
66.20.210 Licensee's immunity to prosecution or suit—Certification card as evidence of good faith.
66.20.300 Alcohol servers—Definitions *(as amended by 2014 c 29)*.
66.20.300 Alcohol servers—Definitions *(as amended by 2014 c 78)*.
66.20.310 Alcohol servers—Permits—Requirements—Suspension, revocation—Violations—Exemptions *(as amended by 2014 c 29)*.
66.20.310 Alcohol servers—Permits—Requirements—Suspension, revocation—Violations—Exemptions *(as amended by 2014 c 78)*.
66.20.320 Alcohol servers—Education program—Fees—Issuance of permits.
66.20.330 Alcohol servers—Rules.
66.20.340 Alcohol servers—Violation of rules—Penalties.
66.20.350 Alcohol servers—Deposit of fees.
66.20.360 Direct sale of wine to consumer—Holder of license to manufacture wine.
66.20.365 Direct sale of wine to consumer—Requirements for wineries.
66.20.370 Direct sale of wine to consumer—Wine shipper's permit—Requirements.
66.20.375 Direct sale of wine to consumer—Labeling and private carrier requirements.
66.20.380 Direct sale of wine to consumer—Monthly reporting—Display of permit or license number.
66.20.385 Direct sale of wine to consumer—Fee for wine shipper's permit.
66.20.390 Direct sale of wine to consumer—Consent to jurisdiction—Revocation or suspension of permit.
66.20.400 Day spa permit.

66.20.010 Permits classified—Issuance—Fees—Waiver of provisions during state of emergency. Upon application in the prescribed form being made to any employee authorized by the board to issue permits, accompanied by payment of the prescribed fee, and upon the employee being satisfied that the applicant should be granted a permit under this title, the employee must issue to the applicant under such regulations and at such fee as may be prescribed by the board a permit of the class applied for, as follows:

(1) Where the application is for a special permit by a physician or dentist, or by any person in charge of an institution regularly conducted as a hospital or sanitorium for the care of persons in ill health, or as a home devoted exclusively to the care of aged people, a special liquor purchase permit, except that the governor may waive the requirement for a special liquor purchase permit under this subsection pursuant to an order issued under RCW 43.06.220(2);

(2) Where the application is for a special permit by a person engaged within the state in mechanical or manufacturing business or in scientific pursuits requiring alcohol for use therein, or by any private individual, a special permit to purchase alcohol for the purpose named in the permit, except that the governor may waive the requirement for a special liquor purchase permit under this subsection pursuant to an order issued under RCW 43.06.220(2);

(3) Where the application is for a special permit to consume liquor at a banquet, at a specified date and place, a special permit to purchase liquor for consumption at such banquet, to such applicants as may be fixed by the board;

(4) Where the application is for a special permit to consume liquor on the premises of a business not licensed under this title, a special permit to purchase liquor for consumption thereon for such periods of time and to such applicants as may be fixed by the board;

(5) Where the application is for a special permit by a manufacturer to import or purchase within the state alcohol, malt, and other materials containing alcohol to be used in the manufacture of liquor, or other products, a special permit;

(6) Where the application is for a special permit by a person operating a drug store to purchase liquor at retail prices only, to be thereafter sold by such person on the prescription of a physician, a special liquor purchase permit, except that the governor may waive the requirement for a special liquor purchase permit under this subsection pursuant to an order issued under RCW 43.06.220(2);

(7) Where the application is for a special permit by an authorized representative of a military installation operated by or for any of the armed forces within the geographical boundaries of the state of Washington, a special permit to purchase liquor for use on such military installation;

(8) Where the application is for a special permit by a vendor that manufactures or sells a product which cannot be effectively presented to potential buyers without serving it with liquor or by a manufacturer, importer, or distributor, or representative thereof, to serve liquor without charge to delegates and guests at a convention of a trade association composed of licensees of the board, when the said liquor is served in a hospitality room or from a booth in a board-approved suppliers' display room at the convention, and when the liquor so served is for consumption in the said hospitality room or display room during the convention, anything in this title to the contrary notwithstanding. Any such spirituous

liquor must be purchased from a spirits retailer or distributor, and any such liquor is subject to the taxes imposed by RCW 66.24.290 and 66.24.210;

(9) Where the application is for a special permit by a manufacturer, importer, or distributor, or representative thereof, to donate liquor for a reception, breakfast, luncheon, or dinner for delegates and guests at a convention of a trade association composed of licensees of the board, when the liquor so donated is for consumption at the said reception, breakfast, luncheon, or dinner during the convention, anything in this title to the contrary notwithstanding. Any such spirituous liquor must be purchased from a spirits retailer or distributor, and any such liquor is subject to the taxes imposed by RCW 66.24.290 and 66.24.210;

(10) Where the application is for a special permit by a manufacturer, importer, or distributor, or representative thereof, to donate and/or serve liquor without charge to delegates and guests at an international trade fair, show, or exposition held under the auspices of a federal, state, or local governmental entity or organized and promoted by a nonprofit organization, anything in this title to the contrary notwithstanding. Any such spirituous liquor must be purchased from a liquor spirits retailer or distributor, and any such liquor is subject to the taxes imposed by RCW 66.24.290 and 66.24.210;

(11) Where the application is for an annual special permit by a person operating a bed and breakfast lodging facility to donate or serve wine or beer without charge to overnight guests of the facility if the wine or beer is for consumption on the premises of the facility. "Bed and breakfast lodging facility," as used in this subsection, means a facility offering from one to eight lodging units and breakfast to travelers and guests;

(12) Where the application is for a special permit to allow tasting of alcohol by persons at least eighteen years of age under the following circumstances:

(a) The application is from a community or technical college as defined in RCW 28B.50.030;

(b) The person who is permitted to taste under this subsection is enrolled as a student in a required or elective class that is part of a culinary, wine technology, beer technology, or spirituous technology-related degree program;

(c) The alcohol served to any person in the degree-related programs under (b) of this subsection is tasted but not consumed for the purposes of educational training as part of the class curriculum with the approval of the educational provider;

(d) The service and tasting of alcoholic beverages is supervised by a faculty or staff member of the educational provider who is twenty-one years of age or older. The supervising faculty or staff member shall possess a class 12 or 13 alcohol server permit under the provisions of RCW 66.20.310;

(e) The enrolled student permitted to taste the alcoholic beverages does not purchase the alcoholic beverages; and

(f) The permit fee for the special permit provided for in this subsection (12) shall be waived by the board. [2013 c 59 § 1; 2012 c 2 § 109 (Initiative Measure No. 1183, approved November 8, 2011); 2011 c 119 § 213; 2008 c 181 § 602; (2008 c 181 § 601 expired July 1, 2008); 2007 c 370 § 16; 1998 c 126 § 1; 1997 c 321 § 43; 1984 c 78 § 6; 1984 c 45 § 1; 1983 c 13 § 1; 1982 c 85 § 1; 1975-'76 2nd ex.s. c 62 § 2; 1959 c 111 § 2; 1951 2nd ex.s. c 13 § 1; 1933 ex.s. c 62 § 12; RRS § 7306-12.]

Finding—Application—Rules—Effective date—Contingent effective date—2012 c 2 (Initiative Measure No. 1183): See notes following RCW 66.24.620.

Effective date—2008 c 181 § 602: "Section 602 of this act takes effect July 1, 2008." [2008 c 181 § 604.]

Expiration date—2008 c 181 § 601: "Section 601 of this act expires July 1, 2008." [2008 c 181 § 603.]

Part headings not law—2008 c 181: See note following RCW 43.06.220.

Effective date—2007 c 370 §§ 10-20: See note following RCW 66.04.010.

Finding and declaration—Severability—1984 c 78: See notes following RCW 66.12.160.

Additional notes found at www.leg.wa.gov

66.20.020 Permits not transferable—False name or address prohibited—Sacramental liquor, wine. (1) Every permit shall be issued in the name of the applicant therefor, and no permit shall be transferable, nor shall the holder of any permit allow any other person to use the permit.

(2) No person shall apply in any false or fictitious name for the issuance to him or her of a permit, and no person shall furnish a false or fictitious address in his or her application for a permit.

(3) Nothing in this title shall be construed as limiting the right of any minister, priest or rabbi, or religious organization from obtaining wine for sacramental purposes directly from any source whatsoever, whether from within the limits of the state of Washington or from outside the state; nor shall any fee be charged, directly or indirectly, for the exercise of this right. The board shall have the power and authority to make reasonable rules and regulations concerning the importing of any such liquor or wine, for the purpose of preventing any unlawful use of such right. [2012 c 117 § 273; 1933 ex.s. c 62 § 13; RRS § 7306-13. Formerly RCW 66.12.100, 66.20.020, and 66.20.030.]

66.20.040 Applicant must sign permit. No permit shall be valid or be accepted or used for the purchase of liquor until the applicant for the permit has written his or her signature thereon in the prescribed manner, for the purposes of identification as the holder thereof, in the presence of the employee to whom the application is made. [2012 c 117 § 274; 1933 ex.s. c 62 § 14; RRS § 7306-14.]

66.20.060 Duration. Every permit issued for use after October 1, 1955, shall expire at midnight on the thirtieth day of June of the fiscal year for which the permit was issued, except special permits for banquets and special permits to physicians, dentists, or persons in charge of an institution regularly conducted as a hospital or sanatorium for the care of persons in ill health, or as a home devoted exclusively to the care of aged people. [1955 c 180 § 1; 1935 c 174 § 1; 1933 ex.s. c 62 § 16; RRS § 7306-16.]

66.20.070 Suspension or cancellation. Where the holder of any permit issued under this title violates any provision of this title or of the regulations, or is an interdicted person, or is otherwise disqualified from holding a permit, the

board, upon proof to its satisfaction of the fact or existence of such violation, interdiction, or disqualification, and in its discretion, may with or without any hearing, suspend the permit and all rights of the holder thereunder for such period as the board sees fit, or may cancel the permit. [1933 ex.s. c 62 § 17; RRS § 7306-17.]

66.20.080 Surrender of suspended or canceled permit—New permit, when. Upon receipt of notice of the suspension or cancellation of his or her permit, the holder of the permit shall forthwith deliver up the permit to the board. Where the permit has been suspended only, the board shall return the permit to the holder at the expiration or termination of the period of suspension. Where the permit has been suspended or canceled, no employee shall knowingly issue to the person whose permit is suspended or canceled a permit under this title until the end of the period of suspension or within the period of one year from the date of cancellation. [2012 c 117 § 275; 1933 ex.s. c 62 § 18; RRS § 7306-18.]

66.20.085 License suspension—Noncompliance with support order—Reissuance. The board shall immediately suspend the license of a person who has been certified pursuant to RCW 74.20A.320 by the department of social and health services as a person who is not in compliance with a support order or a *residential or visitation order. If the person has continued to meet all other requirements for reinstatement during the suspension, reissuance of the license shall be automatic upon the board's receipt of a release issued by the department of social and health services stating that the licensee is in compliance with the order. [1997 c 58 § 861.]

***Reviser's note:** 1997 c 58 § 886 requiring a court to order certification of noncompliance with residential provisions of a court-ordered parenting plan was vetoed. Provisions ordering the department of social and health services to certify a responsible parent based on a court order to certify for noncompliance with residential provisions of a parenting plan were vetoed. See RCW 74.20A.320.

Effective dates—Intent—1997 c 58: See notes following RCW 74.20A.320.

Additional notes found at www.leg.wa.gov

66.20.090 Retaining permits wrongfully presented. Where any permit is presented to an employee by a person who is not the holder of the permit, or where any permit which is suspended or canceled is presented to an employee, the employee shall retain the permit in his or her custody and shall forthwith notify the board of the fact of its retention. [2012 c 117 § 276; 1933 ex.s. c 62 § 19; RRS § 7306-19.]

66.20.100 Physician may prescribe or administer liquor—Penalty. Any physician who deems liquor necessary for the health of a patient, whether an interdicted person or not, whom he or she has seen or visited professionally may give to the patient a prescription therefor, signed by the physician, or the physician may administer the liquor to the patient, for which purpose the physician may administer the liquor purchased by him or her under special permit and may charge for the liquor so administered; but no prescription shall be given or liquor be administered by a physician except to bona fide patients in cases of actual need, and when in the judgment of the physician the use of liquor as medicine in the quantity prescribed or administered is necessary; and any physician who administers liquor in evasion or violation of this title shall be guilty of a violation of this title. [2012 c 117 § 277; 1933 ex.s. c 62 § 20; RRS § 7306-20.]

66.20.110 Dentist may administer liquor—Penalty. Any dentist who deems it necessary that any patient then under treatment by him or her should be supplied with liquor as a stimulant or restorative may administer to the patient the liquor so needed, and for that purpose the dentist shall administer liquor obtained by him or her under special permit pursuant to this title, and may charge for the liquor so administered; but no liquor shall be administered by a dentist except to bona fide patients in cases of actual need; and every dentist who administers liquor in evasion or violation of this title shall be guilty of a violation of this title. [2012 c 117 § 278; 1933 ex.s. c 62 § 21; RRS § 7306-21.]

66.20.120 Hospital, etc., may administer liquor—Penalty. Any person in charge of an institution regularly conducted as a hospital or sanatorium for the care of persons in ill health, or as a home devoted exclusively to the care of aged people, may, if he or she holds a special permit under this title for that purpose, administer liquor purchased by him or her under his or her special permit to any patient or inmate of the institution who is in need of the same, either by way of external application or otherwise for medicinal purposes, and may charge for the liquor so administered; but no liquor shall be administered by any person under this section except to bona fide patients or inmates of the institution of which he or she is in charge and in cases of actual need and every person in charge of an institution who administers liquor in evasion or violation of this title shall be guilty of a violation of this title. [2013 c 23 § 176; 1933 ex.s. c 62 § 22; RRS § 7306-22.]

66.20.140 Limitation on application after cancellation or suspension. No person whose permit has been canceled within the period of twelve months next preceding, or is suspended, shall make application to any employee under this title for another permit. [1933 ex.s. c 62 § 40; RRS § 7306-40.]

66.20.150 Purchases prohibited under canceled, suspended permit, or under another's permit. No person shall purchase or attempt to purchase liquor under a permit which is suspended, or which has been canceled, or of which he or she is not the holder. [2012 c 117 § 279; 1933 ex.s. c 62 § 41; RRS § 7306-41.]

66.20.160 Licensee definition. As used in RCW 66.20.160 through 66.20.210, inclusive, "licensee" means the holder of a retail liquor license issued by the board, and includes any employee or agent of the licensee. [2012 c 2 § 110 (Initiative Measure No. 1183, approved November 8, 2011); 2005 c 151 § 8; 1973 1st ex.s. c 209 § 4; 1971 ex.s. c 15 § 2; 1959 c 111 § 4; 1949 c 67 § 1; Rem. Supp. 1949 § 7306-19A.]

Finding—Application—Rules—Effective date—Contingent effective date—2012 c 2 (Initiative Measure No. 1183): See notes following RCW 66.24.620.

Additional notes found at www.leg.wa.gov

66.20.170 Card of identification may be accepted as identification card and evidence of legal age. A card of identification may for the purpose of this title and for the purpose of procuring liquor, be accepted as an identification card by any licensee or store employee and as evidence of legal age of the person presenting such card, provided the licensee or store employee complies with the conditions and procedures prescribed herein and such regulations as may be made by the board. [1973 1st ex.s. c 209 § 5; 1971 ex.s. c 15 § 3; 1959 c 111 § 5; 1949 c 67 § 2; Rem. Supp. 1949 § 7306-19B.]

Additional notes found at www.leg.wa.gov

66.20.180 Card of identification to be presented on request of licensee. A card of identification shall be presented by the holder thereof upon request of any licensee, store employee, contract liquor store manager, contract liquor store employee, peace officer, or enforcement officer of the board for the purpose of aiding the licensee, store employee, contract liquor store manager, contract liquor store employee, peace officer, or enforcement officer of the board to determine whether or not such person is of legal age to purchase liquor when such person desires to procure liquor from a licensed establishment or state liquor store or contract liquor store. [2005 c 151 § 9; 1973 1st ex.s. c 209 § 6; 1971 ex.s. c 15 § 4; 1959 c 111 § 6; 1949 c 67 § 3; Rem. Supp. 1949 § 7306-19C.]

Additional notes found at www.leg.wa.gov

66.20.190 Identification card holder may be required to sign certification card—Contents—Procedure—Statement. In addition to the presentation by the holder and verification by the licensee or store employee of such card of identification, the licensee or store employee who is still in doubt about the true age of the holder shall require the person whose age may be in question to sign a certification card and record an accurate description and serial number of his or her card of identification thereon. Such statement shall be upon a five-inch by eight-inch file card, which card shall be filed alphabetically by the licensee or store employee at or before the close of business on the day on which the statement is executed, in the file box containing a suitable alphabetical index and the card shall be subject to examination by any peace officer or agent or employee of the board at all times. The certification card shall also contain in bold-face type a statement stating that the signer understands that conviction for unlawful purchase of alcoholic beverages or misuse of the certification card may result in criminal penalties including imprisonment or fine or both. [2012 c 117 § 280; 1981 1st ex.s. c 5 § 9; 1975 1st ex.s. c 173 § 4; 1973 1st ex.s. c 209 § 7; 1971 ex.s. c 15 § 5; 1959 c 111 § 7; 1949 c 67 § 4; Rem. Supp. 1949 § 7306-19D.]

Additional notes found at www.leg.wa.gov

66.20.200 Unlawful acts relating to identification or certification card—Penalties. (1) It shall be unlawful for the owner of a card of identification to transfer the card to any other person for the purpose of aiding such person to procure alcoholic beverages from any licensee or store employee. Any person who shall permit his or her card of identification to be used by another or transfer such card to another for the purpose of aiding such transferee to obtain alcoholic beverages from a licensee or store employee or gain admission to a premises or portion of a premises classified by the board as off-limits to persons under twenty-one years of age, shall be guilty of a misdemeanor punishable as provided by RCW 9A.20.021, except that a minimum fine of two hundred fifty dollars shall be imposed and any sentence requiring community restitution shall require not fewer than twenty-five hours of community restitution.

(2) Any person not entitled thereto who unlawfully procures or has issued or transferred to him or her a card of identification, and any person who possesses a card of identification not issued to him or her, and any person who makes any false statement on any certification card required by RCW 66.20.190, to be signed by him or her, shall be guilty of a misdemeanor punishable as provided by RCW 9A.20.021, except that a minimum fine of two hundred fifty dollars shall be imposed and any sentence requiring community restitution shall require not fewer than twenty-five hours of community restitution. [2003 c 53 § 295; 2002 c 175 § 41; 1994 c 201 § 1; 1987 c 101 § 4; 1973 1st ex.s. c 209 § 8; 1971 ex.s. c 15 § 6; 1969 ex.s. c 178 § 2; 1959 c 111 § 8; 1949 c 67 § 5; Rem. Supp. 1949 § 7306-19E.]

Intent—Effective date—2003 c 53: See notes following RCW 2.48.180.

Unlawful transfer to minor of age identification: RCW 66.44.325.

Additional notes found at www.leg.wa.gov

66.20.210 Licensee's immunity to prosecution or suit—Certification card as evidence of good faith. No licensee or the agent or employee of the licensee, or store employee, shall be prosecuted criminally or be sued in any civil action for serving liquor to a person under legal age to purchase liquor if such person has presented a card of identification in accordance with RCW 66.20.180, and has signed a certification card as provided in RCW 66.20.190.

Such card in the possession of a licensee may be offered as a defense in any hearing held by the board for serving liquor to the person who signed the card and may be considered by the board as evidence that the licensee acted in good faith. [1973 1st ex.s. c 209 § 9; 1971 ex.s. c 15 § 7; 1959 c 111 § 9; 1949 c 67 § 6; Rem. Supp. 1949 § 7306-19F.]

Additional notes found at www.leg.wa.gov

66.20.300 Alcohol servers—Definitions *(as amended by 2014 c 29)*. The definitions in this section apply throughout RCW 66.20.310 through 66.20.350 unless the context clearly requires otherwise.

(1) "Alcohol" has the same meaning as "liquor" in RCW 66.04.010.

(2) "Alcohol server" means any person who as part of his or her employment participates in the sale or service of alcoholic beverages for on-premise [on-premises] consumption at a retail licensed premise as a regular requirement of his or her employment, and includes those persons eighteen years of age or older permitted by the liquor laws of this state to serve alcoholic beverages with meals.

(3) "Board" means the Washington state liquor control board.

(4) "Retail licensed premises" means any:

(a) Premises licensed to sell alcohol by the glass or by the drink, or in original containers primarily for consumption on the premises as authorized by this section and RCW 66.20.310, 66.24.320, 66.24.330, 66.24.350, 66.24.400, 66.24.425, 66.24.690, 66.24.450, 66.24.570, 66.24.610, 66.24.650, and 66.24.655;

(b) Distillery licensed pursuant to RCW 66.24.140 that is authorized to serve samples of its own production;

(c) Facility established by a domestic winery for serving and selling wine pursuant to RCW 66.24.170(4); and

(d) Grocery store licensed under RCW 66.24.360, but only with respect to employees whose duties include serving during tasting activities under RCW 66.24.363.

(5) "Training entity" means any liquor licensee associations, independent contractors, private persons, and private or public schools, that have been certified by the board. [2014 c 29 § 2. Prior: 2013 c 237 § 2; 2013 c 219 § 2; 2011 c 325 § 5; 2010 c 141 § 3; prior: 2008 c 94 § 10; 2008 c 41 § 1; 1997 c 321 § 44; 1996 c 218 § 2; 1995 c 51 § 2.]

66.20.300 Alcohol servers—Definitions *(as amended by 2014 c 78)*. Unless the context clearly requires otherwise, the definitions in this section apply throughout RCW 66.20.310 through 66.20.350.

(1) "Alcohol" has the same meaning as "liquor" in RCW 66.04.010.

(2) "Alcohol server" means any person who as part of his or her employment participates in the sale or service of alcoholic beverages for on-premise [on-premises] consumption at a retail licensed premise as a regular requirement of his or her employment, and includes those persons eighteen years of age or older permitted by the liquor laws of this state to serve alcoholic beverages with meals.

(3) "Board" means the Washington state liquor control board.

(4) "Training entity" means any liquor licensee associations, independent contractors, private persons, and private or public schools, that have been certified by the board.

(5) "Retail licensed premises" means any:

(a) Premises licensed to sell alcohol by the glass or by the drink, or in original containers primarily for consumption on the premises as authorized by RCW 66.24.320, 66.24.330, 66.24.350, 66.24.400, 66.24.425, 66.24.450, 66.24.570, ((~~and~~)) 66.24.610, and 66.24.680;

(b) Distillery licensed pursuant to RCW 66.24.140 that is authorized to serve samples of its own production;

(c) Facility established by a domestic winery for serving and selling wine pursuant to RCW 66.24.170(4); and

(d) Grocery store licensed under RCW 66.24.360, but only with respect to employees whose duties include serving during tasting activities under RCW 66.24.363. [2014 c 78 § 2; 2011 c 325 § 5; 2010 c 141 § 3. Prior: 2008 c 94 § 10; 2008 c 41 § 1; 1997 c 321 § 44; 1996 c 218 § 2; 1995 c 51 § 2.]

Reviser's note: This section did not amend the most current version of the RCW. It was amended by 2014 c 78 § 2 without cognizance of its amendment by 2013 c 237 § 2 and 2013 c 219 § 2.

Findings—1995 c 51: "The legislature finds that education of alcohol servers on issues such as the physiological effects of alcohol on consumers, liability and legal implications of serving alcohol, driving while intoxicated, and methods of intervention with the problem customer are important in protecting the health and safety of the public. The legislature further finds that it is in the best interest of the citizens of the state of Washington to have an alcohol server education program." [1995 c 51 § 1.]

Additional notes found at www.leg.wa.gov

66.20.310 Alcohol servers—Permits—Requirements—Suspension, revocation—Violations—Exemptions *(as amended by 2014 c 29)*. (1)(a) There is an alcohol server permit, known as a class 12 permit, for a manager or bartender selling or mixing alcohol, spirits, wines, or beer for consumption at an on-premises licensed facility.

(b) There is an alcohol server permit, known as a class 13 permit, for a person who only serves alcohol, spirits, wines, or beer for consumption at an on-premises licensed facility.

(c) As provided by rule by the board, a class 13 permit holder may be allowed to act as a bartender without holding a class 12 permit.

(2)(a) Effective January 1, 1997, except as provided in (d) of this subsection, every alcohol server employed, under contract or otherwise, at a retail licensed premise must be issued a class 12 or class 13 permit.

(b) Every class 12 and class 13 permit issued must be issued in the name of the applicant and no other person may use the permit of another permit holder. The holder must present the permit upon request to inspection by a representative of the board or a peace officer. The class 12 or class 13 permit is valid for employment at any retail licensed premises described in (a) of this subsection.

(c) Except as provided in (d) of this subsection, no licensee holding a license as authorized by this section and RCW 66.20.300, 66.24.320, 66.24.330, 66.24.350, 66.24.400, 66.24.425, 66.24.690, 66.24.450, 66.24.570, 66.24.600, 66.24.610, 66.24.650, and 66.24.655 may employ or accept the services of any person without the person first having a valid class 12 or class 13 permit.

(d) Within sixty days of initial employment, every person whose duties include the compounding, sale, service, or handling of liquor must have a class 12 or class 13 permit.

(e) No person may perform duties that include the sale or service of alcoholic beverages on a retail licensed premises without possessing a valid alcohol server permit.

(3) A permit issued by a training entity under this section is valid for employment at any retail licensed premises described in subsection (2)(a) of this section for a period of five years unless suspended by the board.

(4) The board may suspend or revoke an existing permit if any of the following occur:

(a) The applicant or permittee has been convicted of violating any of the state or local intoxicating liquor laws of this state or has been convicted at any time of a felony; or

(b) The permittee has performed or permitted any act that constitutes a violation of this title or of any rule of the board.

(5) The suspension or revocation of a permit under this section does not relieve a licensee from responsibility for any act of the employee or agent while employed upon the retail licensed premises. The board may, as appropriate, revoke or suspend either the permit of the employee who committed the violation or the license of the licensee upon whose premises the violation occurred, or both the permit and the license.

(6)(a) After January 1, 1997, it is a violation of this title for any retail licensee or agent of a retail licensee as described in subsection (2)(a) of this section to employ in the sale or service of alcoholic beverages, any person who does not have a valid alcohol server permit or whose permit has been revoked, suspended, or denied.

(b) It is a violation of this title for a person whose alcohol server permit has been denied, suspended, or revoked to accept employment in the sale or service of alcoholic beverages.

(7) Grocery stores licensed under RCW 66.24.360, the primary commercial activity of which is the sale of grocery products and for which the sale and service of beer and wine for on-premises consumption with food is incidental to the primary business, and employees of such establishments, are exempt from RCW 66.20.300 through 66.20.350, except for employees whose duties include serving during tasting activities under RCW 66.24.363. [2014 c 29 § 3. Prior: 2013 c 237 § 3; 2013 c 219 § 3; 2011 c 325 § 4; 2010 c 141 § 2; prior: 2009 c 271 § 5; 2009 c 187 § 4; prior: 2008 c 94 § 11; 2008 c 41 § 3; (2008 c 41 § 2 expired July 1, 2008); 2007 c 370 § 17; 1997 c 321 § 45; prior: 1996 c 311 § 1; 1996 c 218 § 3; 1995 c 51 § 3.]

66.20.310 Alcohol servers—Permits—Requirements—Suspension, revocation—Violations—Exemptions *(as amended by 2014 c 78)*. (1)(a) There shall be an alcohol server permit, known as a class 12 permit, for a manager or bartender selling or mixing alcohol, spirits, wines, or beer for consumption at an on-premises licensed facility.

(b) There shall be an alcohol server permit, known as a class 13 permit, for a person who only serves alcohol, spirits, wines, or beer for consumption at an on-premises licensed facility.

(c) As provided by rule by the board, a class 13 permit holder may be allowed to act as a bartender without holding a class 12 permit.

(2)(a) Effective January 1, 1997, except as provided in (d) of this subsection, every alcohol server employed, under contract or otherwise, at a retail licensed premise shall be issued a class 12 or class 13 permit.

(b) Every class 12 and class 13 permit issued shall be issued in the name of the applicant and no other person may use the permit of another permit holder. The holder shall present the permit upon request to inspection by a representative of the board or a peace officer. The class 12 or class 13 permit shall be valid for employment at any retail licensed premises described in (a) of this subsection.

(c) Except as provided in (d) of this subsection, no licensee holding a license as authorized by RCW 66.24.320, 66.24.330, 66.24.350, 66.24.400, 66.24.425, 66.24.450, 66.24.570, 66.24.600, ((~~and~~)) 66.24.610, and 66.24.680 may employ or accept the services of any person without the person first having a valid class 12 or class 13 permit.

(d) Within sixty days of initial employment, every person whose duties include the compounding, sale, service, or handling of liquor shall have a class 12 or class 13 permit.

(e) No person may perform duties that include the sale or service of alcoholic beverages on a retail licensed premises without possessing a valid alcohol server permit.

(3) A permit issued by a training entity under this section is valid for employment at any retail licensed premises described in subsection (2)(a) of this section for a period of five years unless suspended by the board.

(4) The board may suspend or revoke an existing permit if any of the following occur:

(a) The applicant or permittee has been convicted of violating any of the state or local intoxicating liquor laws of this state or has been convicted at any time of a felony; or

(b) The permittee has performed or permitted any act that constitutes a violation of this title or of any rule of the board.

(5) The suspension or revocation of a permit under this section does not relieve a licensee from responsibility for any act of the employee or agent while employed upon the retail licensed premises. The board may, as appropriate, revoke or suspend either the permit of the employee who committed the violation or the license of the licensee upon whose premises the violation occurred, or both the permit and the license.

(6)(a) After January 1, 1997, it is a violation of this title for any retail licensee or agent of a retail licensee as described in subsection (2)(a) of this section to employ in the sale or service of alcoholic beverages, any person who does not have a valid alcohol server permit or whose permit has been revoked, suspended, or denied.

(b) It is a violation of this title for a person whose alcohol server permit has been denied, suspended, or revoked to accept employment in the sale or service of alcoholic beverages.

(7) Grocery stores licensed under RCW 66.24.360, the primary commercial activity of which is the sale of grocery products and for which the sale and service of beer and wine for on-premises consumption with food is incidental to the primary business, and employees of such establishments, are exempt from RCW 66.20.300 through 66.20.350, except for employees whose duties include serving during tasting activities under RCW 66.24.363. [2014 c 78 § 3; 2011 c 325 § 4; 2010 c 141 § 2. Prior: 2009 c 271 § 5; 2009 c 187 § 4; prior: 2008 c 94 § 11; 2008 c 41 § 3; (2008 c 41 § 2 expired July 1, 2008); 2007 c 370 § 17; 1997 c 321 § 45; prior: 1996 c 311 § 1; 1996 c 218 § 3; 1995 c 51 § 3.]

Reviser's note: This section did not amend the most current version of the RCW. It was amended by 2014 c 78 § 3 without cognizance of its amendment by 2013 c 237 § 3 and 2013 c 219 § 3.

Effective date—2008 c 94 §§ 4 and 11: See note following RCW 66.04.010.

Effective date—2008 c 41 §§ 3, 10, and 11: "Sections 3, 10, and 11 of this act take effect July 1, 2008." [2008 c 41 § 16.]

Expiration date—2008 c 41 § 2: "Section 2 of this act expires July 1, 2008." [2008 c 41 § 13.]

Effective date—2007 c 370 §§ 10-20: See note following RCW 66.04.010.

Findings—1995 c 51: See note following RCW 66.20.300.

Additional notes found at www.leg.wa.gov

66.20.320 Alcohol servers—Education program—Fees—Issuance of permits. (1) The board shall regulate a required alcohol server education program that includes:

(a) Development of the curriculum and materials for the education program;

(b) Examination and examination procedures;

(c) Certification procedures, enforcement policies, and penalties for education program instructors and providers;

(d) The curriculum for an approved class 12 alcohol permit training program that includes but is not limited to the following subjects:

(i) The physiological effects of alcohol including the effects of alcohol in combination with drugs;

(ii) Liability and legal information;

(iii) Driving while intoxicated;

(iv) Intervention with the problem customer, including ways to stop service, ways to deal with the belligerent customer, and alternative means of transportation to get the customer safely home;

(v) Methods for checking proper identification of customers;

(vi) Nationally recognized programs, such as TAM (Techniques in Alcohol Management) and TIPS (Training for Intervention Programs) modified to include Washington laws and regulations.

(2) The board shall provide the program through liquor licensee associations, independent contractors, private persons, private or public schools certified by the board, or any combination of such providers.

(3) Each training entity shall provide a class 12 permit to the manager or bartender who has successfully completed a course the board has certified. A list of the individuals receiving the class 12 permit shall be forwarded to the board on the completion of each course given by the training entity.

(4) After January 1, 1997, the board shall require all alcohol servers applying for a class 13 alcohol server permit to view a video training session. Retail liquor licensees shall fully compensate employees for the time spent participating in this training session.

(5) When requested by a retail liquor licensee, the board shall provide copies of videotaped training programs that have been produced by private vendors and make them available for a nominal fee to cover the cost of purchasing and shipment, with the fees being deposited in the liquor revolving fund for distribution to the board as needed.

(6) Each training entity may provide the board with a video program of not less than one hour that covers the subjects in subsection (1)(d)(i) through (v) of this section that will be made available to a licensee for the training of a class 13 alcohol server.

(7) Applicants shall be given a class 13 permit upon the successful completion of the program.

(8) A list of the individuals receiving the class 13 permit shall be forwarded to the board on the completion of each video training program.

(9) The board shall develop a model permit for the class 12 and 13 permits. The board may provide such permits to training entities or licensees for a nominal cost to cover production.

(10)(a) Persons who have completed a nationally recognized alcohol management or intervention program since July 1, 1993, may be issued a class 12 or 13 permit upon providing proof of completion of such training to the board.

(b) Persons who completed the board's alcohol server training program after July 1, 1993, but before July 1, 1995, may be issued a class 13 permit upon providing proof of completion of such training to the board. [1996 c 311 § 2; 1995 c 51 § 4.]

Findings—1995 c 51: See note following RCW 66.20.300.

66.20.330 Alcohol servers—Rules. The board shall adopt rules to implement RCW 66.20.300 through 66.20.350 including, but not limited to, procedures and grounds for denying, suspending, or revoking permits. [1995 c 51 § 5.]

Findings—1995 c 51: See note following RCW 66.20.300.

66.20.340 Alcohol servers—Violation of rules—Penalties. A violation of any of the rules of the board adopted to implement RCW 66.20.300 through 66.20.350 is a misdemeanor, punishable by a fine of not more than two hundred fifty dollars for a first offense. A subsequent offense is punishable by a fine of not more than five hundred dollars, or imprisonment for not more than ninety days, or both the fine and imprisonment. [1995 c 51 § 6.]

Findings—1995 c 51: See note following RCW 66.20.300.

66.20.350 Alcohol servers—Deposit of fees. Fees collected by the board under RCW 66.20.300 through 66.20.350 shall be deposited in the liquor revolving fund in accordance with RCW 66.08.170. [1995 c 51 § 7.]

Findings—1995 c 51: See note following RCW 66.20.300.

66.20.360 Direct sale of wine to consumer—Holder of license to manufacture wine. The holder of a license to manufacture wine issued by this state or another state may ship its wine to a person who is a resident of Washington and is twenty-one years of age or older for that person's personal use and not for resale. [2006 c 49 § 1.]

66.20.365 Direct sale of wine to consumer—Requirements for wineries. Before wine may be shipped by a domestic winery or an out-of-state winery to a person who is a resident of Washington, the winery must:

(1) Obtain a wine shipper's permit under procedures prescribed by the board by rule and pay a fee established by the board, if the winery is located outside the state; or

(2) Be licensed as a domestic winery by the board and have paid the annual license fee. [2006 c 49 § 2.]

66.20.370 Direct sale of wine to consumer—Wine shipper's permit—Requirements. (1) An applicant for a wine shipper's permit under RCW 66.20.365 must:

(a) Operate a winery located in the United States;

(b) Provide the board a copy of its valid license to manufacture wine issued by another state;

(c) Certify that it holds all state and federal licenses and permits necessary to operate a winery; and

(d) Register with the department of revenue under RCW 82.32.030.

(2) Holders of a winery certificate of approval under RCW 66.24.206(1)(a) are deemed to hold a wine shipper's permit without further application or fee, if the holder meets all requirements for a wine shipper's permit. A winery certificate of approval holder who wants to ship wine under its wine shipper's permit privilege must notify the liquor control board in a manner determined by the board before shipping any wine to a Washington consumer.

(3) Holders of a wine shipper's permit must:

(a) Pay the tax under RCW 66.24.210 for sales of wine to Washington state residents; and

(b) Collect and remit to the department of revenue all applicable state and local sales and use taxes imposed by or under the authority of chapters 82.08, 82.12, and 82.14 RCW on all sales of wine delivered to buyers in this state, regardless of whether the permit holder has a physical presence in this state. [2006 c 49 § 3.]

66.20.375 Direct sale of wine to consumer—Labeling and private carrier requirements. (1) A domestic winery or a wine shipper's permit holder must clearly label all wine cases or outside shipping packages of wine sent into or out of this state under chapter 49, Laws of 2006 to indicate that the package cannot be delivered to a person under twenty-one years of age or to an intoxicated person.

(2) A domestic winery or a wine shipper's permit holder must ensure that the private carrier used to deliver wine (a) obtains the signature of the person who receives the wine upon delivery, (b) verifies the age of the recipient, and (c) verifies that the recipient does not appear intoxicated at the time of delivery. [2006 c 49 § 4.]

66.20.380 Direct sale of wine to consumer—Monthly reporting—Display of permit or license number. (1) A wine shipper's permit holder and a domestic winery must report to the board, on or before the twentieth day of each month, all shipments of wine made during the preceding calendar month directly to Washington consumers under a wine shipper's permit or a domestic winery license in effect for all or any portion of the preceding year. All reports will be on forms prescribed by the board.

(2) A wine shipper's permit holder, a winery certificate of approval holder, or domestic winery who advertises or offers wine for direct shipment to customers within this state must clearly and conspicuously display the permit or license number in its advertising. [2006 c 49 § 5.]

66.20.385 Direct sale of wine to consumer—Fee for wine shipper's permit. A fee for a wine shipper's permit may be established by the board. [2006 c 49 § 6.]

66.20.390 Direct sale of wine to consumer—Consent to jurisdiction—Revocation or suspension of permit. (1) Holders of a wine shipper's permit are deemed to have consented to the jurisdiction of Washington concerning enforcement of chapter 49, Laws of 2006 and all laws, rules, and regulations related to the shipment of wine from wine manufacturers directly to consumers.

(2)(a) A permit issued under chapter 49, Laws of 2006 to a wine manufacturer located outside this state who fails to comply with the provisions of chapter 49, Laws of 2006 shall be suspended or revoked.

(b) The privilege to ship wine directly to Washington consumers under a domestic winery license shall be suspended or revoked if the domestic winery fails to comply with the provisions of chapter 49, Laws of 2006. [2006 c 49 § 7.]

66.20.400 Day spa permit. (1) There shall be a permit known as a day spa permit to allow the holder to offer or supply without charge, wine or beer by the individual glass to a customer for consumption on the premises. The customer must be at least twenty-one years of age and may only be offered wine or beer if the services he or she will be receiving will last more than one hour. Wine or beer served or consumed shall be purchased from a Washington state licensed retailer. A customer may consume no more than one six ounce glass of wine or one twelve ounce glass of beer per day under this permit. Day spas with a day spa permit may not advertise the service of complimentary wine or beer and may not sell wine or beer in any manner. Any employee involved in the service of wine or beer must complete a board-approved limited alcohol server training program.

(2) For the purposes of this section, "day spa" means a business that offers at least three of the following four service categories:

(a) Hair care;

(b) Skin care;

(c) Nail care; and

(d) Body care, such as massages, wraps, and waxing.

Day spas must provide separate service areas of the day spa for at least three of the service categories offered.

(3) The annual fee for this permit is one hundred twenty-five dollars. [2014 c 199 § 1.]

Chapter 66.24 RCW
LICENSES—STAMP TAXES

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Minors, access to tobacco, role of liquor control board: Chapter 70.155 RCW.

66.24.010 Licensure—Issuance—Conditions and restrictions—Limitations—Temporary licenses. (1) Every license must be issued in the name of the applicant, and the holder thereof may not allow any other person to use the license.

(2) For the purpose of considering any application for a license, or the renewal of a license, the board may cause an inspection of the premises to be made, and may inquire into all matters in connection with the construction and operation of the premises. For the purpose of reviewing any application for a license and for considering the denial, suspension, revocation, or renewal or denial thereof, of any license, the liquor control board may consider any prior criminal conduct of the applicant including an administrative violation history record with the board and a criminal history record information check. The board may submit the criminal history record information check to the Washington state patrol and to the identification division of the federal bureau of investigation in order that these agencies may search their records for prior arrests and convictions of the individual or individuals who

filled out the forms. The board must require fingerprinting of any applicant whose criminal history record information check is submitted to the federal bureau of investigation. The provisions of RCW 9.95.240 and of chapter 9.96A RCW do not apply to such cases. Subject to the provisions of this section, the board may, in its discretion, grant or deny the renewal or license applied for. Denial may be based on, without limitation, the existence of chronic illegal activity documented in objections submitted pursuant to subsections (8)(d) and (12) of this section. Authority to approve an uncontested or unopposed license may be granted by the board to any staff member the board designates in writing. Conditions for granting such authority must be adopted by rule. No retail license of any kind may be issued to:

(a) A person doing business as a sole proprietor who has not resided in the state for at least one month prior to receiving a license, except in cases of licenses issued to dining places on railroads, boats, or aircraft;

(b) A copartnership, unless all of the members thereof are qualified to obtain a license, as provided in this section;

(c) A person whose place of business is conducted by a manager or agent, unless such manager or agent possesses the same qualifications required of the licensee;

(d) A corporation or a limited liability company, unless it was created under the laws of the state of Washington or holds a certificate of authority to transact business in the state of Washington.

(3)(a) The board may, in its discretion, subject to the provisions of RCW 66.08.150, suspend or cancel any license; and all rights of the licensee to keep or sell liquor thereunder must be suspended or terminated, as the case may be.

(b) The board must immediately suspend the license or certificate of a person who has been certified pursuant to RCW 74.20A.320 by the department of social and health services as a person who is not in compliance with a support order. If the person has continued to meet all other requirements for reinstatement during the suspension, reissuance of the license or certificate is automatic upon the board's receipt of a release issued by the department of social and health services stating that the licensee is in compliance with the order.

(c) Upon written notification by the department of revenue in accordance with RCW 82.08.155 that a person is more than thirty days delinquent in reporting or remitting spirits taxes to the department, the board must suspend all spirits licenses held by that person. The board must also refuse to renew any existing spirits license of, or issue any new spirits license to, the person or any other applicant controlled directly or indirectly by that person. The board may not reinstate a person's spirits license or renew or issue a new spirits license to that person, or an applicant controlled directly or indirectly by that person, until such time as the department of revenue notifies the board that the person is current in reporting and remitting spirits taxes or that the department consents to the reinstatement or renewal of the person's spirits license or the issuance of a new spirits license to the person. For purposes of this section: (i) "Spirits license" means any license issued by the board under the authority of this chapter that authorizes the licensee to sell spirits; and (ii) "spirits taxes" has the same meaning as in RCW 82.08.155.

(d) The board may request the appointment of administrative law judges under chapter 34.12 RCW who must have power to administer oaths, issue subpoenas for the attendance of witnesses and the production of papers, books, accounts, documents, and testimony, examine witnesses, and to receive testimony in any inquiry, investigation, hearing, or proceeding in any part of the state, under such rules and regulations as the board may adopt.

(e) Witnesses are allowed fees and mileage each way to and from any such inquiry, investigation, hearing, or proceeding at the rate authorized by RCW 34.05.446. Fees need not be paid in advance of appearance of witnesses to testify or to produce books, records, or other legal evidence.

(f) In case of disobedience of any person to comply with the order of the board or a subpoena issued by the board, or any of its members, or administrative law judges, or on the refusal of a witness to testify to any matter regarding which he or she may be lawfully interrogated, the judge of the superior court of the county in which the person resides, on application of any member of the board or administrative law judge, must compel obedience by contempt proceedings, as in the case of disobedience of the requirements of a subpoena issued from said court or a refusal to testify therein.

(4) Upon receipt of notice of the suspension or cancellation of a license, the licensee must forthwith deliver up the license to the board. Where the license has been suspended only, the board must return the license to the licensee at the expiration or termination of the period of suspension. The board must notify all vendors in the city or place where the licensee has its premises of the suspension or cancellation of the license; and no employee may allow or cause any liquor to be delivered to or for any person at the premises of that licensee.

(5)(a) At the time of the original issuance of a spirits, beer, and wine restaurant license, the board must prorate the license fee charged to the new licensee according to the number of calendar quarters, or portion thereof, remaining until the first renewal of that license is required.

(b) Unless sooner canceled, every license issued by the board must expire at midnight of the thirtieth day of June of the fiscal year for which it was issued. However, if the board deems it feasible and desirable to do so, it may establish, by rule pursuant to chapter 34.05 RCW, a system for staggering the annual renewal dates for any and all licenses authorized by this chapter. If such a system of staggered annual renewal dates is established by the board, the license fees provided by this chapter must be appropriately prorated during the first year that the system is in effect.

(6) Every license issued under this section is subject to all conditions and restrictions imposed by this title or by rules adopted by the board. All conditions and restrictions imposed by the board in the issuance of an individual license may be listed on the face of the individual license along with the trade name, address, and expiration date. Conditions and restrictions imposed by the board may also be included in official correspondence separate from the license. All spirits licenses are subject to the condition that the spirits license holder must report and remit to the department of revenue all spirits taxes by the date due.

(7) Every licensee must post and keep posted its license, or licenses, and any additional correspondence containing conditions and restrictions imposed by the board in a conspicuous place on the premises.

(8)(a) Unless (b) of this subsection applies, before the board issues a new or renewal license to an applicant it must give notice of such application to the chief executive officer of the incorporated city or town, if the application is for a license within an incorporated city or town, or to the county legislative authority, if the application is for a license outside the boundaries of incorporated cities or towns.

(b) If the application for a special occasion license is for an event held during a county, district, or area fair as defined by RCW 15.76.120, and the county, district, or area fair is located on property owned by the county but located within an incorporated city or town, the county legislative authority must be the entity notified by the board under (a) of this subsection. The board must send a duplicate notice to the incorporated city or town within which the fair is located.

(c) The incorporated city or town through the official or employee selected by it, or the county legislative authority or the official or employee selected by it, has the right to file with the board within twenty days after the date of transmittal of such notice for applications, or at least thirty days prior to the expiration date for renewals, written objections against the applicant or against the premises for which the new or renewal license is asked. The board may extend the time period for submitting written objections.

(d) The written objections must include a statement of all facts upon which such objections are based, and in case written objections are filed, the city or town or county legislative authority may request and the liquor control board may in its discretion hold a hearing subject to the applicable provisions of Title 34 RCW. If the board makes an initial decision to deny a license or renewal based on the written objections of an incorporated city or town or county legislative authority, the applicant may request a hearing subject to the applicable provisions of Title 34 RCW. If such a hearing is held at the request of the applicant, liquor control board representatives must present and defend the board's initial decision to deny a license or renewal.

(e) Upon the granting of a license under this title the board must send written notification to the chief executive officer of the incorporated city or town in which the license is granted, or to the county legislative authority if the license is granted outside the boundaries of incorporated cities or towns. When the license is for a special occasion license for an event held during a county, district, or area fair as defined by RCW 15.76.120, and the county, district, or area fair is located on county-owned property but located within an incorporated city or town, the written notification must be sent to both the incorporated city or town and the county legislative authority.

(9)(a) Before the board issues any license to any applicant, it shall give (i) due consideration to the location of the business to be conducted under such license with respect to the proximity of churches, schools, and public institutions and (ii) written notice, with receipt verification, of the application to public institutions identified by the board as appropriate to receive such notice, churches, and schools within five hundred feet of the premises to be licensed. The board may not issue a liquor license for either on-premises or off-premises consumption covering any premises not now licensed, if such premises are within five hundred feet of the premises of any tax-supported public elementary or secondary school measured along the most direct route over or across established public walks, streets, or other public passageway from the main entrance of the school to the nearest public entrance of the premises proposed for license, and if, after receipt by the school of the notice as provided in this subsection, the board receives written objection, within twenty days after receiving such notice, from an official representative or representatives of the school within five hundred feet of said proposed licensed premises, indicating to the board that there is an objection to the issuance of such license because of proximity to a school. The board may extend the time period for submitting objections. For the purpose of this section, "church" means a building erected for and used exclusively for religious worship and schooling or other activity in connection therewith. For the purpose of this section, "public institution" means institutions of higher education, parks, community centers, libraries, and transit centers.

(b) No liquor license may be issued or reissued by the board to any motor sports facility or licensee operating within the motor sports facility unless the motor sports facility enforces a program reasonably calculated to prevent alcohol or alcoholic beverages not purchased within the facility from entering the facility and such program is approved by local law enforcement agencies.

(c) It is the intent under this subsection (9) that a retail license may not be issued by the board where doing so would, in the judgment of the board, adversely affect a private school meeting the requirements for private schools under Title 28A RCW, which school is within five hundred feet of the proposed licensee. The board must fully consider and give substantial weight to objections filed by private schools. If a license is issued despite the proximity of a private school, the board must state in a letter addressed to the private school the board's reasons for issuing the license.

(10) The restrictions set forth in subsection (9) of this section do not prohibit the board from authorizing the assumption of existing licenses now located within the restricted area by other persons or licenses or relocations of existing licensed premises within the restricted area. In no case may the licensed premises be moved closer to a church or school than it was before the assumption or relocation.

(11)(a) Nothing in this section prohibits the board, in its discretion, from issuing a temporary retail or distributor license to an applicant to operate the retail or distributor premises during the period the application for the license is pending. The board may establish a fee for a temporary license by rule.

(b) A temporary license issued by the board under this section must be for a period not to exceed sixty days. A temporary license may be extended at the discretion of the board for additional periods of sixty days upon payment of an additional fee and upon compliance with all conditions required in this section.

(c) Refusal by the board to issue or extend a temporary license shall not entitle the applicant to request a hearing. A temporary license may be canceled or suspended summarily at any time if the board determines that good cause for cancellation or suspension exists. RCW 66.08.130 applies to temporary licenses.

(d) Application for a temporary license must be on such form as the board shall prescribe. If an application for a tem-

porary license is withdrawn before issuance or is refused by the board, the fee which accompanied such application must be refunded in full.

(12) In determining whether to grant or deny a license or renewal of any license, the board must give substantial weight to objections from an incorporated city or town or county legislative authority based upon chronic illegal activity associated with the applicant's operations of the premises proposed to be licensed or the applicant's operation of any other licensed premises, or the conduct of the applicant's patrons inside or outside the licensed premises. "Chronic illegal activity" means (a) a pervasive pattern of activity that threatens the public health, safety, and welfare of the city, town, or county including, but not limited to, open container violations, assaults, disturbances, disorderly conduct, or other criminal law violations, or as documented in crime statistics, police reports, emergency medical response data, calls for service, field data, or similar records of a law enforcement agency for the city, town, county, or any other municipal corporation or any state agency; or (b) an unreasonably high number of citations for violations of RCW 46.61.502 associated with the applicant's or licensee's operation of any licensed premises as indicated by the reported statements given to law enforcement upon arrest. [2012 c 39 § 4; 2011 c 195 § 1; 2009 c 271 § 6; 2007 c 473 § 1; 2006 c 359 § 1; 2004 c 133 § 1; 2002 c 119 § 3; 1998 c 126 § 2. Prior: 1997 c 321 § 1; 1997 c 58 § 873; 1995 c 232 § 1; 1988 c 200 § 1; 1987 c 217 § 1; 1983 c 160 § 3; 1982 c 85 § 2; 1981 1st ex.s. c 5 § 10; 1981 c 67 § 31; 1974 ex.s. c 66 § 1; 1973 1st ex.s. c 209 § 10; 1971 c 70 § 1; 1969 ex.s. c 178 § 3; 1947 c 144 § 1; 1935 c 174 § 3; 1933 ex.s. c 62 § 27; Rem. Supp. 1947 § 7306-27. Formerly RCW 66.24.010, part and 66.24.020 through 66.24.100. FORMER PART OF SECTION: 1937 c 217 § 1 (23U) now codified as RCW 66.24.025.]

Construction—Effective date—2012 c 39: See notes following RCW 82.08.155.

Effective dates—Intent—1997 c 58: See notes following RCW 74.20A.320.

Additional notes found at www.leg.wa.gov

66.24.012 License suspension—Noncompliance with support order—Reissuance. The board shall immediately suspend the license of a person who has been certified pursuant to RCW 74.20A.320 by the department of social and health services as a person who is not in compliance with a support order or a *residential or visitation order. If the person has continued to meet all other requirements for reinstatement during the suspension, reissuance of the license shall be automatic upon the board's receipt of a release issued by the department of social and health services stating that the licensee is in compliance with the order. [1997 c 58 § 862.]

***Reviser's note:** 1997 c 58 § 886 requiring a court to order certification of noncompliance with residential provisions of a court-ordered parenting plan was vetoed. Provisions ordering the department of social and health services to certify a responsible parent based on a court order to certify for noncompliance with residential provisions of a parenting plan were vetoed. See RCW 74.20A.320.

Effective dates—Intent—1997 c 58: See notes following RCW 74.20A.320.

Additional notes found at www.leg.wa.gov

66.24.013 License suspension—Electronic benefit cards. The board shall immediately suspend the license of a business that has been issued a license under RCW 66.24.330, 66.24.371, or 66.24.600 if the board receives information that the business has not complied with RCW 74.08.580(2). If the licensee has remained otherwise eligible to be licensed, the board may reinstate the suspended license when the business has complied with RCW 74.08.580(2). [2011 1st sp.s. c 42 § 15.]

Findings—Intent—Effective date—2011 1st sp.s. c 42: See notes following RCW 74.08A.260.

Finding—2011 1st sp.s. c 42: See note following RCW 74.04.004.

66.24.015 Nonrefundable application fee for retail license. An application for a new annual retail license under this title shall be accompanied by payment of a nonrefundable seventy-five dollar fee to cover expenses incurred in processing the application. If the application is approved, the application fee shall be applied toward the fee charged for the license. [1988 c 200 § 4.]

66.24.025 Transfer of license—Fee—Exception—Corporate changes, approval—Fee. (1) If the board approves, a license may be transferred, without charge, to the surviving spouse only of a deceased licensee if the parties were maintaining a marital community and the license was issued in the names of one or both of the parties. For the purpose of considering the qualifications of the surviving party or parties to receive a liquor license, the liquor control board may require a criminal history record information check. The board may submit the criminal history record information check to the Washington state patrol and to the identification division of the federal bureau of investigation in order that these agencies may search their records for prior arrests and convictions of the individual or individuals who filled out the forms. The board shall require fingerprinting of any applicant whose criminal history record information check is submitted to the federal bureau of investigation.

(2) The proposed sale of more than ten percent of the outstanding and/or issued stock of a licensed corporation or any proposed change in the officers of a licensed corporation must be reported to the board, and board approval must be obtained before such changes are made. A fee of seventy-five dollars will be charged for the processing of such change of stock ownership and/or corporate officers. [2002 c 119 § 4; 1995 c 232 § 2; 1981 1st ex.s. c 5 § 11; 1973 1st ex.s. c 209 § 11; 1971 c 70 § 2; 1937 c 217 § 1 (23U) (adding new section 23-U to 1933 ex.s. c 62); RRS § 7306-23U.]

Additional notes found at www.leg.wa.gov

66.24.055 Spirits distributor license. (1) There is a license for spirits distributors to (a) sell spirits purchased from manufacturers, distillers, or suppliers including, without limitation, licensed Washington distilleries, licensed spirits importers, other Washington spirits distributors, or suppliers of foreign spirits located outside of the United States, to spirits retailers including, without limitation, spirits retail licensees, special occasion license holders, interstate common carrier license holders, restaurant spirits retailer license holders, spirits, beer, and wine private club license holders, hotel license holders, sports entertainment facility license holders,

and spirits, beer, and wine nightclub license holders, and to other spirits distributors; and (b) export the same from the state.

(2) By January 1, 2012, the board must issue spirits distributor licenses to all applicants who, upon December 8, 2011, have the right to purchase spirits from a spirits manufacturer, spirits distiller, or other spirits supplier for resale in the state, or are agents of such supplier authorized to sell to licensees in the state, unless the board determines that issuance of a license to such applicant is not in the public interest.

(3)(a) As limited by (b) of this subsection and subject to (c) of this subsection, each spirits distributor licensee must pay to the board, for deposit into the liquor revolving fund, a license issuance fee calculated as follows:

(i) In each of the first twenty-seven months of licensure, ten percent of the total revenue from all the licensee's sales of spirits made during the month for which the fee is due, respectively; and

(ii) In the twenty-eighth month of licensure and each month thereafter, five percent of the total revenue from all the licensee's sales of spirits made during the month for which the fee is due, respectively.

(b) The fee required under this subsection (3) is calculated only on sales of items which the licensee was the first spirits distributor in the state to have received:

(i) In the case of spirits manufactured in the state, from the distiller; or

(ii) In the case of spirits manufactured outside the state, from an authorized out-of-state supplier.

(c) By March 31, 2013, all persons holding spirits distributor licenses on or before March 31, 2013, must have paid collectively one hundred fifty million dollars or more in spirits distributor license fees. If the collective payment through March 31, 2013, totals less than one hundred fifty million dollars, the board must, according to rules adopted by the board for the purpose, collect by May 31, 2013, as additional spirits distributor license fees the difference between one hundred fifty million dollars and the actual receipts, allocated among persons holding spirits distributor licenses at any time on or before March 31, 2013, ratably according to their spirits sales made during calendar year 2012. Any amount by which such payments exceed one hundred fifty million dollars by March 31, 2013, must be credited to future license issuance fee obligations of spirits distributor licensees according to rules adopted by the board.

(d) A retail licensee selling for resale must pay a distributor license fee under the terms and conditions in this section on resales of spirits the licensee has purchased on which no other distributor license fee has been paid. The board must establish rules setting forth the frequency and timing of such payments and reporting of sales dollar volume by the licensee, with payments due quarterly in arrears.

(e) No spirits inventory may be subject to calculation of more than a single spirits distributor license issuance fee.

(4) In addition to the payment set forth in subsection (3) of this section, each spirits distributor licensee renewing its annual license must pay an annual license renewal fee of one thousand three hundred twenty dollars for each licensed location.

(5) There is no minimum facility size or capacity for spirits distributor licenses, and no limit on the number of such licenses issued to qualified applicants. License applicants must provide physical security of the product that is substantially as effective as the physical security of the distribution facilities currently operated by the board with respect to preventing pilferage. License issuances and renewals are subject to RCW 66.24.010 and the regulations promulgated thereunder, including without limitation rights of cities, towns, county legislative authorities, the public, churches, schools, and public institutions to object to or prevent issuance of local liquor licenses. However, existing distributor premises licensed to sell beer and/or wine are deemed to be premises "now licensed" under RCW 66.24.010(9)(a) for the purpose of processing applications for spirits distributor licenses. [2013 2nd sp.s. c 12 § 1; 2012 c 2 § 105 (Initiative Measure No. 1183, approved November 8, 2011).]

Application—2013 2nd sp.s. c 12 § 1: "The changes made in section 1 of this act apply to spirits distributors licensed on or after January 1, 2012." [2013 2nd sp.s. c 12 § 2.]

Effective date—2013 2nd sp.s. c 12: See note following RCW 66.24.632.

Finding—Application—Rules—Effective date—Contingent effective date—2012 c 2 (Initiative Measure No. 1183): See notes following RCW 66.24.620.

66.24.065 Spirits license fee distribution. The distribution of spirits license fees under RCW 66.24.630 and 66.24.055 through the liquor revolving fund to border areas, counties, cities, towns, and the municipal research center must be made in a manner that provides that each category of recipients receive, in the aggregate, no less than it received from the liquor revolving fund during comparable periods prior to December 8, 2011. An additional distribution of ten million dollars per year from the spirits license fees must be provided to border areas, counties, cities, and towns through the liquor revolving fund for the purpose of enhancing public safety programs. [2012 c 2 § 302 (Initiative Measure No. 1183, approved November 8, 2011).]

Finding—Application—Rules—Effective date—Contingent effective date—2012 c 2 (Initiative Measure No. 1183): See notes following RCW 66.24.620.

66.24.120 Vacation of suspension on payment of penalty. The board in suspending any license may further provide in the order of suspension that such suspension shall be vacated upon payment to the board by the licensee of a monetary penalty in an amount then fixed by the board. [1973 1st ex.s. c 209 § 12; 1939 c 172 § 7 (adding new section 27-C to 1933 ex.s. c 62); RRS § 7306-27C.]

Additional notes found at www.leg.wa.gov

66.24.140 Distiller's license—Fee. (1) There shall be a license to distillers, including blending, rectifying and bottling; fee two thousand dollars per annum, unless provided otherwise as follows:

(a) For distillers producing one hundred fifty thousand gallons or less of spirits with at least half of the raw materials used in the production grown in Washington, the license fee must be reduced to one hundred dollars per annum;

(b) The board must license stills used and to be used solely and only by a commercial chemist for laboratory purposes, and not for the manufacture of liquor for sale, at a fee of twenty dollars per annum;

(c) The board must license stills used and to be used solely and only for laboratory purposes in any school, college or educational institution in the state, without fee; and

(d) The board must license stills that have been duly licensed as fruit and/or wine distilleries by the federal government, used and to be used solely as fruit and/or wine distilleries in the production of fruit brandy and wine spirits, at a fee of two hundred dollars per annum.

(2) Any distillery licensed under this section may:

(a) Sell spirits of its own production for consumption off the premises. A distillery selling spirits under this subsection must comply with the applicable laws and rules relating to retailers;

(b) Contract distilled spirits for, and sell contract distilled spirits to, holders of distillers' or manufacturers' licenses, including licenses issued under RCW 66.24.520, or for export; and

(c) Provide free or for a charge one-half ounce or less samples of spirits of its own production to persons on the premises of the distillery. The maximum total per person per day is two ounces. Every person who participates in any manner in the service of samples must obtain a class 12 alcohol server permit. [2014 c 92 § 4; 2010 c 290 § 1; 2008 c 94 § 1; 1981 1st ex.s. c 5 § 28; 1937 c 217 § 1 (23D) (adding new section 23-D to 1933 ex.s. c 62); RRS § 7306-23D.]

Additional notes found at www.leg.wa.gov

66.24.145 Craft distillery—Sales and samples of spirits. (1) Any craft distillery may sell spirits of its own production for consumption off the premises. A craft distillery selling spirits under this subsection must comply with the applicable laws and rules relating to retailers.

(2) Any craft distillery may contract distilled spirits for, and sell contract distilled spirits to, holders of distillers' or manufacturers' licenses, including licenses issued under RCW 66.24.520, or for export.

(3) Any craft distillery licensed under this section may provide, free or for a charge, one-half ounce or less samples of spirits of its own production to persons on the premises of the distillery. The maximum total per person per day is two ounces. Every person who participates in any manner in the service of samples must obtain a class 12 alcohol server permit.

(4) The board must adopt rules to implement the alcohol server permit requirement and may adopt additional rules to implement this section.

(5) Distilling is an agricultural practice. [2014 c 92 § 1; 2013 c 98 § 1; 2012 c 2 § 205 (Initiative Measure No. 1183, approved November 8, 2011); 2010 c 290 § 2; 2008 c 94 § 2.]

Finding—Application—Rules—Effective date—Contingent effective date—2012 c 2 (Initiative Measure No. 1183): See notes following RCW 66.24.620.

66.24.150 Manufacturer's license—Scope—Fee. There shall be a license to manufacturers of liquor, including all kinds of manufacturers except those licensed as distillers, domestic brewers, microbreweries, wineries, and domestic wineries, authorizing such licensees to manufacture, import, sell, and export liquor from the state; fee five hundred dollars per annum. [1997 c 321 § 2; 1981 1st ex.s. c 5 § 29; 1937 c 217 § 1 (23A) (adding new section 23-A to 1933 ex.s. c 62); RRS § 7306-23A.]

Additional notes found at www.leg.wa.gov

66.24.160 Spirits importer's license—Fee. A spirits importer's license may be issued to any qualified person, firm or corporation, entitling the holder thereof to import into the state any liquor other than beer or wine; to store the same within the state, and to sell and export the same from the state; fee six hundred dollars per annum. Such spirits importer's license is subject to all conditions and restrictions imposed by this title or by the rules and regulations of the board, and is issued only upon such terms and conditions as may be imposed by the board. [2012 c 2 § 207 (Initiative Measure No. 1183, approved November 8, 2011); 1981 1st ex.s. c 5 § 30; 1970 ex.s. c 13 § 1. Prior: 1969 ex.s. c 275 § 2; 1969 ex.s. c 21 § 1; 1937 c 217 § 1 (23J) (adding new section 23-J to 1933 ex.s. c 62); RRS § 7306 (23J).]

Finding—Application—Rules—Effective date—Contingent effective date—2012 c 2 (Initiative Measure No. 1183): See notes following RCW 66.24.620.

Additional notes found at www.leg.wa.gov

66.24.170 Domestic winery license—Winery as distributor and/or retailer of own wine—Off-premises samples—Domestic wine made into sparkling wine—Sales at qualifying farmers markets. (1) There shall be a license for domestic wineries; fee to be computed only on the liters manufactured: Less than two hundred fifty thousand liters per year, one hundred dollars per year; and two hundred fifty thousand liters or more per year, four hundred dollars per year.

(2) The license allows for the manufacture of wine in Washington state from grapes or other agricultural products.

(3) Any domestic winery licensed under this section may also act as a retailer of wine of its own production. Any domestic winery licensed under this section may act as a distributor of its own production. Notwithstanding any language in this title to the contrary, a domestic winery may use a common carrier to deliver up to one hundred cases of its own production, in the aggregate, per month to licensed Washington retailers. A domestic winery may not arrange for any such common carrier shipments to licensed retailers of wine not of its own production. Except as provided in this section, any winery operating as a distributor and/or retailer under this subsection must comply with the applicable laws and rules relating to distributors and/or retailers, except that a winery operating as a distributor may maintain a warehouse off the premises of the winery for the distribution of wine of its own production provided that: (a) The warehouse has been approved by the board under RCW 66.24.010; and (b) the number of warehouses off the premises of the winery does not exceed one.

(4) A domestic winery licensed under this section, at locations separate from any of its production or manufacturing sites, may serve samples of its own products, with or without charge, may sell wine of its own production at retail, and may sell for off-premises consumption wines of its own production in kegs or sanitary containers meeting the applicable requirements of federal law brought to the premises by the purchaser or furnished by the licensee and filled at the tap

at the time of sale, provided that: (a) Each additional location has been approved by the board under RCW 66.24.010; (b) the total number of additional locations does not exceed two; (c) a winery may not act as a distributor at any such additional location; and (d) any person selling or serving wine at an additional location for on-premise [on-premises] consumption must obtain a class 12 or class 13 alcohol server permit. Each additional location is deemed to be part of the winery license for the purpose of this title. At additional locations operated by multiple wineries under this section, if the board cannot connect a violation of RCW 66.44.200 or 66.44.270 to a single licensee, the board may hold all licensees operating the additional location jointly liable. Nothing in this subsection may be construed to prevent a domestic winery from holding multiple domestic winery licenses.

(5)(a) A domestic winery licensed under this section may apply to the board for an endorsement to sell wine of its own production at retail for off-premises consumption at a qualifying farmers market. The annual fee for this endorsement is seventy-five dollars. An endorsement issued pursuant to this subsection does not count toward the two additional retail locations limit specified in this section.

(b) For each month during which a domestic winery will sell wine at a qualifying farmers market, the winery must provide the board or its designee a list of the dates, times, and locations at which bottled wine may be offered for sale. This list must be received by the board before the winery may offer wine for sale at a qualifying farmers market.

(c) The wine sold at qualifying farmers markets must be made entirely from grapes grown in a recognized Washington appellation or from other agricultural products grown in this state.

(d) Each approved location in a qualifying farmers market is deemed to be part of the winery license for the purpose of this title. The approved locations under an endorsement granted under this subsection include tasting or sampling privileges subject to the conditions pursuant to RCW 66.24.175. The winery may not store wine at a farmers market beyond the hours that the winery offers bottled wine for sale. The winery may not act as a distributor from a farmers market location.

(e) Before a winery may sell bottled wine at a qualifying farmers market, the farmers market must apply to the board for authorization for any winery with an endorsement approved under this subsection to sell bottled wine at retail at the farmers market. This application shall include, at a minimum: (i) A map of the farmers market showing all booths, stalls, or other designated locations at which an approved winery may sell bottled wine; and (ii) the name and contact information for the on-site market managers who may be contacted by the board or its designee to verify the locations at which bottled wine may be sold. Before authorizing a qualifying farmers market to allow an approved winery to sell bottled wine at retail at its farmers market location, the board shall notify the persons or entities of such application for authorization pursuant to RCW 66.24.010 (8) and (9). An authorization granted under this subsection (5)(e) may be withdrawn by the board for any violation of this title or any rules adopted under this title.

(f) The board may adopt rules establishing the application and approval process under this section and such additional rules as may be necessary to implement this section.

(g) For the purposes of this subsection:

(i) "Qualifying farmers market" means an entity that sponsors a regular assembly of vendors at a defined location for the purpose of promoting the sale of agricultural products grown or produced in this state directly to the consumer under conditions that meet the following minimum requirements:

(A) There are at least five participating vendors who are farmers selling their own agricultural products;

(B) The total combined gross annual sales of vendors who are farmers exceeds the total combined gross annual sales of vendors who are processors or resellers. However, if a farmers market does not satisfy this subsection (5)(g)(i)(B), a farmers market is still considered a "qualifying farmers market" if the total combined gross annual sales of farmers and processors at the farmers market is one million dollars or more;

(C) The total combined gross annual sales of vendors who are farmers, processors, or resellers exceeds the total combined gross annual sales of vendors who are not farmers, processors, or resellers;

(D) The sale of imported items and secondhand items by any vendor is prohibited; and

(E) No vendor is a franchisee.

(ii) "Farmer" means a natural person who sells, with or without processing, agricultural products that he or she raises on land he or she owns or leases in this state or in another state's county that borders this state.

(iii) "Processor" means a natural person who sells processed food that he or she has personally prepared on land he or she owns or leases in this state or in another state's county that borders this state.

(iv) "Reseller" means a natural person who buys agricultural products from a farmer and resells the products directly to the consumer.

(6) Wine produced in Washington state by a domestic winery licensee may be shipped out-of-state for the purpose of making it into sparkling wine and then returned to such licensee for resale. Such wine shall be deemed wine manufactured in the state of Washington for the purposes of RCW 66.24.206, and shall not require a special license. [2014 c 105 § 1; 2014 c 27 § 1; 2013 c 238 § 2; 2009 c 373 § 4; (2011 c 62 § 2 expired December 1, 2012); 2008 c 41 § 5; 2007 c 16 § 2; 2006 c 302 § 1; 2003 c 44 § 1; 2000 c 141 § 1; 1997 c 321 § 3; 1991 c 192 § 2; 1982 c 85 § 4; 1981 1st ex.s. c 5 § 31; 1939 c 172 § 1 (23C); 1937 c 217 § 1 (23C) (adding new section 23-C to 1933 ex.s. c 62); RRS § 7306-23C. Formerly RCW 66.24.170, 66.24.180, and 66.24.190.]

Reviser's note: This section was amended by 2014 c 27 § 1 and by 2014 c 105 § 1, each without reference to the other. Both amendments are incorporated in the publication of this section under RCW 1.12.025(2). For rule of construction, see RCW 1.12.025(1).

Expiration date—2011 c 62: "This act expires December 1, 2012." [2011 c 62 § 5.]

Effective date—2006 c 302: "Except for sections 10 and 12 of this act, this act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and takes effect April 14, 2006." [2006 c 302 § 16.]

Additional notes found at www.leg.wa.gov

66.24.175 Farmers markets—Wine and beer sampling endorsement. (1) A qualifying farmers market authorized to allow wineries to sell bottled wine at retail under RCW 66.24.170 or microbreweries to sell bottled beer at retail under RCW 66.24.244, or both, may apply to the liquor control board for an endorsement to allow sampling of wine or beer or both. A winery or microbrewery offering samples under this section must have an endorsement from the board to sell wine or beer, as the case may be, of its own production at a qualifying farmers market under RCW 66.24.170 or 66.24.244, respectively.

(2) Samples may be offered only under the following conditions:

(a) No more than three wineries or microbreweries combined may offer samples at a qualifying farmers market per day.

(b) Samples must be two ounces or less. A winery or microbrewery may provide a maximum of two ounces of wine or beer to a customer per day.

(c) A winery or microbrewery may advertise that it offers samples only at its designated booth, stall, or other designated location at the farmers market.

(d) Customers must remain at the designated booth, stall, or other designated location while sampling beer or wine.

(e) Winery and microbrewery licensees and employees who are involved in sampling activities under this section must hold a class 12 or class 13 alcohol server permit.

(f) A winery or microbrewery must have food available for customers to consume while sampling beer or wine, or must be adjacent to a vendor offering prepared food.

(3) The board may establish additional requirements to ensure that persons under twenty-one years of age and apparently intoxicated persons may not possess or consume alcohol under the authority granted in this section.

(4) The board may prohibit sampling at a farmers market that is within the boundaries of an alcohol impact area recognized by resolution of the board if the board finds that the sampling activities at the farmers market have an adverse effect on the reduction of chronic public inebriation in the area.

(5) If a winery or microbrewery is found to have committed a public safety violation in conjunction with tasting activities, the board may suspend the licensee's farmers market endorsement and not reissue the endorsement for up to two years from the date of the violation. If mitigating circumstances exist, the board may offer a monetary penalty in lieu of suspension during a settlement conference.

(6) For the purposes of this section, a "qualifying farmers market" has the same meaning as defined in RCW 66.24.170. [2014 c 105 § 2; 2013 c 238 § 1.]

66.24.185 Bonded wine warehouse storage license—Qualifications and requirements—Fee. (1) There shall be a license for bonded wine warehouses which shall authorize the storage and handling of bottled wine. Under this license a licensee may maintain a warehouse for the storage of wine off the premises of a winery.

(2) The board shall adopt similar qualifications for a bonded wine warehouse license as required for obtaining a domestic winery license as specified in RCW 66.24.010 and 66.24.170. A licensee must be a sole proprietor, a partnership, a limited liability company, or a corporation. One or more domestic wineries may operate as a partnership, corporation, business co-op, or agricultural co-op for the purposes of obtaining a bonded wine warehouse license.

(3) All bottled wine shipped to a bonded wine warehouse from a winery or another bonded wine warehouse shall remain under bond and no tax imposed under RCW 66.24.210 shall be due, unless the wine is removed from bond and shipped to a licensed Washington wine distributor. Wine may be removed from a bonded wine warehouse only for the purpose of being (a) exported from the state, (b) shipped to a licensed Washington wine distributor, (c) returned to a winery or bonded wine warehouse, or [(d)] shipped to a consumer pursuant to RCW 66.20.360 through 66.20.390.

(4) Warehousing of wine by any person other than (a) a licensed domestic winery or a bonded wine warehouse licensed under the provisions of this section, (b) a licensed Washington wine distributor, (c) a licensed Washington wine importer, (d) a wine certificate of approval holder (W7), or (e) the liquor control board, is prohibited.

(5) A license applicant shall hold a federal permit for a bonded wine cellar and may be required to post a continuing wine tax bond of such an amount and in such a form as may be required by the board prior to the issuance of a bonded wine warehouse license. The fee for this license shall be one hundred dollars per annum.

(6) The board shall adopt rules requiring a bonded wine warehouse to be physically secure, zoned for the intended use and physically separated from any other use.

(7) Every licensee shall submit to the board a monthly report of movement of bottled wines to and from a bonded wine warehouse in a form prescribed by the board. The board may adopt other necessary procedures by which bonded wine warehouses are licensed and regulated.

(8) Handling of bottled wine, as provided for in this section, includes packaging and repackaging services; bottle labeling services; creating baskets or variety packs that may or may not include nonwine products; and picking, packing, and shipping wine orders direct to consumer. A winery contracting with a bonded wine warehouse for handling bottled wine must comply with all applicable state and federal laws and shall be responsible for financial transactions in direct to consumer shipping activities. [2008 c 41 § 4; 1999 c 281 § 4; 1997 c 321 § 4; 1984 c 19 § 1.]

Additional notes found at www.leg.wa.gov

66.24.191 Wine transfers. Wine may be transferred from one licensed location to another licensed location so long as both locations are under common ownership. A licensed site may transfer up to a total of twenty cases of wine per calendar year. [2009 c 373 § 10.]

66.24.200 Wine distributor's license—Fee. There shall be a license for wine distributors to sell wine, purchased from licensed Washington wineries, wine certificate of approval holders, licensed wine importers, or suppliers of foreign wine located outside of the United States, to licensed wine retailers and other wine distributors and to export the same from the state; fee six hundred sixty dollars per year for each distributing unit. [2004 c 160 § 2; 1997 c 321 § 5; 1981 1st ex.s. c 5 § 32; 1969 ex.s. c 21 § 2; 1937 c 217 § 1 (23K)

(adding new section 23-K to 1933 ex.s. c 62); RRS § 7306-23K.]

Additional notes found at www.leg.wa.gov

66.24.203 Wine importer's license—Principal office—Report—Labels—Fee. There shall be a license for wine importers that authorizes the licensee to import wine purchased from certificate of approval holders into the state of Washington. The licensee may also import, from suppliers located outside of the United States, wine manufactured outside the United States.

(1) Wine so imported may be sold to licensed wine distributors or exported from the state.

(2) Every person, firm, or corporation licensed as a wine importer shall establish and maintain a principal office within the state at which shall be kept proper records of all wine imported into the state under this license.

(3) No wine importer's license shall be granted to a nonresident of the state nor to a corporation whose principal place of business is outside the state until such applicant has established a principal office and agent within the state upon which service can be made.

(4) As a requirement for license approval, a wine importer shall enter into a written agreement with the board to furnish on or before the twentieth day of each month, a report under oath, detailing the quantity of wine sold or delivered to each licensed wine distributor. Failure to file such reports may result in the suspension or cancellation of this license.

(5) Wine imported under this license must conform to the provisions of RCW 66.28.110 and have received label approval from the board. The board shall not certify wines labeled with names that may be confused with other nonalcoholic beverages whether manufactured or produced from a domestic winery or imported nor wines that fail to meet quality standards established by the board.

(6) The license fee shall be one hundred sixty dollars per year. [2004 c 160 § 3; 1997 c 321 § 6.]

Additional notes found at www.leg.wa.gov

66.24.206 Out-of-state winery—Certificate of approval—Fee. (1)(a) A United States winery located outside the state of Washington must hold a certificate of approval to allow sales and shipment of the certificate of approval holder's wine to licensed Washington wine distributors, importers, or retailers. A certificate of approval holder with a direct shipment endorsement may act as a distributor of its own production. Notwithstanding any language in this title to the contrary, a certificate of approval holder with a direct shipment endorsement may use a common carrier to deliver up to one hundred cases of its own production, in the aggregate, per month to licensed Washington retailers. A certificate of approval holder may not arrange for any such common carrier shipments to licensed retailers of wine not of its own production.

(b) Authorized representatives must hold a certificate of approval to allow sales and shipment of United States produced wine to licensed Washington wine distributors or importers.

(c) Authorized representatives must also hold a certificate of approval to allow sales and shipments of foreign produced wine to licensed Washington wine distributors or importers.

(2) The certificate of approval shall not be granted unless and until such winery or authorized representative shall have made a written agreement with the board to furnish to the board, on or before the twentieth day of each month, a report under oath, on a form to be prescribed by the board, showing the quantity of wine sold or delivered to each licensed wine distributor, importer, or retailer, during the preceding month, and shall further have agreed with the board, that such wineries, manufacturers, or authorized representatives, and all general sales corporations or agencies maintained by them, and all of their trade representatives, shall and will faithfully comply with all laws of the state of Washington pertaining to the sale of intoxicating liquors and all rules and regulations of the Washington state liquor control board. A violation of the terms of this agreement will cause the board to take action to suspend or revoke such certificate.

(3) The fee for the certificate of approval and related endorsements, issued pursuant to the provisions of this title, shall be from time to time established by the board at a level that is sufficient to defray the costs of administering the certificate of approval program. The fee shall be fixed by rule by the board in accordance with the provisions of the administrative procedure act, chapter 34.05 RCW.

(4) Certificate of approval holders are deemed to have consented to the jurisdiction of Washington concerning enforcement of this chapter and all laws and rules related to the sale and shipment of wine. [2007 c 16 § 1; 2006 c 302 § 4; 2004 c 160 § 4; 1997 c 321 § 7; 1981 1st ex.s. c 5 § 34; 1973 1st ex.s. c 209 § 13; 1969 ex.s. c 21 § 10.]

Effective date—2006 c 302: See note following RCW 66.24.170.

Additional notes found at www.leg.wa.gov

66.24.210 Imposition of taxes on sales of wine and cider—Additional taxes—Distributions. (1) There is hereby imposed upon all wines except cider sold to wine distributors and the Washington state liquor control board, within the state a tax at the rate of twenty and one-fourth cents per liter. Any domestic winery or certificate of approval holder acting as a distributor of its own production shall pay taxes imposed by this section. There is hereby imposed on all cider sold to wine distributors and the Washington state liquor control board within the state a tax at the rate of three and fifty-nine one-hundredths cents per liter. However, wine sold or shipped in bulk from one winery to another winery shall not be subject to such tax.

(a) The tax provided for in this section shall be collected by direct payments based on wine purchased by wine distributors.

(b) Except as provided in subsection (7) of this section, every person purchasing wine under the provisions of this section shall on or before the twentieth day of each month report to the board all purchases during the preceding calendar month in such manner and upon such forms as may be prescribed by the board, and with such report shall pay the tax due from the purchases covered by such report unless the same has previously been paid. Any such purchaser of wine whose applicable tax payment is not postmarked by the twentieth day following the month of purchase will be assessed a penalty at the rate of two percent a month or fraction thereof.

The board may require that every such person shall execute to and file with the board a bond to be approved by the board, in such amount as the board may fix, securing the payment of the tax. If any such person fails to pay the tax when due, the board may forthwith suspend or cancel the license until all taxes are paid.

(c) Any licensed retailer authorized to purchase wine from a certificate of approval holder with a direct shipment endorsement or a domestic winery shall make monthly reports to the liquor control board on wine purchased during the preceding calendar month in the manner and upon such forms as may be prescribed by the board.

(2) An additional tax is imposed equal to the rate specified in RCW 82.02.030 multiplied by the tax payable under subsection (1) of this section. All revenues collected during any month from this additional tax shall be transferred to the state general fund by the twenty-fifth day of the following month.

(3) An additional tax is imposed on wines subject to tax under subsection (1) of this section, at the rate of one-fourth of one cent per liter for wine sold after June 30, 1987. After June 30, 1996, such additional tax does not apply to cider. An additional tax of five one-hundredths of one cent per liter is imposed on cider sold after June 30, 1996. All revenues collected under this subsection (3) shall be disbursed quarterly to the Washington wine commission for use in carrying out the purposes of chapter 15.88 RCW.

(4) An additional tax is imposed on all wine subject to tax under subsection (1) of this section. The additional tax is equal to twenty-three and forty-four one-hundredths cents per liter on fortified wine as defined in RCW 66.04.010 when bottled or packaged by the manufacturer, one cent per liter on all other wine except cider, and eighteen one-hundredths of one cent per liter on cider. All revenues collected during any month from this additional tax shall be deposited in the state general fund by the twenty-fifth day of the following month.

(5)(a) An additional tax is imposed on all cider subject to tax under subsection (1) of this section. The additional tax is equal to two and four one-hundredths cents per liter of cider sold after June 30, 1996, and before July 1, 1997, and is equal to four and seven one-hundredths cents per liter of cider sold after June 30, 1997.

(b) All revenues collected from the additional tax imposed under this subsection (5) shall be deposited in the state general fund.

(6) For the purposes of this section, "cider" means table wine that contains not less than one-half of one percent of alcohol by volume and not more than seven percent of alcohol by volume and is made from the normal alcoholic fermentation of the juice of sound, ripe apples or pears. "Cider" includes, but is not limited to, flavored, sparkling, or carbonated cider and cider made from condensed apple or pear must.

(7) For the purposes of this section, out-of-state wineries shall pay taxes under this section on wine sold and shipped directly to Washington state residents in a manner consistent with the requirements of a wine distributor under subsections (1) through (4) of this section, except wineries shall be responsible for the tax and not the resident purchaser.

(8) Notwithstanding any other provision of this section, any domestic winery or wine certificate of approval holder acting as a distributor of its own production that had total taxable sales of wine in Washington state of six thousand gallons or less during the calendar year preceding the date on which the tax would otherwise be due is not required to pay taxes under this section more often than annually. [2012 c 20 § 2; 2009 c 479 § 42; 2008 c 94 § 8. Prior: 2006 c 302 § 5; 2006 c 101 § 4; 2006 c 49 § 8; 2001 c 124 § 1; 1997 c 321 § 8; 1996 c 118 § 1; 1995 c 232 § 3; 1994 sp.s. c 7 § 901 (Referendum Bill No. 43, approved November 8, 1994); 1993 c 160 § 2; 1991 c 192 § 3; 1989 c 271 § 501; 1987 c 452 § 11; 1983 2nd ex.s. c 3 § 10; 1982 1st ex.s. c 35 § 23; 1981 1st ex.s. c 5 § 12; 1973 1st ex.s. c 204 § 2; 1969 ex.s. c 21 § 3; 1943 c 216 § 2; 1939 c 172 § 3; 1935 c 158 § 3 (adding new section 24-A to 1933 ex.s. c 62); Rem. Supp. 1943 § 7306-24A. Formerly RCW 66.04.120, 66.24.210, part, 66.24.220, and 66.24.230, part. FORMER PART OF SECTION: 1933 ex.s. c 62 § 25, part, now codified as RCW 66.24.230.]

Effective date—2009 c 479: See note following RCW 2.56.030.

Effective date—2006 c 302: See note following RCW 66.24.170.

Reviser's note: Sections 901 through 909, chapter 7, Laws of 1994 sp. sess., were adopted and ratified by the people at the November 8, 1994, general election.

Finding—Intent—Severability—1994 sp.s. c 7: See notes following RCW 43.70.540.

Floor stocks tax: "There is hereby imposed upon every licensed wine distributor who possesses wine for resale upon which the tax has not been paid under section 2, chapter 204, Laws of 1973, a floor stocks tax of sixty-five cents per wine gallon on wine in his or her possession or under his or her control on June 30, 1973. Each such distributor shall within twenty days after June 30, 1973, file a report with the Washington state liquor control board in such form as the board may prescribe, showing the wine products on hand July 1, 1973, converted to gallons thereof and the amount of tax due thereon. The tax imposed by this section shall be due and payable within twenty days after July 1, 1973, and thereafter bear interest at the rate of one percent per month." [1997 c 321 § 9; 1973 1st ex.s. c 204 § 3.]

Giving away liquor prohibited—Exceptions: RCW 66.28.040.

No tax on wine shipped to bonded warehouse: RCW 66.24.185.

Additional notes found at www.leg.wa.gov

66.24.215 Levy of assessment on wine producers and growers to fund wine commission—Assessment rate changes—Procedures—Disbursement—Continuation. (1) To provide for permanent funding of the wine commission after July 1, 1989, agricultural commodity assessments shall be levied by the board on wine producers and growers as follows:

(a) Beginning on July 1, 1989, the assessment on wine producers shall be two cents per gallon on sales of packaged Washington wines.

(b) Beginning on July 1, 1989, the assessment on growers of Washington vinifera wine grapes shall be levied as provided in RCW 15.88.130.

(c) After July 1, 1993, assessment rates under subsection (1)(a) of this section may be changed pursuant to a referendum conducted by the Washington wine commission and approved by a majority vote of wine producers. The weight of each producer's vote shall be equal to the percentage of that producer's share of Washington vinifera wine production in the prior year.

(d) After July 1, 1993, assessment amounts under subsection (1)(b) of this section may be changed pursuant to a referendum conducted by the Washington wine commission and approved by a majority vote of grape growers. The

weight of each grower's vote shall be equal to the percentage of that grower's share of Washington vinifera grape sales in the prior year.

(2) Assessments collected under this section shall be disbursed quarterly to the Washington wine commission for use in carrying out the purposes of chapter 15.88 RCW.

(3) Prior to July 1, 1996, a referendum shall be conducted to determine whether to continue the Washington wine commission as representing both wine producers and grape growers. The voting shall not be weighted. The wine producers shall vote whether to continue the commission's coverage of wineries and wine production. The grape producers shall vote whether to continue the commission's coverage of issues pertaining to grape growing. If a majority of both wine and grape producers favor the continuation of the commission, the assessments shall continue as provided in subsection (2)(b) and (d) of this section. If only one group of producers favors the continuation, the assessments shall only be levied on the group which favored the continuation. [1988 c 257 § 7; 1987 c 452 § 13.]

Additional notes found at www.leg.wa.gov

66.24.230 Monthly reports of domestic winery, wine certificate of approval holder, wine importer, and wine distributor—Prohibited, authorized sales. Every domestic winery, wine certificate of approval holder, wine importer, and wine distributor licensed under this title shall make reports to the board of its operations, pursuant to such regulations as the board may adopt. However, such reports, including without limitation tax returns pursuant to RCW 66.24.210, may not be required more frequently than annually from any winery or wine certificate of approval holder that had total taxable sales of wine in Washington state of six thousand gallons or less during the calendar year preceding the date on which the report would otherwise be due. Such domestic winery, wine certificate of approval holder, wine importer, and wine distributor shall make no sales of wine within the state of Washington except to the board, or as otherwise provided in this title. [2012 c 20 § 1; 2004 c 160 § 5; 1997 c 321 § 10; 1969 ex.s. c 21 § 4; 1933 ex.s. c 62 § 25; RRS § 7306-25. Formerly RCW 66.24.210 and 66.24.230. FORMER PART OF SECTION: 1943 c 216 § 2, part, now codified in RCW 66.24.210.]

Additional notes found at www.leg.wa.gov

66.24.240 Domestic brewery's license—Fee. (1) There shall be a license for domestic breweries; fee to be two thousand dollars for production of sixty thousand barrels or more of malt liquor per year.

(2) Any domestic brewery, except for a brand owner of malt beverages under RCW 66.04.010(7), licensed under this section may also act as a distributor and/or retailer for beer of its own production. Any domestic brewery operating as a distributor and/or retailer under this subsection shall comply with the applicable laws and rules relating to distributors and/or retailers. A domestic brewery holding a spirits, beer, and wine restaurant license may sell beer of its own production for off-premises consumption from its restaurant premises in kegs or in a sanitary container brought to the premises by the purchaser or furnished by the licensee and filled at the tap by the licensee at the time of sale.

(3) Any domestic brewery licensed under this section may also sell beer produced by another domestic brewery or a microbrewery for on and off-premises consumption from its premises as long as the other breweries' brands do not exceed twenty-five percent of the domestic brewery's on-tap offering of its own brands.

(4) A domestic brewery may hold up to two retail licenses to operate an on or off-premise [off-premises] tavern, beer and/or wine restaurant, or spirits, beer, and wine restaurant. This retail license is separate from the brewery license. A brewery that holds a tavern license, a spirits, beer, and wine restaurant license, or a beer and/or wine restaurant license shall hold the same privileges and endorsements as permitted under RCW 66.24.320, 66.24.330, and 66.24.420.

(5) Any domestic brewery licensed under this section may contract-produce beer for a brand owner of malt beverages defined under RCW 66.04.010(7), and this contract-production is not a sale for the purposes of RCW 66.28.170 and 66.28.180.

(6)(a) A domestic brewery licensed under this section and qualified for a reduced rate of taxation pursuant to RCW 66.24.290(3)(b) may apply to the board for an endorsement to sell bottled beer of its own production at retail for off-premises consumption at a qualifying farmers market. The annual fee for this endorsement is seventy-five dollars.

(b) For each month during which a domestic brewery will sell beer at a qualifying farmers market, the domestic brewery must provide the board or its designee a list of the dates, times, and locations at which bottled beer may be offered for sale. This list must be received by the board before the domestic brewery may offer beer for sale at a qualifying farmers market.

(c) The beer sold at qualifying farmers markets must be produced in Washington.

(d) Each approved location in a qualifying farmers market is deemed to be part of the domestic brewery license for the purpose of this title. The approved locations under an endorsement granted under this subsection do not include the tasting or sampling privilege of a domestic brewery. The domestic brewery may not store beer at a farmers market beyond the hours that the domestic brewery offers bottled beer for sale. The domestic brewery may not act as a distributor from a farmers market location.

(e) Before a domestic brewery may sell bottled beer at a qualifying farmers market, the farmers market must apply to the board for authorization for any domestic brewery with an endorsement approved under this subsection to sell bottled beer at retail at the farmers market. This application shall include, at a minimum: (i) A map of the farmers market showing all booths, stalls, or other designated locations at which an approved domestic brewery may sell bottled beer; and (ii) the name and contact information for the on-site market managers who may be contacted by the board or its designee to verify the locations at which bottled beer may be sold. Before authorizing a qualifying farmers market to allow an approved domestic brewery to sell bottled beer at retail at its farmers market location, the board shall notify the persons or entities of such application for authorization pursuant to RCW 66.24.010 (8) and (9). An authorization granted under this subsection (6)(e) may be withdrawn by the board for any violation of this title or any rules adopted under this title.

(f) The board may adopt rules establishing the application and approval process under this section and such additional rules as may be necessary to implement this section.

(g) For the purposes of this subsection:

(i) "Qualifying farmers market" means an entity that sponsors a regular assembly of vendors at a defined location for the purpose of promoting the sale of agricultural products grown or produced in this state directly to the consumer under conditions that meet the following minimum requirements:

(A) There are at least five participating vendors who are farmers selling their own agricultural products;

(B) The total combined gross annual sales of vendors who are farmers exceeds the total combined gross annual sales of vendors who are processors or resellers;

(C) The total combined gross annual sales of vendors who are farmers, processors, or resellers exceeds the total combined gross annual sales of vendors who are not farmers, processors, or resellers;

(D) The sale of imported items and secondhand items by any vendor is prohibited; and

(E) No vendor is a franchisee.

(ii) "Farmer" means a natural person who sells, with or without processing, agricultural products that he or she raises on land he or she owns or leases in this state or in another state's county that borders this state.

(iii) "Processor" means a natural person who sells processed food that he or she has personally prepared on land he or she owns or leases in this state or in another state's county that borders this state.

(iv) "Reseller" means a natural person who buys agricultural products from a farmer and resells the products directly to the consumer. [2011 c 195 § 6; 2011 c 119 § 212; 2008 c 41 § 7; (2008 c 41 § 6 expired June 30, 2008); 2007 c 370 § 7; (2007 c 370 § 6 expired June 30, 2008). Prior: 2006 c 302 § 2; 2006 c 44 § 1; 2003 c 154 § 1; 2000 c 142 § 2; 1997 c 321 § 11; 1985 c 226 § 1; 1982 c 85 § 5; 1981 1st ex.s. c 5 § 13; 1937 c 217 § 1 (23B) (adding new section 23-B to 1933 ex.s. c 62); RRS § 7306-23B.]

Reviser's note: This section was amended by 2011 c 119 § 212 and by 2011 c 195 § 6, each without reference to the other. Both amendments are incorporated in the publication of this section under RCW 1.12.025(2). For rule of construction, see RCW 1.12.025(1).

Effective date—2008 c 41 §§ 7 and 9: "Sections 7 and 9 of this act take effect June 30, 2008." [2008 c 41 § 15.]

Expiration date—2008 c 41 §§ 6 and 8: "Sections 6 and 8 of this act expire June 30, 2008." [2008 c 41 § 14.]

Effective date—2007 c 370 §§ 5 and 7: See note following RCW 66.24.244.

Expiration date—2007 c 370 §§ 4 and 6: See note following RCW 66.24.244.

Effective date—2006 c 302: See note following RCW 66.24.170.

Additional notes found at www.leg.wa.gov

66.24.244 Microbrewery's license—Fee. (1) There shall be a license for microbreweries; fee to be one hundred dollars for production of less than sixty thousand barrels of malt liquor, including strong beer, per year.

(2) Any microbrewery licensed under this section may also act as a distributor and/or retailer for beer and strong beer of its own production. Strong beer may not be sold at a farmers market or under any endorsement which may authorize microbreweries to sell beer at farmers markets. Any microbrewery operating as a distributor and/or retailer under this subsection shall comply with the applicable laws and rules relating to distributors and/or retailers, except that a microbrewery operating as a distributor may maintain a warehouse off the premises of the microbrewery for the distribution of beer provided that (a) the warehouse has been approved by the board under RCW 66.24.010 and (b) the number of warehouses off the premises of the microbrewery does not exceed one. A microbrewery holding a spirits, beer, and wine restaurant license may sell beer of its own production for off-premises consumption from its restaurant premises in kegs or in a sanitary container brought to the premises by the purchaser or furnished by the licensee and filled at the tap by the licensee at the time of sale.

(3) Any microbrewery licensed under this section may also sell beer produced by another microbrewery or a domestic brewery for on and off-premises consumption from its premises as long as the other breweries' brands do not exceed twenty-five percent of the microbrewery's on-tap offering of its own brands.

(4) The board may issue up to two retail licenses allowing a microbrewery to operate an on or off-premise [off-premises] tavern, beer and/or wine restaurant, or spirits, beer, and wine restaurant.

(5) A microbrewery that holds a tavern license, spirits, beer, and wine restaurant license, or a beer and/or wine restaurant license shall hold the same privileges and endorsements as permitted under RCW 66.24.320, 66.24.330, and 66.24.420.

(6)(a) A microbrewery licensed under this section may apply to the board for an endorsement to sell bottled beer of its own production at retail for off-premises consumption at a qualifying farmers market. The annual fee for this endorsement is seventy-five dollars.

(b) For each month during which a microbrewery will sell beer at a qualifying farmers market, the microbrewery must provide the board or its designee a list of the dates, times, and locations at which bottled beer may be offered for sale. This list must be received by the board before the microbrewery may offer beer for sale at a qualifying farmers market.

(c) Any person selling or serving beer must obtain a class 12 or class 13 alcohol server permit.

(d) The beer sold at qualifying farmers markets must be produced in Washington.

(e) Each approved location in a qualifying farmers market is deemed to be part of the microbrewery license for the purpose of this title. The approved locations under an endorsement granted under this subsection (6) include tasting or sampling privileges subject to the conditions pursuant to RCW 66.24.175. The microbrewery may not store beer at a farmers market beyond the hours that the microbrewery offers bottled beer for sale. The microbrewery may not act as a distributor from a farmers market location.

(f) Before a microbrewery may sell bottled beer at a qualifying farmers market, the farmers market must apply to the board for authorization for any microbrewery with an endorsement approved under this subsection (6) to sell bottled beer at retail at the farmers market. This application shall include, at a minimum: (i) A map of the farmers market

showing all booths, stalls, or other designated locations at which an approved microbrewery may sell bottled beer; and (ii) the name and contact information for the on-site market managers who may be contacted by the board or its designee to verify the locations at which bottled beer may be sold. Before authorizing a qualifying farmers market to allow an approved microbrewery to sell bottled beer at retail at its farmers market location, the board shall notify the persons or entities of the application for authorization pursuant to RCW 66.24.010 (8) and (9). An authorization granted under this subsection (6)(f) may be withdrawn by the board for any violation of this title or any rules adopted under this title.

(g) The board may adopt rules establishing the application and approval process under this section and any additional rules necessary to implement this section.

(h) For the purposes of this subsection (6):

(i) "Qualifying farmers market" has the same meaning as defined in RCW 66.24.170.

(ii) "Farmer" means a natural person who sells, with or without processing, agricultural products that he or she raises on land he or she owns or leases in this state or in another state's county that borders this state.

(iii) "Processor" means a natural person who sells processed food that he or she has personally prepared on land he or she owns or leases in this state or in another state's county that borders this state.

(iv) "Reseller" means a natural person who buys agricultural products from a farmer and resells the products directly to the consumer.

(7) Any microbrewery licensed under this section may contract-produce beer for another microbrewer. This contract-production is not a sale for the purposes of RCW 66.28.170 and 66.28.180. [2014 c 105 § 3; 2013 c 238 § 3; 2011 c 195 § 5; (2011 c 62 § 3 expired December 1, 2012). Prior: 2008 c 248 § 2; (2008 c 248 § 1 expired June 30, 2008); 2008 c 41 § 9; (2008 c 41 § 8 expired June 30, 2008); prior: 2007 c 370 § 5; (2007 c 370 § 4 expired June 30, 2008); 2007 c 222 § 2; (2007 c 222 § 1 expired June 30, 2008); 2006 c 302 § 3; 2006 c 44 § 2; prior: 2003 c 167 § 1; 2003 c 154 § 2; 1998 c 126 § 3; 1997 c 321 § 12.]

Expiration date—2011 c 62: See note following RCW 66.24.170.

Effective date—2008 c 248 § 2: "Section 2 of this act takes effect June 30, 2008." [2008 c 248 § 4.]

Expiration date—2008 c 248 § 1: "Section 1 of this act expires June 30, 2008." [2008 c 248 § 3.]

Effective date—2008 c 41 §§ 7 and 9: See note following RCW 66.24.240.

Expiration date—2008 c 41 §§ 6 and 8: See note following RCW 66.24.240.

Effective date—2007 c 370 §§ 5 and 7: "Sections 5 and 7 of this act take effect June 30, 2008." [2007 c 370 § 22.]

Expiration date—2007 c 370 §§ 4 and 6: "Sections 4 and 6 of this act expire June 30, 2008." [2007 c 370 § 21.]

Effective date—2007 c 222 § 2: "Section 2 of this act takes effect June 30, 2008." [2007 c 222 § 5.]

Expiration date—2007 c 222 § 1: "Section 1 of this act expires June 30, 2008." [2007 c 222 § 4.]

Effective date—2006 c 302: See note following RCW 66.24.170.

Additional notes found at www.leg.wa.gov

66.24.250 Beer distributor's license—Fee. There shall be a license for beer distributors to sell beer and strong beer, purchased from licensed Washington breweries, beer certificate of approval holders, licensed beer importers, or suppliers of foreign beer located outside of the United States, to licensed beer retailers and other beer distributors and to export same from the state of Washington; fee six hundred sixty dollars per year for each distributing unit. [2004 c 160 § 6; 2003 c 167 § 2; 1997 c 321 § 13; 1981 1st ex.s. c 5 § 14; 1937 c 217 § 1 (23E) (adding new section 23-E to 1933 ex.s. c 62); RRS § 7306-23E.]

Additional notes found at www.leg.wa.gov

66.24.261 Beer importer's license—Principal office—Report—Labels—Fee. There shall be a license for beer importers that authorizes the licensee to import beer and strong beer purchased from beer certificate of approval holders into the state of Washington. The licensee may also import, from suppliers located outside of the United States, beer and strong beer manufactured outside the United States.

(1) Beer and strong beer so imported may be sold to licensed beer distributors or exported from the state.

(2) Every person, firm, or corporation licensed as a beer importer shall establish and maintain a principal office within the state at which shall be kept proper records of all beer and strong beer imported into the state under this license.

(3) No beer importer's license shall be granted to a nonresident of the state nor to a corporation whose principal place of business is outside the state until such applicant has established a principal office and agent within the state upon which service can be made.

(4) As a requirement for license approval, a beer importer shall enter into a written agreement with the board to furnish on or before the twentieth day of each month, a report under oath, detailing the quantity of beer and strong beer sold or delivered to each licensed beer distributor. Failure to file such reports may result in the suspension or cancellation of this license.

(5) Beer and strong beer imported under this license must conform to the provisions of RCW 66.28.120 and have received label approval from the board. The board shall not certify beer or strong beer labeled with names which may be confused with other nonalcoholic beverages whether manufactured or produced from a domestic brewery or imported nor shall it certify beer or strong beer which fails to meet quality standards established by the board.

(6) The license fee shall be one hundred sixty dollars per year. [2004 c 160 § 7; 2003 c 167 § 3; 1997 c 321 § 14.]

Additional notes found at www.leg.wa.gov

66.24.270 Manufacturer's monthly report of malt liquor or strong beer sales—Certificate of approval—Report for out-of-state or imported beer—Fee. (1) Every person, firm or corporation, holding a license to manufacture malt liquors or strong beer within the state of Washington, shall, on or before the twentieth day of each month, furnish to the Washington state liquor control board, on a form to be prescribed by the board, a statement showing the quantity of malt liquors and strong beer sold for resale during the preceding calendar month to each beer distributor within the state of Washington.

(2)(a) A United States brewery or manufacturer of beer or strong beer, located outside the state of Washington, must

hold a certificate of approval to allow sales and shipment of the certificate of approval holder's beer or strong beer to licensed Washington beer distributors, importers, or retailers. A certificate of approval holder with a direct shipment endorsement may act as a distributor for beer of its own production.

(b) Authorized representatives must hold a certificate of approval to allow sales and shipment of United States produced beer or strong beer to licensed Washington beer distributors or importers.

(c) Authorized representatives must also hold a certificate of approval to allow sales and shipments of foreign produced beer or strong beer to licensed Washington beer distributors or importers.

(3) The certificate of approval shall not be granted unless and until such brewer or manufacturer of beer or strong beer or authorized representative shall have made a written agreement with the board to furnish to the board, on or before the twentieth day of each month, a report under oath, on a form to be prescribed by the board, showing the quantity of beer and strong beer sold or delivered to each licensed beer distributor, importer, or retailer during the preceding month, and shall further have agreed with the board, that such brewer or manufacturer of beer or strong beer or authorized representative and all general sales corporations or agencies maintained by them, and all of their trade representatives, corporations, and agencies, shall and will faithfully comply with all laws of the state of Washington pertaining to the sale of intoxicating liquors and all rules and regulations of the Washington state liquor control board. A violation of the terms of this agreement will cause the board to take action to suspend or revoke such certificate.

(4) The fee for the certificate of approval and related endorsements, issued pursuant to the provisions of this title, shall be from time to time established by the board at a level that is sufficient to defray the costs of administering the certificate of approval program. The fee shall be fixed by rule by the board in accordance with the provisions of the administrative procedure act, chapter 34.05 RCW.

(5) Certificate of approval holders are deemed to have consented to the jurisdiction of Washington concerning enforcement of this chapter and all laws and rules related to the sale and shipment of beer. [2006 c 302 § 6; 2004 c 160 § 8; 2003 c 167 § 4; 1997 c 321 § 15; 1981 1st ex.s. c 5 § 35; 1973 1st ex.s. c 209 § 14; 1969 ex.s. c 178 § 4; 1937 c 217 § 1 (23F) (adding new section 23-F to 1933 ex.s. c 62); RRS § 7306-23F. Formerly RCW 66.24.270 and 66.24.280.]

Effective date—2006 c 302: See note following RCW 66.24.170.

Additional notes found at www.leg.wa.gov

66.24.290 Authorized, prohibited sales—Monthly reports—Added tax—Distribution—Late payment penalty—Additional taxes, purposes. (1) Any microbrewer or domestic brewery or beer distributor licensed under this title may sell and deliver beer and strong beer to holders of authorized licenses direct, but to no other person, other than the board. Any certificate of approval holder authorized to act as a distributor under RCW 66.24.270 shall pay the taxes imposed by this section.

(a) Every such brewery or beer distributor shall report all sales to the board monthly, pursuant to the regulations, and shall pay to the board as an added tax for the privilege of manufacturing and selling the beer and strong beer within the state a tax of one dollar and thirty cents per barrel of thirty-one gallons on sales to licensees within the state and on sales to licensees within the state of bottled and canned beer, including strong beer, shall pay a tax computed in gallons at the rate of one dollar and thirty cents per barrel of thirty-one gallons.

(b) Any brewery or beer distributor whose applicable tax payment is not postmarked by the twentieth day following the month of sale will be assessed a penalty at the rate of two percent per month or fraction thereof. Beer and strong beer shall be sold by breweries and distributors in sealed barrels or packages.

(c) The moneys collected under this subsection shall be distributed as follows: (i) Three-tenths of a percent shall be distributed to border areas under RCW 66.08.195; and (ii) of the remaining moneys: (A) Twenty percent shall be distributed to counties in the same manner as under RCW 66.08.200; and (B) eighty percent shall be distributed to incorporated cities and towns in the same manner as under RCW 66.08.210.

(d) Any licensed retailer authorized to purchase beer from a certificate of approval holder with a direct shipment endorsement or a brewery or microbrewery shall make monthly reports to the liquor control board on beer purchased during the preceding calendar month in the manner and upon such forms as may be prescribed by the board.

(2) An additional tax is imposed on all beer and strong beer subject to tax under subsection (1) of this section. The additional tax is equal to two dollars per barrel of thirty-one gallons. All revenues collected during any month from this additional tax shall be deposited in the state general fund by the twenty-fifth day of the following month.

(3)(a) An additional tax is imposed on all beer and strong beer subject to tax under subsection (1) of this section. The additional tax is equal to ninety-six cents per barrel of thirty-one gallons through June 30, 1995, two dollars and thirty-nine cents per barrel of thirty-one gallons for the period July 1, 1995, through June 30, 1997, and four dollars and seventy-eight cents per barrel of thirty-one gallons thereafter.

(b) The additional tax imposed under this subsection does not apply to the sale of the first sixty thousand barrels of beer each year by breweries that are entitled to a reduced rate of tax under 26 U.S.C. Sec. 5051, as existing on July 1, 1993, or such subsequent date as may be provided by the board by rule consistent with the purposes of this exemption.

(c) All revenues collected from the additional tax imposed under this subsection (3) shall be deposited in the state general fund.

(4) An additional tax is imposed on all beer and strong beer that is subject to tax under subsection (1) of this section that is in the first sixty thousand barrels of beer and strong beer by breweries that are entitled to a reduced rate of tax under 26 U.S.C. Sec. 5051, as existing on July 1, 1993, or such subsequent date as may be provided by the board by rule consistent with the purposes of the exemption under subsection (3)(b) of this section. The additional tax is equal to one dollar and forty-eight and two-tenths cents per barrel of thirty-one gallons. By the twenty-fifth day of the following month, three percent of the revenues collected from this addi-

tional tax shall be distributed to border areas under RCW 66.08.195 and the remaining moneys shall be transferred to the state general fund.

(5)(a) From June 1, 2010, through June 30, 2013, an additional tax is imposed on all beer and strong beer subject to tax under subsection (1) of this section. The additional tax is equal to fifteen dollars and fifty cents per barrel of thirty-one gallons.

(b) The additional tax imposed under this subsection does not apply to the sale of the first sixty thousand barrels of beer each year by breweries that are entitled to a reduced rate of tax under 26 U.S.C. Sec. 5051 of the federal internal revenue code, as existing on July 1, 1993, or such subsequent date as may be provided by the board by rule consistent with the purposes of this exemption.

(c) All revenues collected from the additional tax imposed under this subsection shall be deposited in the state general fund.

(6) The board may make refunds for all taxes paid on beer and strong beer exported from the state for use outside the state.

(7) The board may require filing with the board of a bond to be approved by it, in such amount as the board may fix, securing the payment of the tax. If any licensee fails to pay the tax when due, the board may forthwith suspend or cancel his or her license until all taxes are paid. [2010 1st sp.s. c 23 § 1301; 2009 c 479 § 43; 2006 c 302 § 7; 2003 c 167 § 5; 1999 c 281 § 14. Prior: 1997 c 451 § 1; 1997 c 321 § 16; 1995 c 232 § 4; 1994 sp.s. c 7 § 902 (Referendum Bill No. 43, approved November 8, 1994); 1993 c 492 § 311; 1989 c 271 § 502; 1983 2nd ex.s. c 3 § 11; 1982 1st ex.s. c 35 § 24; 1981 1st ex.s. c 5 § 16; 1965 ex.s. c 173 § 30; 1933 ex.s. c 62 § 24; RRS § 7306-24.]

Effective date—2010 1st sp.s. c 23: See note following RCW 82.04.4292.

Findings—Intent—2010 1st sp.s. c 23: See notes following RCW 82.04.220.

Effective date—2009 c 479: See note following RCW 2.56.030.

Effective date—2006 c 302: See note following RCW 66.24.170.

Finding—Intent—Severability—1994 sp.s. c 7: See notes following RCW 43.70.540.

Findings—Intent—1993 c 492: See notes following RCW 43.20.050.

Giving away of liquor prohibited—Exceptions: RCW 66.28.040.

Additional notes found at www.leg.wa.gov

66.24.305 Refunds of taxes on unsalable wine and beer. The board may refund the tax on wine imposed by RCW 66.24.210, and the tax on beer imposed by RCW 66.24.290, when such taxpaid products have been deemed to be unsalable and are destroyed within the state in accordance with procedures established by the board. [1975 1st ex.s. c 173 § 11.]

Additional notes found at www.leg.wa.gov

66.24.310 Representative's license—Qualifications—Conditions and restrictions—Fee. (1)(a) Except as provided in (b) of this subsection, no person may canvass for, solicit, receive, or take orders for the purchase or sale of liquor, nor contact any licensees of the board in goodwill activities, unless the person is the representative of a licensee or certificate holder authorized by this title to sell liquor for resale in the state and has applied for and received a representative's license.

(b) (a) of this subsection does not apply to: (i) Drivers who deliver spirits, beer, or wine; or (ii) domestic wineries or their employees.

(2) Every representative's license issued under this title is subject to all conditions and restrictions imposed by this title or by the rules and regulations of the board; the board, for the purpose of maintaining an orderly market, may limit the number of representative's licenses issued for representation of specific classes of eligible employers.

(3) Every application for a representative's license must be approved by a holder of a certificate of approval, a licensed beer distributor, a licensed domestic brewer, a licensed beer importer, a licensed microbrewer, a licensed domestic winery, a licensed wine importer, a licensed wine distributor, or by a distiller, manufacturer, importer, or distributor of spirits, or of foreign-produced beer or wine, as required by the rules and regulations of the board.

(4) The fee for a representative's license is twenty-five dollars per year. [2012 c 2 § 111 (Initiative Measure No. 1183, approved November 8, 2011); 2011 c 119 § 301; 1997 c 321 § 17; 1981 1st ex.s. c 5 § 36; 1975-'76 2nd ex.s. c 74 § 1; 1971 ex.s. c 138 § 1; 1969 ex.s. c 21 § 5; 1939 c 172 § 2; 1937 c 217 § 1 (23I) (adding new section 23-I to 1933 ex.s. c 62); RRS § 7306-23I.]

Finding—Application—Rules—Effective date—Contingent effective date—2012 c 2 (Initiative Measure No. 1183): See notes following RCW 66.24.620.

Additional notes found at www.leg.wa.gov

66.24.320 Beer and/or wine restaurant license—Containers—Fee—Caterer's endorsement. There shall be a beer and/or wine restaurant license to sell beer, including strong beer, or wine, or both, at retail, for consumption on the premises. A patron of the licensee may remove from the premises, recorked or recapped in its original container, any portion of wine that was purchased for consumption with a meal.

(1) The annual fee shall be two hundred dollars for the beer license, two hundred dollars for the wine license, or four hundred dollars for a combination beer and wine license.

(2)(a) The board may issue a caterer's endorsement to this license to allow the licensee to remove from the liquor stocks at the licensed premises, only those types of liquor that are authorized under the on-premises license privileges for sale and service at event locations at a specified date and, except as provided in subsection (3) of this section, place not currently licensed by the board. If the event is open to the public, it must be sponsored by a society or organization as defined by RCW 66.24.375. If attendance at the event is limited to members or invited guests of the sponsoring individual, society, or organization, the requirement that the sponsor must be a society or organization as defined by RCW 66.24.375 is waived. Cost of the endorsement is three hundred fifty dollars.

(b) The holder of this license with [a] catering endorsement shall, if requested by the board, notify the board or its designee of the date, time, place, and location of any catered event. Upon request, the licensee shall provide to the board all necessary or requested information concerning the society

or organization that will be holding the function at which the endorsed license will be utilized.

(c) The holder of this license with a caterer's endorsement may, under conditions established by the board, store liquor on the premises of another not licensed by the board so long as there is a written agreement between the licensee and the other party to provide for ongoing catering services, the agreement contains no exclusivity clauses regarding the alcoholic beverages to be served, and the agreement is filed with the board.

(d) The holder of this license with a caterer's endorsement may, under conditions established by the board, store liquor on other premises operated by the licensee so long as the other premises are owned or controlled by a leasehold interest by that licensee. A duplicate license may be issued for each additional premises. A license fee of twenty dollars shall be required for such duplicate licenses.

(3) Licensees under this section that hold a caterer's endorsement are allowed to use this endorsement on a domestic winery premises or on the premises of a passenger vessel and may store liquor at such premises under conditions established by the board under the following conditions:

(a) Agreements between the domestic winery or the passenger vessel, as the case may be, and the retail licensee shall be in writing, contain no exclusivity clauses regarding the alcoholic beverages to be served, and be filed with the board; and

(b) The domestic winery or passenger vessel, as the case may be, and the retail licensee shall be separately contracted and compensated by the persons sponsoring the event for their respective services.

(4) The holder of this license or its manager may furnish beer or wine to the licensee's employees free of charge as may be required for use in connection with instruction on beer and wine. The instruction may include the history, nature, values, and characteristics of beer or wine, the use of wine lists, and the methods of presenting, serving, storing, and handling beer or wine. The beer and/or wine licensee must use the beer or wine it obtains under its license for the sampling as part of the instruction. The instruction must be given on the premises of the beer and/or wine licensee.

(5) If the license is issued to a person who contracts with the Washington state ferry system to provide food and alcohol service on a designated ferry route, the license shall cover any vessel assigned to the designated route. A separate license is required for each designated ferry route. [2007 c 370 § 9; (2009 c 507 § 1 expired July 1, 2011). Prior: 2006 c 362 § 1; 2006 c 101 § 2; 2005 c 152 § 1; 2004 c 62 § 2; prior: 2003 c 345 § 1; 2003 c 167 § 6; 1998 c 126 § 4; 1997 c 321 § 18; 1995 c 232 § 6; 1991 c 42 § 1; 1987 c 458 § 11; 1981 1st ex.s. c 5 § 37; 1977 ex.s. c 9 § 1; 1969 c 117 § 1; 1967 ex.s. c 75 § 2; 1941 c 220 § 1; 1937 c 217 § 1 (23M) (adding new section 23-M to 1933 ex.s. c 62); Rem. Supp. 1941 § 7306-23M.]

Expiration date—2009 c 507: "This act expires July 1, 2011." [2009 c 507 § 15.]

Additional notes found at www.leg.wa.gov

66.24.330 Tavern license—Fees. There shall be a beer and wine retailer's license to be designated as a tavern license to sell beer, including strong beer, or wine, or both, at retail, for consumption on the premises. Such licenses may be issued only to a person operating a tavern that may be frequented only by persons twenty-one years of age and older.

The annual fee for such license shall be two hundred dollars for the beer license, two hundred dollars for the wine license, or four hundred dollars for a combination beer and wine license. Licensees who have a fee increase of more than one hundred dollars as a result of this change shall have their fees increased fifty percent of the amount the first renewal year and the remaining amount beginning with the second renewal period. New licensees obtaining a license after July 1, 1998, shall pay the full amount of four hundred dollars. [2003 c 167 § 7; (2009 c 507 § 2 expired July 1, 2011); 1997 c 321 § 19; 1995 c 232 § 7; 1991 c 42 § 2; 1987 c 458 § 12; 1981 1st ex.s. c 5 § 38; 1977 ex.s. c 9 § 2; 1973 1st ex.s. c 209 § 15; 1967 ex.s. c 75 § 3; 1941 c 220 § 2; 1937 c 217 § 1 (23N) (adding new section 23-N to 1933 ex.s. c 62); Rem. Supp. 1941 § 7306-23N.]

Expiration date—2009 c 507: See note following RCW 66.24.320.

Additional notes found at www.leg.wa.gov

66.24.350 Snack bar license—Fee. There shall be a beer retailer's license to be designated as a snack bar license to sell beer by the opened bottle or can at retail, for consumption upon the premises only, such license to be issued to places where the sale of beer is not the principal business conducted; fee one hundred twenty-five dollars per year. [1997 c 321 § 20; (2009 c 507 § 3 expired July 1, 2011); 1991 c 42 § 3; 1981 1st ex.s. c 5 § 40; 1967 ex.s. c 75 § 5; 1937 c 217 § 1 (23P) (adding new section 23-P to 1933 ex.s. c 62); RRS § 7306-23P.]

Expiration date—2009 c 507: See note following RCW 66.24.320.

Additional notes found at www.leg.wa.gov

66.24.354 Combined license—Sale of beer and wine for consumption on and off premises—Conditions—Fee. There shall be a beer and wine retailer's license that may be combined only with the on-premises licenses described in either RCW 66.24.320 or 66.24.330. The combined license permits the sale of beer and wine for consumption off the premises.

(1) Beer and wine sold for consumption off the premises must be in original sealed packages of the manufacturer or bottler.

(2) Beer may be sold to a purchaser in a sanitary container brought to the premises by the purchaser and filled at the tap by the retailer at the time of sale.

(3) Licensees holding this type of license also may sell malt liquor in kegs or other containers that are capable of holding four gallons or more of liquid and are registered in accordance with RCW 66.28.200.

(4) The board may impose conditions upon the issuance of this license to best protect and preserve the health, safety, and welfare of the public.

(5) The annual fee for this license shall be one hundred twenty dollars. [1997 c 321 § 21; (2009 c 507 § 4 expired July 1, 2011).]

Expiration date—2009 c 507: See note following RCW 66.24.320.

Additional notes found at www.leg.wa.gov

66.24.360 Grocery store license—Fees—Restricted license—Determination of public interest—Inventory—Endorsements. (1) There is a grocery store license to sell wine and/or beer, including without limitation strong beer at retail in original containers, not to be consumed upon the premises where sold.

(2) There is a wine retailer reseller endorsement of a grocery store license, to sell wine at retail in original containers to retailers licensed to sell wine for consumption on the premises, for resale at their licensed premises according to the terms of the license. However, no single sale may exceed twenty-four liters, unless the sale is made by a licensee that was a contract liquor store manager of a contract-operated liquor store at the location from which such sales are made. For the purposes of this title, a grocery store license is a retail license, and a sale by a grocery store licensee with a reseller endorsement is a retail sale only if not for resale.

(3) Licensees obtaining a written endorsement from the board may also sell malt liquor in kegs or other containers capable of holding less than five and one-half gallons of liquid.

(4) The annual fee for the grocery store license is one hundred fifty dollars for each store.

(5) The annual fee for the wine retailer reseller endorsement is one hundred sixty-six dollars for each store.

(6) The board must issue a restricted grocery store license authorizing the licensee to sell beer and only table wine, if the board finds upon issuance or renewal of the license that the sale of strong beer or fortified wine would be against the public interest. In determining the public interest, the board must consider at least the following factors:

(a) The likelihood that the applicant will sell strong beer or fortified wine to persons who are intoxicated;

(b) Law enforcement problems in the vicinity of the applicant's establishment that may arise from persons purchasing strong beer or fortified wine at the establishment; and

(c) Whether the sale of strong beer or fortified wine would be detrimental to or inconsistent with a government-operated or funded alcohol treatment or detoxification program in the area.

If the board receives no evidence or objection that the sale of strong beer or fortified wine would be against the public interest, it must issue or renew the license without restriction, as applicable. The burden of establishing that the sale of strong beer or fortified wine by the licensee would be against the public interest is on those persons objecting.

(7) Licensees holding a grocery store license must maintain a minimum three thousand dollar inventory of food products for human consumption, not including pop, beer, strong beer, or wine.

(8) A grocery store licensee with a wine retailer reseller endorsement may accept delivery of wine at its licensed premises or at one or more warehouse facilities registered with the board, which facilities may also warehouse and distribute nonliquor items, and from which it may deliver to its own licensed premises and, pursuant to sales permitted by this title, to other licensed premises, to other registered facilities, or to lawful purchasers outside the state. Facilities may be registered and utilized by associations, cooperatives, or comparable groups of grocery store licensees.

(9) Upon approval by the board, the grocery store licensee may also receive an endorsement to permit the international export of beer, strong beer, and wine.

(a) Any beer, strong beer, or wine sold under this endorsement must have been purchased from a licensed beer or wine distributor licensed to do business within the state of Washington.

(b) Any beer, strong beer, and wine sold under this endorsement must be intended for consumption outside the state of Washington and the United States and appropriate records must be maintained by the licensee.

(c) Any beer, strong beer, or wine sold under this endorsement must be sold at a price no less than the acquisition price paid by the holder of the license.

(d) The annual cost of this endorsement is five hundred dollars and is in addition to the license fees paid by the licensee for a grocery store license.

(10) A grocery store licensee holding a snack bar license under RCW 66.24.350 may receive an endorsement to allow the sale of confections containing more than one percent but not more than ten percent alcohol by weight to persons twenty-one years of age or older. [2012 c 2 § 104 (Initiative Measure No. 1183, approved November 8, 2011); 2011 c 119 § 203; (2009 c 507 § 5 expired July 1, 2011); 2007 c 226 § 2; 2003 c 167 § 8; 1997 c 321 § 22; 1993 c 21 § 1; 1991 c 42 § 4; 1987 c 46 § 1; 1981 1st ex.s. c 5 § 41; 1967 ex.s. c 75 § 6; 1937 c 217 § 1 (23Q) (adding new section 23-Q to 1933 ex.s. c 62); RRS § 7306-23Q.]

Finding—Application—Rules—Effective date—Contingent effective date—2012 c 2 (Initiative Measure No. 1183): See notes following RCW 66.24.620.

Expiration date—2009 c 507: See note following RCW 66.24.320.

Employees under eighteen allowed to handle beer or wine: RCW 66.44.340.

Additional notes found at www.leg.wa.gov

66.24.363 Grocery store—Beer and wine tasting endorsement. (1) A grocery store licensed under RCW 66.24.360 may apply for an endorsement to offer beer and wine tasting under this section.

(2) To be issued an endorsement, a licensee must meet the following criteria:

(a) The licensee operates a fully enclosed retail area encompassing at least ten thousand square feet of fully enclosed retail space within a single structure, including storerooms and other interior auxiliary areas but excluding covered or fenced exterior areas, whether or not attached to the structure, except that the board may issue an endorsement to a licensee with a retail area encompassing less than ten thousand square feet if the board determines that no licensee in the community the licensee serves meets the square footage requirement and the licensee meets operational requirements established by the board by rule; and

(b) The licensee has not had more than one public safety violation within the past two years.

(3) A tasting must be conducted under the following conditions:

(a) Each sample must be two ounces or less, up to a total of four ounces, per customer during any one visit to the premises;

(b) No more than one sample of the same product offering of beer or wine may be provided to a customer during any one visit to the premises;

(c) The licensee must have food available for the tasting participants;

(d) Customers must remain in the service area while consuming samples; and

(e) The service area and facilities must be located within the licensee's fully enclosed retail area and must be of a size and design such that the licensee can observe and control persons in the area to ensure that persons under twenty-one years of age and apparently intoxicated persons cannot possess or consume alcohol.

(4) Employees of licensees whose duties include serving during tasting activities under this section must hold a class 12 alcohol server permit.

(5) Tasting activities under this section are subject to RCW 66.28.305 and 66.28.040 and the cost of sampling may not be borne, directly or indirectly, by any liquor manufacturer, importer, or distributor.

(6) A licensee may advertise a tasting event only within the store, on a store web site, in store newsletters and flyers, and via e-mail and mail to customers who have requested notice of events. Advertising under this subsection may not be targeted to or appeal principally to youth.

(7)(a) If a licensee is found to have committed a public safety violation in conjunction with tasting activities, the board may suspend the licensee's tasting endorsement and not reissue the endorsement for up to two years from the date of the violation. If mitigating circumstances exist, the board may offer a monetary penalty in lieu of suspension during a settlement conference.

(b) The board may revoke an endorsement granted to a licensee that is located within the boundaries of an alcohol impact area recognized by resolution of the board if the board finds that the tasting activities by the licensee are having an adverse effect on the reduction of chronic public inebriation in the area.

(c) RCW 66.08.150 applies to the suspension or revocation of an endorsement.

(8) The board may establish additional requirements under this section to assure that persons under twenty-one years of age and apparently intoxicated persons cannot possess or consume alcohol.

(9) The annual fee for the endorsement is two hundred dollars. The board shall review the fee annually and may increase the fee by rule to a level sufficient to defray the cost of administration and enforcement of the endorsement, except that the board may not increase the fee by more than ten percent annually.

(10) The board must adopt rules to implement this section. [2013 c 52 § 1; 2010 c 141 § 1.]

66.24.371 Beer and/or wine specialty shop license—Fee—Samples—Restricted license—Determination of public interest—Inventory. (1) There shall be a beer and/or wine retailer's license to be designated as a beer and/or wine specialty shop license to sell beer, strong beer, and/or wine at retail in bottles, cans, and original containers, not to be consumed upon the premises where sold, at any store other than the state liquor stores. Licensees obtaining a written endorsement from the board may also sell malt liquor in kegs or other containers capable of holding four gallons or more of liquid. The annual fee for the beer and/or wine specialty shop license is one hundred dollars for each store. The sale of any container holding four gallons or more must comply with RCW 66.28.200 and 66.28.220.

(2) Licensees under this section may provide, free or for a charge, single-serving samples of two ounces or less to customers for the purpose of sales promotion. Sampling activities of licensees under this section are subject to RCW 66.28.305 and 66.28.040 and the cost of sampling under this section may not be borne, directly or indirectly, by any manufacturer, importer, or distributor of liquor.

(3) Upon approval by the board, the beer and/or wine specialty shop licensee that exceeds fifty percent beer and/or wine sales may also receive an endorsement to permit the sale of beer to a purchaser in a sanitary container brought to the premises by the purchaser, or provided by the licensee or manufacturer, and fill at the tap by the licensee at the time of sale. If the beer and/or wine specialty shop licensee does not exceed fifty percent beer and/or wine sales, the board may waive the fifty percent beer and/or wine sale criteria if the beer and/or wine specialty shop maintains alcohol inventory that exceeds fifteen thousand dollars.

(4) The board shall issue a restricted beer and/or wine specialty shop license, authorizing the licensee to sell beer and only table wine, if the board finds upon issuance or renewal of the license that the sale of strong beer or fortified wine would be against the public interest. In determining the public interest, the board shall consider at least the following factors:

(a) The likelihood that the applicant will sell strong beer or fortified wine to persons who are intoxicated;

(b) Law enforcement problems in the vicinity of the applicant's establishment that may arise from persons purchasing strong beer or fortified wine at the establishment; and

(c) Whether the sale of strong beer or fortified wine would be detrimental to or inconsistent with a government-operated or funded alcohol treatment or detoxification program in the area.

If the board receives no evidence or objection that the sale of strong beer or fortified wine would be against the public interest, it shall issue or renew the license without restriction, as applicable. The burden of establishing that the sale of strong beer or fortified wine by the licensee would be against the public interest is on those persons objecting.

(5) Licensees holding a beer and/or wine specialty shop license must maintain a minimum three thousand dollar wholesale inventory of beer, strong beer, and/or wine.

(6) The board may adopt rules to implement this section. [2011 c 195 § 4; 2011 c 119 § 204; (2009 c 507 § 6 expired July 1, 2011); 2009 c 373 § 6; 2003 c 167 § 9; 1997 c 321 § 23.]

Reviser's note: This section was amended by 2011 c 119 § 204 and by 2011 c 195 § 4, each without reference to the other. Both amendments are incorporated in the publication of this section under RCW 1.12.025(2). For rule of construction, see RCW 1.12.025(1).

Expiration date—2009 c 507: See note following RCW 66.24.320.

Additional notes found at www.leg.wa.gov

66.24.375 "Society or organization" defined for certain purposes. "Society or organization" as used in RCW 66.24.380 means a not-for-profit group organized and operated (1) solely for charitable, religious, social, political, educational, civic, fraternal, athletic, or benevolent purposes, or (2) as a local wine industry association registered under section 501(c)(6) of the internal revenue code as it exists on July 22, 2007. No portion of the profits from events sponsored by a not-for-profit group may be paid directly or indirectly to members, officers, directors, or trustees except for services performed for the organization. Any compensation paid to its officers and executives must be only for actual services and at levels comparable to the compensation for like positions within the state. A society or organization which is registered with the secretary of state or the federal internal revenue service as a nonprofit organization shall submit such registration, upon request, as proof that it is a not-for-profit group. [2007 c 370 § 1; 1997 c 321 § 61; 1981 c 287 § 2.]

Additional notes found at www.leg.wa.gov

66.24.380 Special occasion license—Fee—Penalty. There is a retailer's license to be designated as a special occasion license to be issued to a not-for-profit society or organization to sell spirits, beer, and wine by the individual serving for on-premises consumption at a specified event, such as at picnics or other special occasions, at a specified date and place; fee sixty dollars per day.

(1) The not-for-profit society or organization is limited to sales of no more than twelve calendar days per year. For the purposes of this subsection, special occasion licensees that are "agricultural area fairs" or "agricultural county, district, and area fairs," as defined by RCW 15.76.120, that receive a special occasion license may, once per calendar year, count as one event fairs that last multiple days, so long as alcohol sales are at set dates, times, and locations, and the board receives prior notification of the dates, times, and locations. The special occasion license applicant will pay the sixty dollars per day for this event.

(2) The licensee may sell spirits, beer, and/or wine in original, unopened containers for off-premises consumption if permission is obtained from the board prior to the event.

(3) Sale, service, and consumption of spirits, beer, and wine is to be confined to specified premises or designated areas only.

(4) Liquor sold under this special occasion license must be purchased from a licensee of the board.

(5) Any violation of this section is a class 1 civil infraction having a maximum penalty of two hundred fifty dollars as provided for in chapter 7.80 RCW. [2012 c 2 § 112 (Initiative Measure No. 1183, approved November 8, 2011); 2005 c 151 § 10; 2004 c 133 § 2; 1997 c 321 § 24; 1988 c 200 § 2; 1981 1st ex.s. c 5 § 43; 1973 1st ex.s. c 209 § 17; 1969 ex.s. c 178 § 5; 1937 c 217 § 1 (23S) (adding new section 23-S to 1933 ex.s. c 62); RRS § 7306-23S.]

Finding—Application—Rules—Effective date—Contingent effective date—2012 c 2 (Initiative Measure No. 1183): See notes following RCW 66.24.620.

"Society or organization" defined for certain purposes: RCW 66.24.375.

Additional notes found at www.leg.wa.gov

66.24.395 Interstate common carrier's licenses—Class CCI—Fees—Scope. (1)(a) There shall be a license that may be issued to corporations, associations, or persons operating as federally licensed commercial common passenger carriers engaged in interstate commerce, in or over territorial limits of the state of Washington on passenger trains, vessels, or airplanes. Such license shall permit the sale of spirituous liquor, wine, and beer at retail for passenger consumption within the state upon one such train passenger car, vessel, or airplane, while in or over the territorial limits of the state. Such license shall include the privilege of transporting into and storing within the state such liquor for subsequent retail sale to passengers in passenger train cars, vessels or airplanes. The fees for such master license shall be seven hundred fifty dollars per annum (class CCI-1): PROVIDED, That upon payment of an additional sum of five dollars per annum per car, or vessel, or airplane, the privileges authorized by such license classes shall extend to additional cars, or vessels, or airplanes operated by the same licensee within the state, and a duplicate license for each additional car, or vessel, or airplane shall be issued: PROVIDED, FURTHER, That such licensee may make such sales and/or service upon cars, or vessels, or airplanes in emergency for not more than five consecutive days without such license: AND PROVIDED, FURTHER, That such license shall be valid only while such cars, or vessels, or airplanes are actively operated as common carriers for hire in interstate commerce and not while they are out of such common carrier service.

(b) Alcoholic beverages sold and/or served for consumption by such interstate common carriers while within or over the territorial limits of this state shall be subject to such board markup and state liquor taxes in an amount to approximate the revenue that would have been realized from such markup and taxes had the alcoholic beverages been purchased in Washington: PROVIDED, That the board's markup shall be applied on spirituous liquor only. Such common carriers shall report such sales and/or service and pay such markup and taxes in accordance with procedures prescribed by the board.

(2) Alcoholic beverages sold and delivered in this state to interstate common carriers for use under the provisions of this section shall be considered exported from the state, subject to the conditions provided in subsection (1)(b) of this section. The storage facilities for liquor within the state by common carriers licensed under this section shall be subject to written approval by the board. [1997 c 321 § 25; (2009 c 507 § 7 expired July 1, 2011); 1981 1st ex.s. c 5 § 44; 1975 1st ex.s. c 245 § 2.]

Expiration date—2009 c 507: See note following RCW 66.24.320.

Additional notes found at www.leg.wa.gov

66.24.400 Liquor by the drink, spirits, beer, and wine restaurant license—Liquor by the bottle for hotel or club guests—Removing unconsumed liquor, when. (1) There shall be a retailer's license, to be known and designated as a spirits, beer, and wine restaurant license, to sell spirituous liquor by the individual glass, beer, and wine, at retail, for consumption on the premises, including mixed drinks and cocktails compounded or mixed on the premises only. A club licensed under chapter 70.62 RCW with overnight sleeping accommodations, that is licensed under this section may sell liquor by the bottle to registered guests of the club for con-

sumption in guest rooms, hospitality rooms, or at banquets in the club. A patron of a bona fide restaurant or club licensed under this section may remove from the premises recorked or recapped in its original container any portion of wine which was purchased for consumption with a meal, and registered guests who have purchased liquor from the club by the bottle may remove from the premises any unused portion of such liquor in its original container. Such license may be issued only to bona fide restaurants and clubs, and to dining, club and buffet cars on passenger trains, and to dining places on passenger boats and airplanes, and to dining places at civic centers with facilities for sports, entertainment, and conventions, and to such other establishments operated and maintained primarily for the benefit of tourists, vacationers and travelers as the board shall determine are qualified to have, and in the discretion of the board should have, a spirits, beer, and wine restaurant license under the provisions and limitations of this title.

(2) The board may issue an endorsement to the spirits, beer, and wine restaurant license that allows the holder of a spirits, beer, and wine restaurant license to sell bottled wine for off-premises consumption. Spirits and beer may not be sold for off-premises consumption under this section except as provided in subsection (4) of this section. The annual fee for the endorsement under this subsection is one hundred twenty dollars.

(3) The holder of a spirits, beer, and wine license or its manager may furnish beer, wine, or spirituous liquor to the licensee's employees free of charge as may be required for use in connection with instruction on beer, wine, or spirituous liquor. The instruction may include the history, nature, values, and characteristics of beer, wine, or spirituous liquor, the use of wine lists, and the methods of presenting, serving, storing, and handling beer, wine, and spirituous liquor. The spirits, beer, and wine restaurant licensee must use the beer, wine, or spirituous liquor it obtains under its license for the sampling as part of the instruction. The instruction must be given on the premises of the spirits, beer, and wine restaurant licensee.

(4) The board may issue an endorsement to the spirits, beer, and wine restaurant license that allows the holder of a spirits, beer, and wine restaurant license to sell for off-premises consumption malt liquor in kegs or other containers that are capable of holding four gallons or more of liquid and are registered in accordance with RCW 66.28.200. Beer may also be sold under the endorsement to a purchaser in a sanitary container brought to the premises by the purchaser or furnished by the licensee and filled at the tap by the retailer at the time of sale. The annual fee for the endorsement under this subsection is one hundred twenty dollars. [2011 c 119 § 401; (2009 c 507 § 8 expired July 1, 2011); 2008 c 41 § 10. Prior: 2007 c 370 § 13; 2007 c 53 § 1; 2005 c 152 § 2; 2001 c 199 § 4; 1998 c 126 § 5; 1997 c 321 § 26; 1987 c 196 § 1; 1986 c 208 § 1; 1981 c 94 § 2; 1977 ex.s. c 9 § 4; 1971 ex.s. c 208 § 1; 1949 c 5 § 1 (adding new section 23-S-1 to 1933 ex.s. c 62); Rem. Supp. 1949 § 7306-23S-1.]

Expiration date—2009 c 507: See note following RCW 66.24.320.

Effective date—2008 c 41 §§ 3, 10, and 11: See note following RCW 66.20.310.

Effective date—2007 c 370 §§ 10-20: See note following RCW 66.04.010.

Additional notes found at www.leg.wa.gov

66.24.410 Liquor by the drink, spirits, beer, and wine restaurant license—Terms defined. (1) "Spirituous liquor," as used in RCW 66.24.400 to 66.24.450, inclusive, means "liquor" as defined in RCW 66.04.010, except "wine" and "beer" sold as such.

(2) "Restaurant" as used in RCW 66.24.400 to 66.24.450, inclusive, means an establishment provided with special space and accommodations where, in consideration of payment, food, without lodgings, is habitually furnished to the public, not including drug stores and soda fountains: PROVIDED, That such establishments shall be approved by the board and that the board shall be satisfied that such establishment is maintained in a substantial manner as a place for preparing, cooking and serving of complete meals. Requirements for complete meals shall be determined by the board in rules adopted pursuant to chapter 34.05 RCW.

(3) "Hotel," "clubs," "wine" and "beer" are used in RCW 66.24.400 to 66.24.450, inclusive, with the meaning given in chapter 66.04 RCW. [2011 c 195 § 2; 2007 c 370 § 18; 1983 c 3 § 164; 1981 1st ex.s. c 5 § 17; 1969 ex.s. c 112 § 1; 1957 c 263 § 2. Prior: 1949 c 5 § 2, part (adding new section 23-S-2 to 1933 ex.s. c 62); Rem. Supp. 1949 § 7306-23S-2, part.]

Effective date—2007 c 370 §§ 10-20: See note following RCW 66.04.010.

Additional notes found at www.leg.wa.gov

66.24.420 Liquor by the drink, spirits, beer, and wine restaurant license—Schedule of fees—Location—Number of licenses—Caterer's endorsement. (1) The spirits, beer, and wine restaurant license shall be issued in accordance with the following schedule of annual fees:

(a) The annual fee for a spirits, beer, and wine restaurant license shall be graduated according to the dedicated dining area and type of service provided as follows:

Less than 50% dedicated dining area	$2,000
50% or more dedicated dining area	$1,600
Service bar only	$1,000

(b) The annual fee for the license when issued to any other spirits, beer, and wine restaurant licensee outside of incorporated cities and towns shall be prorated according to the calendar quarters, or portion thereof, during which the licensee is open for business, except in case of suspension or revocation of the license.

(c) Where the license shall be issued to any corporation, association or person operating a bona fide restaurant in an airport terminal facility providing service to transient passengers with more than one place where liquor is to be dispensed and sold, such license shall be issued upon the payment of the annual fee, which shall be a master license and shall permit such sale within and from one such place. Such license may be extended to additional places on the premises at the discretion of the board and a duplicate license may be issued for each such additional place. The holder of a master license for a restaurant in an airport terminal facility must maintain in a substantial manner at least one place on the premises for preparing, cooking, and serving of complete meals, and such food service shall be available on request in other licensed places on the premises. An additional license fee of twenty-

five percent of the annual master license fee shall be required for such duplicate licenses.

(d) Where the license shall be issued to any corporation, association, or person operating dining places at a publicly or privately owned civic or convention center with facilities for sports, entertainment, or conventions, or a combination thereof, with more than one place where liquor is to be dispensed and sold, such license shall be issued upon the payment of the annual fee, which shall be a master license and shall permit such sale within and from one such place. Such license may be extended to additional places on the premises at the discretion of the board and a duplicate license may be issued for each such additional place. The holder of a master license for a dining place at such a publicly or privately owned civic or convention center must maintain in a substantial manner at least one place on the premises for preparing, cooking, and serving of complete meals, and food service shall be available on request in other licensed places on the premises. An additional license fee of ten dollars shall be required for such duplicate licenses.

(2) The board, so far as in its judgment is reasonably possible, shall confine spirits, beer, and wine restaurant licenses to the business districts of cities and towns and other communities, and not grant such licenses in residential districts, nor within the immediate vicinity of schools, without being limited in the administration of this subsection to any specific distance requirements.

(3) The board shall have discretion to issue spirits, beer, and wine restaurant licenses outside of cities and towns in the state of Washington. The purpose of this subsection is to enable the board, in its discretion, to license in areas outside of cities and towns and other communities, establishments which are operated and maintained primarily for the benefit of tourists, vacationers and travelers, and also golf and country clubs, and common carriers operating dining, club and buffet cars, or boats.

(4) The combined total number of spirits, beer, and wine nightclub licenses, and spirits, beer, and wine restaurant licenses issued in the state of Washington by the board, not including spirits, beer, and wine private club licenses, shall not in the aggregate at any time exceed one license for each one thousand two hundred of population in the state, determined according to the yearly population determination developed by the office of financial management pursuant to RCW 43.62.030.

(5) Notwithstanding the provisions of subsection (4) of this section, the board shall refuse a spirits, beer, and wine restaurant license to any applicant if in the opinion of the board the spirits, beer, and wine restaurant licenses already granted for the particular locality are adequate for the reasonable needs of the community.

(6)(a) The board may issue a caterer's endorsement to this license to allow the licensee to remove the liquor stocks at the licensed premises, for use as liquor for sale and service at event locations at a specified date and, except as provided in subsection (7) of this section, place not currently licensed by the board. If the event is open to the public, it must be sponsored by a society or organization as defined by RCW 66.24.375. If attendance at the event is limited to members or invited guests of the sponsoring individual, society, or organization, the requirement that the sponsor must be a society or organization as defined by RCW 66.24.375 is waived. Cost of the endorsement is three hundred fifty dollars.

(b) The holder of this license with a catering endorsement shall, if requested by the board, notify the board or its designee of the date, time, place, and location of any catered event. Upon request, the licensee shall provide to the board all necessary or requested information concerning the society or organization that will be holding the function at which the endorsed license will be utilized.

(c) The holder of this license with a caterer's endorsement may, under conditions established by the board, store liquor on the premises of another not licensed by the board so long as there is a written agreement between the licensee and the other party to provide for ongoing catering services, the agreement contains no exclusivity clauses regarding the alcoholic beverages to be served, and the agreement is filed with the board.

(d) The holder of this license with a caterer's endorsement may, under conditions established by the board, store liquor on other premises operated by the licensee so long as the other premises are owned or controlled by a leasehold interest by that licensee. A duplicate license may be issued for each additional premises. A license fee of twenty dollars shall be required for such duplicate licenses.

(7) Licensees under this section that hold a caterer's endorsement are allowed to use this endorsement on a domestic winery premises or on the premises of a passenger vessel and may store liquor at such premises under conditions established by the board under the following conditions:

(a) Agreements between the domestic winery or passenger vessel, as the case may be, and the retail licensee shall be in writing, contain no exclusivity clauses regarding the alcoholic beverages to be served, and be filed with the board; and

(b) The domestic winery or passenger vessel, as the case may be, and the retail licensee shall be separately contracted and compensated by the persons sponsoring the event for their respective services. [2009 c 271 § 7; (2009 c 507 § 9 expired July 1, 2011). Prior: 2007 c 370 § 19; 2007 c 370 § 8; prior: 2006 c 101 § 3; 2006 c 85 § 1; 2004 c 62 § 3; 2003 c 345 § 2; 1998 c 126 § 6; 1997 c 321 § 27; 1996 c 218 § 4; 1995 c 55 § 1; 1981 1st ex.s. c 5 § 45; 1979 c 87 § 1; 1977 ex.s. c 219 § 4; 1975 1st ex.s. c 245 § 1; 1971 ex.s. c 208 § 2; 1970 ex.s. c 13 § 2; prior: 1969 ex.s. c 178 § 6; 1969 ex.s. c 136 § 1; 1965 ex.s. c 143 § 3; 1949 c 5 § 3 (adding new section 23-S-3 to 1933 ex.s. c 62); Rem. Supp. 1949 § 7306-23S-3.]

Expiration date—2009 c 507: See note following RCW 66.24.320.

Effective date—2007 c 370 §§ 10-20: See note following RCW 66.04.010.

Additional notes found at www.leg.wa.gov

66.24.425 Liquor by the drink, spirits, beer, and wine restaurant license—Restaurants not serving the general public. (1) The board may, in its discretion, issue a spirits, beer, and wine restaurant license to a business which qualifies as a "restaurant" as that term is defined in RCW 66.24.410 in all respects except that the business does not serve the general public but, through membership qualification, selectively restricts admission to the business. For purposes of RCW 66.24.400 and 66.24.420, all licenses issued under this section shall be considered spirits, beer, and wine

restaurant licenses and shall be subject to all requirements, fees, and qualifications in this title, or in rules adopted by the board, as are applicable to spirits, beer, and wine restaurant licenses generally except that no service to the general public may be required.

(2) No license shall be issued under this section to a business:

(a) Which shall not have been in continuous operation for at least one year immediately prior to the date of its application; or

(b) Which denies membership or admission to any person because of race, creed, color, national origin, sex, or the presence of any sensory, mental, or physical handicap.

(3) The board may issue an endorsement to the spirits, beer, and wine restaurant license issued under this section that allows up to forty nonclub, member-sponsored events using club liquor. Visitors and guests may attend these events only by invitation of the sponsoring member or members. These events may not be open to the general public. The fee for the endorsement is an annual fee of nine hundred dollars. Upon the board's request, the holder of the endorsement must provide the board or the board's designee with the following information at least seventy-two hours before the event: The date, time, and location of the event; the name of the sponsor of the event; and a brief description of the purpose of the event.

(4) The board may issue an endorsement to the spirits, beer, and wine restaurant license that allows the holder of a spirits, beer, and wine restaurant license to sell for off-premises consumption wine vinted and bottled in the state of Washington and carrying a label exclusive to the license holder selling the wine. Spirits and beer may not be sold for off-premises consumption under this section. The annual fee for the endorsement under this chapter [section] is one hundred twenty dollars. [2001 c 199 § 3; 2001 c 198 § 1; (2009 c 507 § 10 expired July 1, 2011); 1998 c 126 § 7; 1997 c 321 § 28; 1982 c 85 § 3.]

Reviser's note: This section was amended by 2001 c 198 § 1 and by 2001 c 199 § 3, each without reference to the other. Both amendments are incorporated in the publication of this section under RCW 1.12.025(2). For rule of construction, see RCW 1.12.025(1).

Expiration date—2009 c 507: See note following RCW 66.24.320.

Additional notes found at www.leg.wa.gov

66.24.440 Liquor by the drink, spirits, beer, and wine restaurant, spirits, beer, and wine private club, hotel, spirits, beer, and wine nightclub, sports entertainment facility, and VIP airport lounge license—Purchase of liquor by licensees—Discount. Each spirits, beer, and wine restaurant, spirits, beer, and wine private club, hotel, spirits, beer, and wine nightclub, sports entertainment facility licensee, and VIP airport lounge licensee shall be entitled to purchase any spirituous liquor items salable under such license from the board at a discount of not less than fifteen percent from the retail price fixed by the board, together with all taxes. [2011 c 325 § 3; 2009 c 271 § 8; 2007 c 370 § 20; 1998 c 126 § 8; 1997 c 321 § 29; 1949 c 5 § 5 (adding new section 23-S-5 to 1933 ex.s. c 62); Rem. Supp. 1949 § 7306-23S-5.]

Effective date—2007 c 370 §§ 10-20: See note following RCW 66.04.010.

Additional notes found at www.leg.wa.gov

66.24.450 Liquor by the drink, spirits, beer, and wine private club license—Qualifications—Fee. (1) No club shall be entitled to a spirits, beer, and wine private club license:

(a) Unless such private club has been in continuous operation for at least one year immediately prior to the date of its application for such license;

(b) Unless the private club premises be constructed and equipped, conducted, managed, and operated to the satisfaction of the board and in accordance with this title and the regulations made thereunder;

(c) Unless the board shall have determined pursuant to any regulations made by it with respect to private clubs, that such private club is a bona fide private club; it being the intent of this section that license shall not be granted to a club which is, or has been, primarily formed or activated to obtain a license to sell liquor, but solely to a bona fide private club, where the sale of liquor is incidental to the main purposes of the spirits, beer, and wine private club, as defined in RCW 66.04.010(8).

(2) The annual fee for a spirits, beer, and wine private club license, whether inside or outside of an incorporated city or town, is seven hundred twenty dollars per year.

(3) The board may issue an endorsement to the spirits, beer, and wine private club license that allows nonclub, member-sponsored events using club liquor. Visitors and guests may attend these events only by invitation of the sponsoring member or members. These events may not be open to the general public. The fee for the endorsement shall be an annual fee of nine hundred dollars. Upon the board's request, the holder of the endorsement must provide the board or the board's designee with the following information at least seventy-two hours prior to the event: The date, time, and location of the event; the name of the sponsor of the event; and a brief description of the purpose of the event.

(4) The board may issue an endorsement to the spirits, beer, and wine private club license that allows the holder of a spirits, beer, and wine private club license to sell bottled wine for off-premises consumption. Spirits and beer may not be sold for off-premises consumption under this section. The annual fee for the endorsement under this section is one hundred twenty dollars. [2011 c 119 § 402; (2009 c 507 § 11 expired July 1, 2011); 2009 c 373 § 2; 2001 c 199 § 1; 1999 c 281 § 5. Prior: 1998 c 126 § 9; 1998 c 114 § 1; 1997 c 321 § 30; 1981 1st ex.s. c 5 § 18; 1949 c 5 § 6; 1937 c 217 § 1 (23T) (adding new section 23-T to 1933 ex.s. c 62); Rem. Supp. 1949 § 7306-23T.]

Expiration date—2009 c 507: See note following RCW 66.24.320.

Additional notes found at www.leg.wa.gov

66.24.452 Private club beer and wine license—Fee. (1) There shall be a beer and wine license to be issued to a private club for sale of beer, strong beer, and wine for on-premises consumption.

(2) Beer, strong beer, and wine sold by the licensee may be on tap or by open bottles or cans.

(3) The fee for the private club beer and wine license is one hundred eighty dollars per year.

(4) The board may issue an endorsement to the private club beer and wine license that allows the holder of a private club beer and wine license to sell bottled wine for off-premises consumption. Spirits, strong beer, and beer may not be sold for off-premises consumption under this section. The annual fee for the endorsement under this section is one hundred twenty dollars. [2009 c 373 § 3; (2009 c 507 § 12 expired July 1, 2011); 2003 c 167 § 10; 2001 c 199 § 2; 1997 c 321 § 31.]

Expiration date—2009 c 507: See note following RCW 66.24.320.

Additional notes found at www.leg.wa.gov

66.24.455 Bowling establishments—Extension of premises to concourse and lane areas—Beer and/or wine restaurant, tavern, snack bar, spirits, beer, and wine restaurant, spirits, beer, and wine private club, or beer and wine private club licensees. Subject to approval by the board, holders of beer and/or wine restaurant, tavern, snack bar, spirits, beer, and wine restaurant, spirits, beer, and wine private club, or beer and wine private club licenses may extend their premises for the sale, service, and consumption of liquor authorized under their respective licenses to the concourse or lane areas in a bowling establishment where the concourse or lane areas are adjacent to the food preparation service facility. [1998 c 126 § 10; 1997 c 321 § 32; 1994 c 201 § 2; 1974 ex.s. c 65 § 1.]

Additional notes found at www.leg.wa.gov

66.24.480 Bottle clubs—License required. "Bottle club" means a club or association operating for profit or otherwise and conducting or maintaining premises in which the members or other persons may resort for the primary or incidental purpose of keeping or consuming liquor on the premises.

Except as permitted under a license issued by the Washington state liquor control board, it is unlawful for any person to conduct or maintain by himself or herself or by associating with others, or to in any manner aid, assist, or abet in conducting or maintaining a bottle club. [2012 c 117 § 281; 1951 c 120 § 2 (adding a new section to Title 66 RCW).]

Reviser's note: As to the constitutionality of this section, see *Derby Club v. Beckett*, 41 Wn. 2d 869 (1953).

66.24.481 Public place or club—License or permit required—Penalty. No public place or club, or agent, servant or employee thereof, shall keep or allow to be kept, either by itself, its agent, servant or employee, or any other person, any liquor in any place maintained or conducted by such public place or club, nor shall it permit the drinking of any liquor in any such place, unless the sale of liquor in said place is authorized by virtue of a valid and subsisting license issued by the Washington state liquor control board, or the consumption of liquor in said place is authorized by a special banquet permit issued by said board. Every person who violates any provision of this section shall be guilty of a gross misdemeanor.

"Public place," for purposes of this section only, shall mean in addition to the definition set forth in RCW 66.04.010, any place to which admission is charged or in which any pecuniary gain is realized by the owner or operator of such place in selling or vending food or soft drinks. [2008 c 94 § 9; 1969 ex.s. c 250 § 2; 1953 c 141 § 1 (adding a new section to chapter 66.24 RCW).]

66.24.495 Nonprofit arts organization license—Fee. (1) There shall be a license to be designated as a nonprofit arts organization license. This shall be a special license to be issued to any nonprofit arts organization which sponsors and presents productions or performances of an artistic or cultural nature in a specific theater or other appropriate designated indoor premises approved by the board. The license shall permit the licensee to sell liquor to patrons of productions or performances for consumption on the premises at these events. The fee for the license shall be two hundred fifty dollars per annum.

(2) For the purposes of this section, the term "nonprofit arts organization" means an organization which is organized and operated for the purpose of providing artistic or cultural exhibitions, presentations, or performances or cultural or art education programs, as defined in subsection (3) of this section, for viewing or attendance by the general public. The organization must be a not-for-profit corporation under chapter 24.03 RCW and managed by a governing board of not less than eight individuals none of whom is a paid employee of the organization or by a corporation sole under chapter 24.12 RCW. In addition, the corporation must satisfy the following conditions:

(a) No part of its income may be paid directly or indirectly to its members, stockholders, officers, directors, or trustees except in the form of services rendered by the corporation in accordance with its purposes and bylaws;

(b) Salary or compensation paid to its officers and executives must be only for actual services rendered, and at levels comparable to the salary or compensation of like positions within the state;

(c) Assets of the corporation must be irrevocably dedicated to the activities for which the license is granted and, on the liquidation, dissolution, or abandonment by the corporation, may not inure directly or indirectly to the benefit of any member or individual except a nonprofit organization, association, or corporation;

(d) The corporation must be duly licensed or certified when licensing or certification is required by law or regulation;

(e) The proceeds derived from sales of liquor, except for reasonable operating costs, must be used in furtherance of the purposes of the organization;

(f) Services must be available regardless of race, color, national origin, or ancestry; and

(g) The liquor control board shall have access to its books in order to determine whether the corporation is entitled to a license.

(3) The term "artistic or cultural exhibitions, presentations, or performances or cultural or art education programs" includes and is limited to:

(a) An exhibition or presentation of works of art or objects of cultural or historical significance, such as those commonly displayed in art or history museums;

(b) A musical or dramatic performance or series of performances; or

(c) An educational seminar or program, or series of such programs, offered by the organization to the general public

on an artistic, cultural, or historical subject. [1997 c 321 § 33; 1981 c 142 § 1.]

Additional notes found at www.leg.wa.gov

66.24.520 Grower's license—Fee. There shall be a grower's license to sell wine or spirits made from grapes or other agricultural products owned at the time of vinification or distillation by the licensee in bulk to holders of domestic wineries', distillers', or manufacturers' licenses or for export. The wine or spirits shall be made upon the premises of a domestic winery or craft distillery licensee and is referred to in this section as grower's wine or grower's spirits. A grower's license authorizes the agricultural product grower to contract for the manufacturing of wine or spirits from the grower's own agricultural product, store wine or spirits in bulk made from agricultural products produced by the holder of this license, and to sell wine or spirits in bulk made from the grower's own agricultural products to a winery or distillery in the state of Washington or to export in bulk for sale out-of-state. The annual fee for a grower's license shall be seventy-five dollars. For the purpose of chapter 66.28 RCW, a grower licensee shall be deemed a manufacturer. [2010 c 290 § 4; 1986 c 214 § 1.]

66.24.530 Duty free exporter's license—Class S—Fee. (1) There shall be a license to be designated as a class S license to qualified duty free exporters authorizing such exporters to sell beer and wine to vessels for consumption outside the state of Washington.

(2) To qualify for a license under subsection (1) of this section, the exporter shall have:

(a) An importer's basic permit issued by the United States bureau of alcohol, tobacco, and firearms and a customs house license in conjunction with a common carriers bond;

(b) A customs bonded warehouse, or be able to operate from a foreign trade zone; and

(c) A notarized signed statement from the purchaser stating that the product is for consumption outside the state of Washington.

(3) The license for qualified duty free exporters shall authorize the duty free exporter to purchase from a brewery, winery, beer wholesaler, wine wholesaler, beer importer, or wine importer licensed by the state of Washington.

(4) Beer and/or wine sold and delivered in this state to duty free exporters for use under this section shall be considered exported from the state.

(5) The fee for this license shall be one hundred dollars per annum. [1987 c 386 § 1.]

66.24.540 Motel license—Fee. (1) There is a retailer's license to be designated as a motel license. The motel license may be issued to a motel regardless of whether it holds any other class of license under this title. No license may be issued to a motel offering rooms to its guests on an hourly basis. The license authorizes the licensee to:

(a) Sell, at retail, in locked honor bars, spirits in individual bottles not to exceed fifty milliliters, beer in individual cans or bottles not to exceed twelve ounces, and wine in individual bottles not to exceed one hundred eighty-seven milliliters, to registered guests of the motel for consumption in guest rooms.

(i) Each honor bar must also contain snack foods. No more than one-half of the guest rooms may have honor bars.

(ii) All spirits to be sold under the license must be purchased from a spirits retailer or a spirits distributor licensee of the board.

(iii) The licensee must require proof of age from the guest renting a guest room and requesting the use of an honor bar. The guest must also execute an affidavit verifying that no one under twenty-one years of age has access to the spirits, beer, and wine in the honor bar.

(b) Provide without additional charge, to overnight guests of the motel, spirits, beer, and wine by the individual serving for on-premises consumption at a specified regular date, time, and place as may be fixed by the board. Self-service by attendees is prohibited. All spirits, beer, and wine service must be done by an alcohol server as defined in RCW 66.20.300 and comply with RCW 66.20.310.

(2) The annual fee for a motel license is five hundred dollars.

(3) For the purposes of this section, "motel" means a transient accommodation licensed under chapter 70.62 RCW. [2012 c 2 § 114 (Initiative Measure No. 1183, approved November 8, 2011); 1999 c 129 § 1; 1997 c 321 § 34; 1993 c 511 § 1.]

Finding—Application—Rules—Effective date—Contingent effective date—2012 c 2 (Initiative Measure No. 1183): See notes following RCW 66.24.620.

Additional notes found at www.leg.wa.gov

66.24.550 Beer and wine gift delivery license—Fee—Limitations. There shall be a beer and wine retailer's license to be designated as a beer and wine gift delivery license to solicit, take orders for, sell, and deliver beer and/or wine in bottles and original packages to persons other than the person placing the order. A beer and wine gift delivery license may be issued only to a business solely engaged in the sale or sale and delivery of gifts at retail which holds no other class of license under this title or to a person in the business of selling flowers or floral arrangements at retail. No minimum beer and/or wine inventory requirement shall apply to holders of beer and wine gift delivery licenses. The fee for this license is seventy-five dollars per year. Delivery of beer and/or wine under a beer and wine gift delivery license shall be made in accordance with all applicable provisions of this title and the rules of the board, and no beer and/or wine so delivered shall be opened on any premises licensed under this title. A beer and wine gift delivery license does not authorize door-to-door solicitation of gift wine delivery orders. Deliveries of beer and/or wine under a beer and wine gift delivery license shall be made only in conjunction with gifts or flowers. [1997 c 321 § 35; 1989 c 149 § 1; 1986 c 40 § 1; 1982 c 85 § 10.]

Additional notes found at www.leg.wa.gov

66.24.570 Sports entertainment facility license—Fee—Caterer's endorsement—Financial arrangements—Reporting. (1) There is a license for sports entertainment facilities to be designated as a sports entertainment facility license to sell beer, wine, and spirits at retail, for consumption upon the premises only, the license to be issued to the entity providing food and beverage service at a sports enter-

tainment facility as defined in this section. The cost of the license is two thousand five hundred dollars per annum.

(2) For purposes of this section, a sports entertainment facility includes a publicly or privately owned arena, coliseum, stadium, or facility where sporting events are presented for a price of admission. The facility does not have to be exclusively used for sporting events.

(3) The board may impose reasonable requirements upon a licensee under this section, such as requirements for the availability of food and victuals including but not limited to hamburgers, sandwiches, salads, or other snack food. The board may also restrict the type of events at a sports entertainment facility at which beer, wine, and spirits may be served. When imposing conditions for a licensee, the board must consider the seating accommodations, eating facilities, and circulation patterns in such a facility, and other amenities available at a sports entertainment facility.

(4)(a) The board may issue a caterer's endorsement to the license under this section to allow the licensee to remove from the liquor stocks at the licensed premises, for use as liquor for sale and service at event locations at a specified date and place not currently licensed by the board. If the event is open to the public, it must be sponsored by a society or organization as defined by RCW 66.24.375. If attendance at the event is limited to members or invited guests of the sponsoring individual, society, or organization, the requirement that the sponsor must be a society or organization as defined by RCW 66.24.375 is waived. Cost of the endorsement is three hundred fifty dollars.

(b) The holder of this license with catering endorsement shall, if requested by the board, notify the board or its designee of the date, time, place, and location of any catered event. Upon request, the licensee shall provide to the board all necessary or requested information concerning the society or organization that will be holding the function at which the endorsed license will be utilized.

(5) The board may issue an endorsement to the beer, wine, and spirits sports entertainment facility license that allows the holder of a beer, wine, and spirits sports entertainment facility license to sell for off-premises consumption wine vinted and bottled in the state of Washington and carrying a label exclusive to the license holder selling the wine. Spirits and beer may not be sold for off-premises consumption under this section. The annual fee for the endorsement under this section is one hundred twenty dollars.

(6)(a) A licensee and an affiliated business may enter into arrangements with a manufacturer, importer, or distributor for brand advertising at the sports entertainment facility or promotion of events held at the sports entertainment facility, with a capacity of five thousand people or more. The financial arrangements providing for the brand advertising or promotion of events shall not be used as an inducement to purchase the products of the manufacturer, importer, or distributor entering into the arrangement nor shall it result in the exclusion of brands or products of other companies.

(b) The arrangements allowed under this subsection (6) are an exception to arrangements prohibited under RCW 66.28.305. The board shall monitor the impacts of these arrangements. The board may conduct audits of the licensee and the affiliated business to determine compliance with this subsection (6). Audits may include but are not limited to product selection at the facility; purchase patterns of the licensee; contracts with the liquor manufacturer, importer, or distributor; and the amount allocated or used for liquor advertising by the licensee, affiliated business, manufacturer, importer, or distributor under the arrangements.

(c) The board shall report to the appropriate committees of the legislature by December 30, 2008, and biennially thereafter, on the impacts of arrangements allowed between sports entertainment licensees and liquor manufacturers, importers, and distributors for brand advertising and promotion of events at the facility. [2011 c 119 § 205; 2007 c 369 § 2; 2003 c 345 § 3; 2001 c 199 § 5; 1997 c 321 § 36; 1996 c 218 § 1.]

Additional notes found at www.leg.wa.gov

66.24.580 Public house license—Fees—Limitations. (1) A public house license allows the licensee:

(a) To annually manufacture no less than two hundred fifty gallons and no more than two thousand four hundred barrels of beer on the licensed premises;

(b) To sell product, that is produced on the licensed premises, at retail on the licensed premises for consumption on the licensed premises;

(c) To sell beer or wine not of its own manufacture for consumption on the licensed premises if the beer or wine has been purchased from a licensed beer or wine wholesaler;

(d) To apply for and, if qualified and upon the payment of the appropriate fee, be licensed as a spirits, beer, and wine restaurant to do business at the same location. This fee is in addition to the fee charged for the basic public house license.

(2) RCW 66.28.305 applies to a public house license.

(3) A public house licensee must pay all applicable taxes on production as are required by law, and all appropriate taxes must be paid for any product sold at retail on the licensed premises.

(4) The employees of the licensee must comply with the provisions of mandatory server training in RCW 66.20.300 through 66.20.350.

(5) The holder of a public house license may not hold a wholesaler's or importer's license, act as the agent of another manufacturer, wholesaler, or importer, or hold a brewery or winery license.

(6) The annual license fee for a public house is one thousand dollars.

(7) The holder of a public house license may hold other licenses at other locations if the locations are approved by the board.

(8) Existing holders of annual retail liquor licenses may apply for and, if qualified, be granted a public house license at one or more of their existing liquor licensed locations without discontinuing business during the application or construction stages. [2011 c 119 § 206; (2009 c 507 § 13 expired July 1, 2011); 1999 c 281 § 6; 1996 c 224 § 2.]

Expiration date—2009 c 507: See note following RCW 66.24.320.

Intent—1996 c 224: "It is the intent of the legislature that holders of annual on-premises retail liquor licenses be allowed to operate manufacturing facilities on those premises. This privilege is viewed as a means of enhancing and meeting the needs of the licensees' patrons without being in violation of the tied-house statute prohibitions of RCW 66.28.010. Furthermore, it is the intention of the legislature that this type of business not be viewed as primarily a manufacturing facility. Rather, the public house licensee shall be viewed as an annual retail licensee who is making malt

liquor for on-premises consumption by the patrons of the licensed premises." [1996 c 224 § 1.]

66.24.590 Hotel license—Fee—Limitations. (1) There is a retailer's license to be designated as a hotel license. No license may be issued to a hotel offering rooms to its guests on an hourly basis. Food service provided for room service, banquets or conferences, or restaurant operation under this license must meet the requirements of rules adopted by the board.

(2) The hotel license authorizes the licensee to:

(a) Sell spirituous liquor, beer, and wine, by the individual glass, at retail, for consumption on the premises, including mixed drinks and cocktails compounded and mixed on the premises;

(b) Sell, at retail, from locked honor bars, in individual units, spirits not to exceed fifty milliliters, beer in individual units not to exceed twelve ounces, and wine in individual bottles not to exceed three hundred eighty-five milliliters, to registered guests of the hotel for consumption in guest rooms. The licensee must require proof of age from the guest renting a guest room and requesting the use of an honor bar. The guest must also execute an affidavit verifying that no one under twenty-one years of age will have access to the spirits, beer, and wine in the honor bar;

(c) Provide without additional charge, to overnight guests, spirits, beer, and wine by the individual serving for on-premises consumption at a specified regular date, time, and place as may be fixed by the board. Self-service by attendees is prohibited;

(d) Sell beer, including strong beer, wine, or spirits, in the manufacturer's sealed container or by the individual drink to guests through room service, or through service to occupants of private residential units which are part of the buildings or complex of buildings that include the hotel;

(e) Sell beer, including strong beer, spirits, or wine, in the manufacturer's sealed container at retail sales locations within the hotel premises;

(f) Sell beer to a purchaser in a sanitary container brought to the premises by the purchaser or furnished by the licensee and filled at the tap in the restaurant area by the licensee at the time of sale;

(g) Sell for on or off-premises consumption, including through room service and service to occupants of private residential units managed by the hotel, wine carrying a label exclusive to the hotel license holder;

(h) Place in guest rooms at check-in, a complimentary bottle of liquor in a manufacturer-sealed container, and make a reference to this service in promotional material.

(3) If all or any facilities for alcoholic beverage service and the preparation, cooking, and serving of food are operated under contract or joint venture agreement, the operator may hold a license separate from the license held by the operator of the hotel. Food and beverage inventory used in separate licensed operations at the hotel may not be shared and must be separately owned and stored by the separate licensees.

(4) All spirits to be sold under this license must be purchased from a spirits retailer or spirits distributor licensee of the board.

(5) All on-premise [on-premises] alcoholic beverage service must be done by an alcohol server as defined in RCW 66.20.300 and must comply with RCW 66.20.310.

(6)(a) The hotel license allows the licensee to remove from the liquor stocks at the licensed premises, liquor for sale and service at event locations at a specified date and place not currently licensed by the board. If the event is open to the public, it must be sponsored by a society or organization as defined by RCW 66.24.375. If attendance at the event is limited to members or invited guests of the sponsoring individual, society, or organization, the requirement that the sponsor must be a society or organization as defined by RCW 66.24.375 is waived.

(b) The holder of this license must, if requested by the board, notify the board or its designee of the date, time, place, and location of any event. Upon request, the licensee must provide to the board all necessary or requested information concerning the society or organization that will be holding the function at which the endorsed license will be utilized.

(c) Licensees may cater events on a domestic winery, brewery, or distillery premises.

(7) The holder of this license or its manager may furnish spirits, beer, or wine to the licensee's employees who are twenty-one years of age or older free of charge as may be required for use in connection with instruction on spirits, beer, and wine. The instruction may include the history, nature, values, and characteristics of spirits, beer, or wine, the use of wine lists, and the methods of presenting, serving, storing, and handling spirits, beer, or wine. The licensee must use the liquor it obtains under its license for the sampling as part of the instruction. The instruction must be given on the premises of the licensee.

(8) Minors may be allowed in all areas of the hotel where liquor may be consumed; however, the consumption must be incidental to the primary use of the area. These areas include, but are not limited to, tennis courts, hotel lobbies, and swimming pool areas. If an area is not a mixed use area, and is primarily used for alcohol service, the area must be designated and restricted to access by persons of lawful age to purchase liquor.

(9) The annual fee for this license is two thousand dollars.

(10) As used in this section, "hotel," "spirits," "beer," and "wine" have the meanings defined in RCW 66.24.410 and 66.04.010. [2012 c 2 § 115 (Initiative Measure No. 1183, approved November 8, 2011); 2011 c 119 § 403; 2008 c 41 § 11; 2007 c 370 § 11.]

Finding—Application—Rules—Effective date—Contingent effective date—2012 c 2 (Initiative Measure No. 1183): See notes following RCW 66.24.620.

Effective date—2008 c 41 §§ 3, 10, and 11: See note following RCW 66.20.310.

Effective date—2007 c 370 §§ 10-20: See note following RCW 66.04.010.

66.24.600 Nightclub license. (1) There shall be a spirits, beer, and wine nightclub license to sell spirituous liquor by the drink, beer, and wine at retail, for consumption on the licensed premises.

(2) The license may be issued only to a person whose business includes the sale and service of alcohol to the per-

son's customers, has food sales and service incidental to the sale and service of alcohol, and has primary business hours between 9:00 p.m. and 2:00 a.m.

(3) Minors may be allowed on the licensed premises but only in areas where alcohol is not served or consumed.

(4) The annual fee for this license is two thousand dollars. The fee for the license shall be reviewed from time to time and set at such a level sufficient to defray the cost of licensing and enforcing this licensing program. The fee shall be fixed by rule adopted by the board in accordance with the provisions of the administrative procedure act, chapter 34.05 RCW.

(5) Local governments may petition the board to request that further restrictions be imposed on a spirits, beer, and wine nightclub license in the interest of public safety. Examples of further restrictions a local government may request are: No minors allowed on the entire premises, submitting a security plan, or signing a good neighbor agreement with the local government.

(6) The total number of spirts [spirits], beer, and wine nightclub licenses are subject to the requirements of RCW 66.24.420(4). However, the board shall refuse a spirits, beer, and wine nightclub license to any applicant if the board determines that the spirits, beer, and wine nightclub licenses already granted for the particular locality are adequate for the reasonable needs of the community.

(7) The board may adopt rules to implement this section. [2009 c 271 § 1.]

66.24.610 VIP airport lounge operator. There shall be a license to allow a VIP airport lounge operator to sell or otherwise provide spirits, wine, and beer solely for consumption on the premises of a VIP airport lounge. The license described in this section allows the VIP airport lounge operator to purchase spirits from the board, and to purchase beer and wine at retail outlets, or from the manufacturer or a distributor. No licensee may serve liquor from a bar where patrons may sit to be served, but may only serve liquor from a service bar, as approved by the board. The annual fee for this license shall be two thousand dollars. [2011 c 325 § 1.]

66.24.620 Sale of spirits by a holder of a spirits distributor or spirits retail license—State liquor store closure. (1) The holder of a spirits distributor license or spirits retail license issued under this title may commence sale of spirits upon issuance thereof, but in no event earlier than March 1, 2012, for distributors, or June 1, 2012, for retailers. The board must complete application processing by those dates of all complete applications for spirits licenses on file with the board on or before sixty days from December 8, 2011.

(2) The board must effect orderly closure of all state liquor stores no later than June 1, 2012, and must thereafter refrain from purchase, sale, or distribution of liquor, except for asset sales authorized by chapter 2, Laws of 2012.

(3) The board must devote sufficient resources to planning and preparation for sale of all assets of state liquor stores and distribution centers, and all other assets of the state over which the board has power of disposition, including without limitation goodwill and location value associated with state liquor stores, with the objective of depleting all inventory of liquor by May 31, 2012, and closing all other asset sales no later than June 1, 2013. The board, in furtherance of this subsection, may sell liquor to spirits licensees.

(4)(a) Disposition of any state liquor store or distribution center assets remaining after June 1, 2013, must be managed by the department of revenue.

(b) The board must obtain the maximum reasonable value for all asset sales made under this section.

(c) The board must sell by auction open to the public the right at each state-owned store location of a spirits retail licensee to operate a liquor store upon the premises. Such right must be freely alienable and subject to all state and local zoning and land use requirements applicable to the property. Acquisition of the operating rights must be a precondition to, but does not establish eligibility for, a spirits retail license at the location of a state store and does not confer any privilege conferred by a spirits retail license. Holding the rights does not require the holder of the right to operate a liquor-licensed business or apply for a liquor license.

(5) All sales proceeds under this section, net of direct sales expenses and other transition costs authorized by this section, must be deposited into the liquor revolving fund.

(6)(a) The board must complete the orderly transition from the current state-controlled system to the private licensee system of spirits retailing and distribution as required under this chapter by June 1, 2012.

(b) The transition must include, without limitation, a provision for applying operating and asset sale revenues of the board to just and reasonable measures to avert harm to interests of tribes, military buyers, and nonemployee liquor store operators under then existing contracts for supply by the board of distilled spirits, taking into account present value of issuance of a spirits retail license to the holder of such interest. The provision may extend beyond the time for completion of transition to a spirits licensee system.

(c) Purchases by the federal government from any licensee of the board of spirits for resale through commissaries at military installations are exempt from sales tax based on selling price levied by RCW 82.08.150. [2012 c 2 § 102 (Initiative Measure No. 1183, approved November 8, 2011).]

Finding—2012 c 2 (Initiative Measure No. 1183): "(1) The people of the state of Washington, in enacting this initiative measure, find that the state government monopoly on liquor distribution and liquor stores in Washington and the state government regulations that arbitrarily restrict the wholesale distribution and pricing of wine are outdated, inefficient, and costly to local taxpayers, consumers, distributors, and retailers. Therefore, the people wish to privatize and modernize both wholesale distribution and retail sales of liquor and remove outdated restrictions on the wholesale distribution of wine by enacting this initiative.

(2) This initiative will:

(a) Privatize and modernize wholesale distribution and retail sales of liquor in Washington state in a manner that will reduce state government costs and provide increased funding for state and local government services, while continuing to strictly regulate the distribution and sale of liquor;

(b) Get the state government out of the commercial business of distributing, selling, and promoting the sale of liquor, allowing the state to focus on the more appropriate government role of enforcing liquor laws and protecting public health and safety concerning all alcoholic beverages;

(c) Authorize the state to auction off its existing state liquor distribution and state liquor store facilities and equipment;

(d) Allow a private distributor of alcohol to get a license to distribute liquor if that distributor meets the requirements set by the Washington state liquor control board and is approved for a license by the board and create provisions to promote investments by private distributors;

(e) Require private distributors who get licenses to distribute liquor to pay ten percent of their gross spirits revenues to the state during the first two

years and five percent of their gross spirits revenues to the state after the first two years;

(f) Allow for a limited number of retail stores to sell liquor if they meet public safety requirements set by this initiative and the liquor control board;

(g) Require that a retail store must have ten thousand square feet or more of fully enclosed retail space within a single structure in order to get a license to sell liquor, with limited exceptions;

(h) Require a retail store to demonstrate to state regulators that it can effectively prevent sales of alcohol to minors in order to get a license to sell liquor;

(i) Ensure that local communities have input before a liquor license can be issued to a local retailer or distributor and maintain all local zoning requirements and authority related to the location of liquor stores;

(j) Require private retailers who get licenses to sell liquor to pay seventeen percent of their gross spirits revenues to the state;

(k) Maintain the current distribution of liquor revenues to local governments and dedicate a portion of the new revenues raised from liquor license fees to increase funding for local public safety programs, including police, fire, and emergency services in communities throughout the state;

(l) Make the standard fines and license suspension penalties for selling liquor to minors twice as strong as the existing fines and penalties for selling beer or wine to minors;

(m) Make requirements for training and supervision of employees selling spirits at retail more stringent than what is now required for sales of beer and wine;

(n) Update the current law on wine distribution to allow wine distributors and wineries to give volume discounts on the wholesale price of wine to retail stores and restaurants; and

(o) Allow retailers and restaurants to distribute wine to their own stores from a central warehouse." [2012 c 2 § 101 (Initiative Measure No. 1183, approved November 8, 2011).]

Application—2012 c 2 (Initiative Measure No. 1183): "This act does not increase any tax, create any new tax, or eliminate any tax. Section 106 of this act applies to spirits licensees upon December 8, 2011, but all taxes presently imposed by RCW 82.08.150 on sales of spirits by or on behalf of the liquor control board continue to apply so long as the liquor control board makes any such sales." [2012 c 2 § 301 (Initiative Measure No. 1183, approved November 8, 2011).]

Rules—2012 c 2 (Initiative Measure No. 1183): "The department of revenue must develop rules and procedures to address claims that this act unconstitutionally impairs any contract with the state and to provide a means for reasonable compensation of claims it finds valid, funded first from revenues based on spirits licensing and sale under this act." [2012 c 2 § 303 (Initiative Measure No. 1183, approved November 8, 2011).]

Effective date—Contingent effective date—2012 c 2 (Initiative Measure No. 1183): "This act takes effect upon approval by the voters. Section 216, subsections (1) and (2) of this act take effect if Engrossed Substitute House Bill No. 5942 is enacted by the legislature in 2011 and the bill, or any portion of it, becomes law. Section 216, subsection (3) of this act takes effect if any act or part of an act relating to the warehousing and distribution of liquor, including the lease of the state's liquor warehousing and distribution facilities, is adopted subsequent to May 25, 2011, in any 2011 special session." [2012 c 2 § 305 (Initiative Measure No. 1183, approved November 8, 2011).]

66.24.630 Spirits retail license. (1) There is a spirits retail license to: Sell spirits in original containers to consumers for consumption off the licensed premises and to permit holders; sell spirits in original containers to retailers licensed to sell spirits for consumption on the premises, for resale at their licensed premises according to the terms of their licenses, although no single sale may exceed twenty-four liters, unless the sale is by a licensee that was a contract liquor store manager of a contract liquor store at the location of its spirits retail licensed premises from which it makes such sales; and export spirits.

(2) For the purposes of this title, a spirits retail license is a retail license, and a sale by a spirits retailer is a retail sale only if not for resale. Nothing in this title authorizes sales by on-sale licensees to other retail licensees. The board must establish by rule an obligation of on-sale spirits retailers to:

(a) Maintain a schedule by stock-keeping unit of all their purchases of spirits from spirits retail licensees, indicating the identity of the seller and the quantities purchased; and

(b) Provide, not more frequently than quarterly, a report for each scheduled item containing the identity of the purchasing on-premise [on-premises] licensee and the quantities of that scheduled item purchased since any preceding report to:

(i) A distributor authorized by the distiller to distribute a scheduled item in the on-sale licensee's geographic area; or

(ii) A distiller acting as distributor of the scheduled item in the area.

(3)(a) Except as otherwise provided in (c) of this subsection, the board may issue spirits retail licenses only for premises comprising at least ten thousand square feet of fully enclosed retail space within a single structure, including storerooms and other interior auxiliary areas but excluding covered or fenced exterior areas, whether or not attached to the structure, and only to applicants that the board determines will maintain systems for inventory management, employee training, employee supervision, and physical security of the product substantially as effective as those of stores currently operated by the board with respect to preventing sales to or pilferage by underage or inebriated persons.

(b) License issuances and renewals are subject to RCW 66.24.010 and the regulations promulgated thereunder, including without limitation rights of cities, towns, county legislative authorities, the public, churches, schools, and public institutions to object to or prevent issuance of local liquor licenses. However, existing grocery premises licensed to sell beer and/or wine are deemed to be premises "now licensed" under RCW 66.24.010(9)(a) for the purpose of processing applications for spirits retail licenses.

(c) The board may not deny a spirits retail license to an otherwise qualified contract liquor store at its contract location or to the holder of former state liquor store operating rights sold at auction under RCW 66.24.620 on the grounds of location, nature, or size of the premises to be licensed. The board may not deny a spirits retail license to applicants that are not contract liquor stores or operating rights holders on the grounds of the size of the premises to be licensed, if such applicant is otherwise qualified and the board determines that:

(i) There is no retail spirits license holder in the trade area that the applicant proposes to serve;

(ii) The applicant meets, or upon licensure will meet, the operational requirements established by the board by rule; and

(iii) The licensee has not committed more than one public safety violation within the three years preceding application.

(d) A retailer authorized to sell spirits for consumption on or off the licensed premises may accept delivery of spirits at its licensed premises or at one or more warehouse facilities registered with the board, which facilities may also warehouse and distribute nonliquor items, and from which the retailer may deliver to its own licensed premises and, pursuant to sales permitted under subsection (1) of this section:

(i) To other retailer premises licensed to sell spirits for consumption on the licensed premises;

(ii) To other registered facilities; or

(iii) To lawful purchasers outside the state. The facilities may be registered and utilized by associations, cooperatives, or comparable groups of retailers, including at least one retailer licensed to sell spirits.

(4)(a) Except as otherwise provided in (b) of this subsection, each spirits retail licensee must pay to the board, for deposit into the liquor revolving fund, a license issuance fee equivalent to seventeen percent of all spirits sales revenues under the license, exclusive of taxes collected by the licensee and of sales of items on which a license fee payable under this section has otherwise been incurred. The board must establish rules setting forth the timing of such payments and reporting of sales dollar volume by the licensee, with payments required quarterly in arrears. The first payment is due October 1, 2012.

(b) This subsection (4) does not apply to craft distilleries.

(5) In addition to the payment required under subsection (4) of this section, each licensee must pay an annual license renewal fee of one hundred sixty-six dollars. The board must periodically review and adjust the renewal fee as may be required to maintain it as comparable to annual license renewal fees for licenses to sell beer and wine not for consumption on the licensed premises. If required by law at the time, any increase of the annual renewal fee becomes effective only upon ratification by the legislature.

(6) As a condition to receiving and renewing a retail spirits license the licensee must provide training as prescribed by the board by rule for individuals who sell spirits or who manage others who sell spirits regarding compliance with laws and regulations regarding sale of spirits, including without limitation the prohibitions against sale of spirits to individuals who are underage or visibly intoxicated. The training must be provided before the individual first engages in the sale of spirits and must be renewed at least every five years. The licensee must maintain records documenting the nature and frequency of the training provided. An employee training program is presumptively sufficient if it incorporates a "responsible vendor program" promulgated by the board.

(7) The maximum penalties prescribed by the board in WAC 314-29-020 through 314-29-040 relating to fines and suspensions are doubled for violations relating to the sale of spirits by retail spirits licensees.

(8)(a) The board must promulgate regulations concerning the adoption and administration of a compliance training program for spirits retail licensees, to be known as a "responsible vendor program," to reduce underage drinking, encourage licensees to adopt specific best practices to prevent sales to minors, and provide licensees with an incentive to give their employees ongoing training in responsible alcohol sales and service.

(b) Licensees who join the responsible vendor program under this section and maintain all of the program's requirements are not subject to the doubling of penalties provided in this section for a single violation in any period of twelve calendar months.

(c) The responsible vendor program must be free, voluntary, and self-monitoring.

(d) To participate in the responsible vendor program, licensees must submit an application form to the board. If the application establishes that the licensee meets the qualifications to join the program, the board must send the licensee a membership certificate.

(e) A licensee participating in the responsible vendor program must at a minimum:

(i) Provide ongoing training to employees;

(ii) Accept only certain forms of identification for alcohol sales;

(iii) Adopt policies on alcohol sales and checking identification;

(iv) Post specific signs in the business; and

(v) Keep records verifying compliance with the program's requirements. [2012 2nd sp.s. c 6 § 401; 2012 c 2 § 103 (Initiative Measure No. 1183, approved November 8, 2011).]

Reviser's note: Pursuant to RCW 43.135.041, chapter 6, Laws of 2012 2nd special session was subject to an advisory vote of the people in the November 2012 general election on whether the tax increase in such session law should be maintained or repealed. The advisory vote was in favor of repeal.

Existing rights, liabilities, or obligations—Effective dates—Contingent effective dates—2012 2nd sp.s. c 6: See notes following RCW 82.04.29005.

Finding—Application—Rules—Effective date—Contingent effective date—2012 c 2 (Initiative Measure No. 1183): See notes following RCW 66.24.620.

66.24.632 Spirits retail licensee—License issuance fee exemption. (1) Beginning June 30, 2013, the license issuance fee under RCW 66.24.630(4) does not apply to a spirits retail licensee that was a contract liquor store manager with respect to sales of spirits in original containers from the location of its spirits retail licensed premises to retailers licensed to sell spirits for consumption on the premises for resale at their licensed premises.

(2) Beginning June 30, 2013, the license issuance fee under RCW 66.24.630(4) does not apply to a spirits retail licensee that was a former state store auction buyer, with respect to sales of spirits in original containers from the location of its spirits retail licensed premises to retailers licensed to sell spirits for consumption on the premises for resale at their licensed premises.

(3) The exemptions created in this section attach to any successor, by purchase or otherwise, to the spirits retail license, except that an exemption does not attach to any such successor that owns, directly or indirectly, any interest in a spirits retail license that is not derived directly from a former contract liquor store manager or a former state store auction buyer. [2013 2nd sp.s. c 12 § 3.]

Effective date—2013 2nd sp.s. c 12: "This act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and takes effect immediately [June 30, 2013]." [2013 2nd sp.s. c 12 § 4.]

66.24.640 Licensed distillers operating as spirits retailers/distributors. Any distiller licensed under this title may act as a retailer and/or distributor to retailers selling for consumption on or off the licensed premises of spirits of its own production, and any manufacturer, importer, or bottler of spirits holding a certificate of approval may act as a distributor of spirits it is entitled to import into the state under such certificate. The board must by rule provide for issuance of certificates of approval to spirits suppliers. An industry member operating as a distributor and/or retailer under this section

must comply with the applicable laws and rules relating to distributors and/or retailers, except that an industry member operating as a distributor under this section may maintain a warehouse off the distillery premises for the distribution of spirits of its own production to spirits retailers within the state, if the warehouse is within the United States and has been approved by the board. [2012 c 2 § 206 (Initiative Measure No. 1183, approved November 8, 2011).]

Finding—Application—Rules—Effective date—Contingent effective date—2012 c 2 (Initiative Measure No. 1183): See notes following RCW 66.24.620.

66.24.650 Theater license—Beer, strong beer, and wine. (1) There is a theater license to sell beer, including strong beer, or wine, or both, at retail, for consumption on theater premises. The annual fee is four hundred dollars for a beer and wine theater license.

(2) If the theater premises is to be frequented by minors, an alcohol control plan must be submitted to the board at the time of application. The alcohol control plan must be approved by the board, and be prominently posted on the premises, prior to minors being allowed.

(3) For the purposes of this section:

(a) "Alcohol control plan" means a written, dated, and signed plan submitted to the board by an applicant or licensee for the entire theater premises, or rooms or areas therein, that shows where and when alcohol is permitted, where and when minors are permitted, and the control measures used to ensure that minors are not able to obtain alcohol or be exposed to environments where drinking alcohol predominates.

(b) "Theater" means a place of business where motion pictures or other primarily nonparticipatory entertainment are shown, and includes only theaters with up to four screens.

(4) The board must adopt rules regarding alcohol control plans and necessary control measures to ensure that minors are not able to obtain alcohol or be exposed to areas where drinking alcohol predominates. All alcohol control plans must include a requirement that any person involved in the serving of beer and/or wine must have completed a mandatory alcohol server training program.

(5)(a) A licensee that is an entity that is exempt from taxation under Title 26 U.S.C. Sec. 501(c)(3) of the federal internal revenue code of 1986, as amended as of January 1, 2013, may enter into arrangements with a beer or wine manufacturer, importer, or distributor for brand advertising at the theater or promotion of events held at the theater. The financial arrangements providing for the brand advertising or promotion of events may not be used as an inducement to purchase the products of the manufacturer, importer, or distributor entering into the arrangement and such arrangements may not result in the exclusion of brands or products of other companies.

(b) The arrangements allowed under this subsection (5) are an exception to arrangements prohibited under RCW 66.28.305. The board must monitor the impacts of these arrangements. The board may conduct audits of a licensee and the affiliated business to determine compliance with this subsection (5). Audits may include, but are not limited to: Product selection at the facility; purchase patterns of the licensee; contracts with the beer or wine manufacturer, importer, or distributor; and the amount allocated or used for wine or beer advertising by the licensee, affiliated business, manufacturer, importer, or distributor under the arrangements.

(6) The maximum penalties prescribed by the board in WAC 314-29-020 relating to fines and suspensions are double for violations involving minors or the failure to follow the alcohol control plan with respect to theaters licensed under this section. [2013 c 219 § 1.]

66.24.655 Theater license—Spirits, beer, strong beer, and wine. (1) There is a theater license to sell spirits, beer, including strong beer, or wine, or all, at retail, for consumption on theater premises. A spirits, beer, and wine theater license may be issued only to theaters that have no more than one hundred twenty seats per screen and that are maintained in a substantial manner as a place for preparing, cooking, and serving complete meals and providing tabletop accommodations for in-theater dining. Requirements for complete meals are the same as those adopted by the board in rules pursuant to chapter 34.05 RCW for a spirits, beer, and wine restaurant license authorized by RCW 66.24.400. The annual fee for a spirits, beer, and wine theater license is two thousand dollars.

(2) If the theater premises is to be frequented by minors, an alcohol control plan must be submitted to the board at the time of application. The alcohol control plan must be approved by the board and be prominently posted on the premises, prior to minors being allowed.

(3) For the purposes of this section:

(a) "Alcohol control plan" means a written, dated, and signed plan submitted to the board by an applicant or licensee for the entire theater premises, or rooms or areas therein, that shows where and when alcohol is permitted, where and when minors are permitted, and the control measures used to ensure that minors are not able to obtain alcohol or be exposed to environments where drinking alcohol predominates.

(b) "Theater" means a place of business where motion pictures or other primarily nonparticipatory entertainment are shown.

(4) The board must adopt rules regarding alcohol control plans and necessary control measures to ensure that minors are not able to obtain alcohol or be exposed to areas where drinking alcohol predominates. All alcohol control plans must include a requirement that any person involved in the serving of spirits, beer, and/or wine must have completed a mandatory alcohol server training program.

(5)(a) A licensee that is an entity that is exempt from taxation under Title 26 U.S.C. Sec. 501(c)(3) of the federal internal revenue code of 1986, as amended as of January 1, 2013, may enter into arrangements with a spirits, beer, or wine manufacturer, importer, or distributor for brand advertising at the theater or promotion of events held at the theater. The financial arrangements providing for the brand advertising or promotion of events may not be used as an inducement to purchase the products of the manufacturer, importer, or distributor entering into the arrangement and such arrangements may not result in the exclusion of brands or products of other companies.

(b) The arrangements allowed under this subsection (5) are an exception to arrangements prohibited under RCW 66.28.305. The board must monitor the impacts of these arrangements. The board may conduct audits of a licensee

and the affiliated business to determine compliance with this subsection (5). Audits may include, but are not limited to: Product selection at the facility; purchase patterns of the licensee; contracts with the spirits, beer, or wine manufacturer, importer, or distributor; and the amount allocated or used for spirits, beer, or wine advertising by the licensee, affiliated business, manufacturer, importer, or distributor under the arrangements.

(6) The maximum penalties prescribed by the board in WAC 314-29-020 relating to fines and suspensions are double for violations involving minors or the failure to follow the alcohol control plan with respect to theaters licensed under this section. [2013 c 237 § 1.]

66.24.660 Liquor sales at self-checkout registers. Retailers may sell liquor as defined in RCW 66.04.010(25) through self-checkout registers if that register is programmed to halt that transaction during the purchase of liquor until an employee of the retailer intervenes and verifies the age of the purchaser by reviewing established forms of acceptable identification. Once age is successfully verified, the employee can release the transaction for payment. If the purchaser cannot provide acceptable forms of identification to verify age, the employee must refuse the purchase and void the transaction. [2013 c 89 § 1.]

66.24.670 Liquor sampling activities. (1) The holder of a spirits retail license that is also a participant in the responsible vendor program, created under RCW 66.24.630, may provide, free or for a charge, single-serving samples of one-half ounce or less of spirits, and no more than a total of one and one-half ounces in spirits samples per person, for the purpose of sale promotion. Servers who provide spirit samples must hold a class 12 alcohol server permit. Sampling conducted under this section must be conducted in accordance with rules established for sampling activities in beer and wine specialty shops and grocery stores.

(2) Sampling activities under this section are subject to RCW 66.28.305 and 66.28.040 and the cost of sampling under this section may not be borne, directly or indirectly, by any manufacturer, importer, distiller, or distributor of spirits. [2013 c 234 § 1.]

66.24.680 Senior center license. (1) There shall be a license to be designated as a senior center license. This shall be a license issued to a nonprofit organization whose primary service is providing recreational and social activities for seniors on the licensed premises. This license shall permit the licensee to sell spirits by the individual glass, including mixed drinks and cocktails mixed on the premises only, beer and wine, at retail for consumption on the premises.

(2) To qualify for this license, the applicant entity must:

(a) Be a nonprofit organization under chapter 24.03 RCW;

(b) Be open at times and durations established by the board; and

(c) Provide limited food service as defined by the board.

(3) All alcohol servers must have a valid mandatory alcohol server training permit.

(4) The board shall adopt rules to implement this section.

(5) The annual fee for this license shall be seven hundred twenty dollars. [2014 c 78 § 1.]

66.24.690 Caterer's license. (1) There shall be a caterer's license to sell spirits, beer, and wine, by the individual serving, at retail, for consumption on the premises at an event location that is either owned, leased, or operated either by the caterer or the sponsor of the event for which catering services are being provided. If the event is open to the public, it must be sponsored by a society or organization as defined in RCW 66.24.375. If attendance at the event is limited to members or invited guests of the sponsoring individual, society, or organization, the requirement that the sponsor must be a society or organization as defined in RCW 66.24.375 is waived. The licensee must serve food as required by rules of the board.

(2) The annual fee is two hundred dollars for the beer license, two hundred dollars for the wine license, or four hundred dollars for a combination beer and wine license. The annual fee for a combined beer, wine, and spirits license is one thousand dollars.

(3) The holder of this license shall notify the board or its designee of the date, time, place, and location of any catered event at which liquor will be served, sold, or consumed. The board shall create rules detailing notification requirements. Upon request, the licensee shall provide to the board all necessary or requested information concerning the individual, society, or organization that will be holding the catered function at which the caterer's liquor license will be utilized.

(4) The holder of this license may, under conditions established by the board, store liquor on other premises operated by the licensee so long as the other premises are owned or controlled by a leasehold interest by that licensee.

(5) The holder of this license is prohibited from catering events at locations that are already licensed to sell liquor under this chapter.

(6) The holder of this license is responsible for all sales, service, and consumption of alcohol at the location of the catered event. [2014 c 29 § 1.]

66.24.900 Construction—Chapter applicable to state registered domestic partnerships—2009 c 521. For the purposes of this chapter, the terms spouse, marriage, marital, husband, wife, widow, widower, next of kin, and family shall be interpreted as applying equally to state registered domestic partnerships or individuals in state registered domestic partnerships as well as to marital relationships and married persons, and references to dissolution of marriage shall apply equally to state registered domestic partnerships that have been terminated, dissolved, or invalidated, to the extent that such interpretation does not conflict with federal law. Where necessary to implement chapter 521, Laws of 2009, gender-specific terms such as husband and wife used in any statute, rule, or other law shall be construed to be gender neutral, and applicable to individuals in state registered domestic partnerships. [2009 c 521 § 146.]

Chapter 66.28 RCW

MISCELLANEOUS REGULATORY PROVISIONS

Sections

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Labels, unlawful refilling, etc., of trademarked containers: Chapter 19.76 RCW.

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66.28.030 Responsibility of breweries, microbreweries, wineries, certificate of approval holders, and importers for conduct of distributors—Penalties. Every domestic distillery, brewery, and microbrewery, domestic winery, certificate of approval holder, licensed liquor importer, licensed wine importer, and licensed beer importer is responsible for the conduct of any licensed spirits, beer, or wine distributor in selling, or contracting to sell, to retail licensees, spirits, beer, or wine manufactured by such domestic distillery, brewery, microbrewery, domestic winery, manufacturer holding a certificate of approval, sold by an authorized representative holding a certificate of approval, or imported by such liquor, beer, or wine importer. Where the board finds that any licensed spirits, beer, or wine distributor has violated any of the provisions of this title or of the regulations of the board in selling or contracting to sell spirits, beer, or wine to retail licensees, the board may, in addition to any punishment inflicted or imposed upon such distributor, prohibit the sale of the brand or brands of spirits, beer, or wine involved in such violation to any or all retail licensees within the trade territory usually served by such distributor for such period of time as the board may fix, irrespective of whether the distiller manufacturing such spirits or the liquor importer importing such spirits, brewer manufacturing such beer or the beer importer importing such beer, or the domestic winery manufacturing such wine or the wine importer importing such wine or the certificate of approval holder manufacturing such spirits, beer, or wine or acting as authorized representative actually participated in such violation. [2012 c 2 § 113 (Initiative Measure No. 1183, approved November 8, 2011); 2004 c 160 § 10; 1997 c 321 § 47; 1975 1st ex.s. c 173 § 8; 1969 ex.s. c 21 § 6; 1939 c 172 § 8 (adding new section 27-D to 1933 ex.s. c 62); RRS § 7306-27D.]

Finding—Application—Rules—Effective date—Contingent effective date—2012 c 2 (Initiative Measure No. 1183): See notes following RCW 66.24.620.

Additional notes found at www.leg.wa.gov

66.28.035 Spirits certificate of approval holders—Reporting—Spirits shipments. (1) By the 15th day of each month, all spirits certificate of approval holders must file with the board, in a form and manner required by the board, a report of all spirits delivered to purchasers in this state during the preceding month along with a copy of the invoices for all such purchases or other information required by the board that would disclose the identity of the purchasers.

(2) A spirits certificate of approval holder may not ship or cause to be transported into this state any spirits unless the purchaser to whom the spirits are to be delivered is:

(a) Licensed by the board to sell spirits in this state, and the license is in good standing; or

(b) Otherwise legally authorized to sell spirits in this state.

(3) The liquor control board must maintain on its web site a list of all purchasers that meet the conditions of subsection (2) of this section.

(4) A violation of this section is grounds for suspension of a spirits certificate of approval license in accordance with RCW 66.08.150, in addition to any punishment as may be authorized by RCW 66.28.030. [2012 c 39 § 7.]

Construction—Effective date—2012 c 39: See notes following RCW 82.08.155.

66.28.040 Giving away of liquor prohibited—Exceptions. Except as permitted by the board under RCW 66.20.010, no domestic brewery, microbrewery, distributor, distiller, domestic winery, importer, rectifier, certificate of approval holder, or other manufacturer of liquor may, within the state of Washington, give to any person any liquor; but nothing in this section nor in RCW 66.28.305 prevents a domestic brewery, microbrewery, distributor, domestic winery, distiller, certificate of approval holder, or importer from furnishing samples of beer, wine, or spirituous liquor to authorized licensees for the purpose of negotiating a sale, in accordance with regulations adopted by the liquor control board, provided that the samples are subject to taxes imposed by RCW 66.24.290 and 66.24.210; nothing in this section prevents a domestic brewery, microbrewery, domestic winery, distillery, certificate of approval holder, or distributor from furnishing beer, wine, or spirituous liquor for instructional purposes under RCW 66.28.150; nothing in this section prevents a domestic winery, certificate of approval holder, or distributor from furnishing wine without charge, subject to the taxes imposed by RCW 66.24.210, to a not-for-profit group organized and operated solely for the purpose of enology or the study of viticulture which has been in existence for at least six months and that uses wine so furnished solely for such educational purposes or a domestic winery, or an out-of-state certificate of approval holder, from furnishing wine without charge or a domestic brewery, or an out-of-state certificate of approval holder, from furnishing beer without charge, subject to the taxes imposed by RCW 66.24.210 or 66.24.290, or a domestic distiller licensed under RCW 66.24.140 or an accredited representative of a distiller, manufacturer, importer, or distributor of spirituous liquor licensed under RCW 66.24.310, from furnishing spirits without charge, to a nonprofit charitable corporation or association exempt from taxation under 26 U.S.C. Sec. 501(c)(3) or (6) of the internal revenue code of 1986 for use consistent with the purpose or purposes entitling it to such exemption; nothing in this section prevents a domestic brewery or microbrewery from serving beer without charge, on the brewery premises; nothing in this section prevents donations of wine for the purposes of RCW 66.12.180; nothing in this section prevents a domestic winery from serving wine without charge, on the winery premises; and nothing in this section prevents a craft distillery from serving spirits, on the distillery premises subject to RCW 66.24.145. [2014 c 92 § 2; 2012 c 2 § 116 (Initiative Measure No. 1183, approved November 8, 2011). Prior: (2011 c 186 § 4 expired December 1, 2012); 2011 c 119 § 207; (2011 c 62 § 4 expired December 1, 2012); 2009 c 373 § 8; prior: 2008 c 94 § 6; 2008 c 41 § 12; 2004 c 160 § 11; 2000 c 179 § 1; prior: 1998 c 256 § 1; 1998 c 126 § 12; 1997 c 39 § 1; 1987 c 452 § 15; 1983 c 13 § 2; 1983 c 3 § 165; 1982 1st ex.s. c 26 § 2; 1981 c 182 § 2; 1975 1st ex.s. c 173 § 10; 1969 ex.s. c 21 § 7; 1935 c 174 § 4; 1933 ex.s. c 62 § 30; RRS § 7306-30.]

Finding—Application—Rules—Effective date—Contingent effective date—2012 c 2 (Initiative Measure No. 1183): See notes following RCW 66.24.620.

Spirit sampling—Liquor store pilot project—Expiration date—2011 c 186: See notes following RCW 66.08.050.

Expiration date—2011 c 62: See note following RCW 66.24.170.

Additional notes found at www.leg.wa.gov

66.28.042 Providing food and beverages for business meetings permitted. A liquor manufacturer, importer, authorized representative holding a certificate of approval, or distributor may provide to licensed retailers and their employees food and beverages for consumption at a meeting at which the primary purpose is the discussion of business, and may provide local ground transportation to and from such meetings. The value of the food, beverage, or transportation provided under this section shall not be considered the advancement of moneys or moneys' worth within the meaning of RCW 66.28.305, nor shall it be considered the giving away of liquor within the meaning of RCW 66.28.040. The board may adopt rules for the implementation of this section. [2011 c 119 § 208; 2004 c 160 § 12; 1990 c 125 § 1.]

Additional notes found at www.leg.wa.gov

66.28.043 Providing food, beverages, transportation, and admission to events permitted. A liquor manufacturer, importer, authorized representative holding a certificate of approval, or distributor may provide to licensed retailers and their employees tickets or admission fees for athletic events or other forms of entertainment occurring within the state of Washington, if the manufacturer, importer, distributor, authorized representative holding a certificate of approval, or any of their employees accompanies the licensed retailer or its employees to the event. A liquor manufacturer, importer, authorized representative holding a certificate of approval, or distributor may also provide to licensed retailers and their employees food and beverages for consumption at such events, and local ground transportation to and from activities allowed under this section. The value of the food, beverage, transportation, or admission to events provided under this section shall not be considered the advancement of moneys or moneys' worth within the meaning of RCW 66.28.305, nor shall it be considered the giving away of liquor within the meaning of RCW 66.28.040. The board may adopt rules for the implementation of this section. [2011 c 119 § 209; 2004 c 160 § 13; 1990 c 125 § 2.]

Additional notes found at www.leg.wa.gov

66.28.050 Solicitation of orders prohibited. No person shall canvass for, solicit, receive, or take orders for the purchase or sale of any liquor, or act as representative for the purchase or sale of liquor except as authorized by RCW 66.24.310 or by RCW 66.24.550. [1997 c 321 § 49; 1982 c 85 § 11; 1975-'76 2nd ex.s. c 74 § 2; 1969 ex.s. c 21 § 8; 1937 c 217 § 4; 1933 ex.s. c 62 § 42; RRS § 7306-42.]

Additional notes found at www.leg.wa.gov

66.28.060 Distillers to make monthly report. Every distillery licensed under this title must make monthly reports to the board pursuant to the regulations. [2012 c 2 § 117 (Initiative Measure No. 1183, approved November 8, 2011); 2008 c 94 § 7; 1933 ex.s. c 62 § 26; RRS § 7306-26.]

Finding—Application—Rules—Effective date—Contingent effective date—2012 c 2 (Initiative Measure No. 1183): See notes following RCW 66.24.620.

66.28.070 Restrictions on purchases of spirits, beer, or wine by retail spirits, beer, or wine licensees or special occasion licensees. (1) Except as provided in subsection (2) of this section, it is unlawful for any retail spirits, beer, or wine licensee to purchase spirits, beer, or wine, except from a duly licensed distributor, domestic winery, domestic brewer, or certificate of approval holder with a direct shipment endorsement.

(2)(a) A spirits, beer, or wine retailer may purchase spirits, beer, or wine:

(i) From a government agency that has lawfully seized liquor possessed by a licensed distributor or retailer;

(ii) From a board-authorized manufacturer or certificate holder authorized by this title to act as a distributor of liquor;

(iii) From a licensed retailer which has discontinued business if the distributor has refused to accept spirits, beer, or wine from that retailer for return and refund;

(iv) From a retailer whose license or license endorsement permits resale to a retailer of wine and/or spirits for consumption on the premises, if the purchasing retailer is authorized to sell such wine and/or spirits.

(b) Goods purchased under this subsection (2) must meet the quality standards set by the manufacturer of the goods.

(3) Special occasion licensees holding a special occasion license may only purchase spirits, beer, or wine from a spirits, beer, or wine retailer duly licensed to sell spirits, beer, or wine for off-premises consumption, or from a duly licensed spirits, beer, or wine distributor. [2012 c 2 § 118 (Initiative Measure No. 1183, approved November 8, 2011); 2006 c 302 § 8. Prior: 1994 c 201 § 5; 1994 c 63 § 2; 1987 c 205 § 1; 1937 c 217 § 1(23H) (adding new section 23-H to 1933 ex.s. c 62); RRS § 7306-23H.]

Finding—Application—Rules—Effective date—Contingent effective date—2012 c 2 (Initiative Measure No. 1183): See notes following RCW 66.24.620.

Effective date—2006 c 302: See note following RCW 66.24.170.

66.28.080 Permit for music and dancing upon licensed premises. It shall be unlawful for any person, firm or corporation holding any retailer's license to permit or allow upon the premises licensed any music, dancing, or entertainment whatsoever, unless and until permission thereto is specifically granted by appropriate license or permit of the proper authorities of the city or town in which such licensed premises are situated, or the board of county commissioners, if the same be situated outside an incorporated city or town: PROVIDED, That the words "music and entertainment," as herein used, shall not apply to radios or mechanical musical devices. [1969 ex.s. c 178 § 8; 1949 c 5 § 7; 1937 c 217 § 3 (adding new section 27-A to 1933 ex.s. c 62); Rem. Supp. 1949 § 7306-27A.]

Additional notes found at www.leg.wa.gov

66.28.090 Licensed premises or banquet permit premises open to inspection—Failure to allow, violation. (1) All licensed premises used in the manufacture, storage, or sale of liquor, or any premises or parts of premises used or in any way connected, physically or otherwise, with the licensed business, and/or any premises where a banquet permit has been granted, shall at all times be open to inspection by any liquor enforcement officer, inspector or peace officer.

(2) Every person, being on any such premises and having charge thereof, who refuses or fails to admit a liquor enforcement officer, inspector or peace officer demanding to enter therein in pursuance of this section in the execution of his/her duty, or who obstructs or attempts to obstruct the entry of such liquor enforcement officer, inspector or officer of the peace, or who refuses to allow a liquor enforcement officer, and/or an inspector to examine the books of the licensee, or who refuses or neglects to make any return required by this title or the regulations, shall be guilty of a violation of this title. [1981 1st ex.s. c 5 § 20; 1935 c 174 § 7; 1933 ex.s. c 62 § 52; RRS § 7306-52.]

Additional notes found at www.leg.wa.gov

66.28.100 Spirits to be labeled—Contents. Every person manufacturing spirits as defined in this title shall put upon all packages containing spirits so manufactured a distinctive label, showing the nature of the contents, the name of the person by whom the spirits were manufactured, the place where the spirits were manufactured, and showing the alcoholic content of such spirits. For the purpose of this section the contents of packages containing spirits shall be shown by the use of the words "whiskey", "rum", "brandy", and the like, on the outside of such packages. [1933 ex.s. c 62 § 46; RRS § 7306-46.]

66.28.110 Wine to be labeled—Contents. (1) Every person producing, manufacturing, bottling, or distributing wine shall put upon all packages a distinctive label that will provide the consumer with adequate information as to the identity and quality of the product, the alcoholic content thereof, the net contents of the package, the name of the producer, manufacturer, or bottler thereof, and such other information as the board may by rule prescribe.

(2) Subject to subsection (3) of this section:

(a) If the appellation of origin claimed or implied anywhere on a wine label is "Washington," then at least ninety-five percent of the grapes used in the production of the wine must have been grown in Washington.

(b) If the appellation of origin claimed or implied anywhere on a wine label is "Washington" and the name of an American viticultural area located wholly within Washington, then at least ninety-five percent of the grapes used in the production of the wine must have been grown in Washington.

(c) If the appellation of origin claimed or implied anywhere on a wine label is "Washington" and the name of an American viticultural area located within both Washington and an adjoining state, then at least ninety-five percent of the grapes used in the production of the wine must have been grown within the defined boundaries of that American viticultural area or in Washington.

(3) Upon evidence of material damage, destruction, disease, or other loss to one or more vineyards in any American

viticultural area, region, subregion, or other discrete area, the director of the department of agriculture must notify the board and the board may suspend the requirements of subsection (2) of this section with respect to the adversely affected area for such period of time as the board reasonably may determine.

(4) For purposes of this section, "American viticultural area" is a delimited grape growing region distinguishable by geographical features, the boundaries of which have been recognized and defined by the federal alcohol and trade tax bureau and recognized by the board.

(5) This section does not apply to wines that are produced with the addition of wine spirits, brandy, or alcohol. [2009 c 404 § 1; 1939 c 172 § 4; 1933 ex.s. c 62 § 45; RRS § 7306-45.]

Application—2009 c 404: "This act applies to wine made from grapes harvested after December 31, 2009." [2009 c 404 § 2.]

66.28.120 Malt liquor to be labeled—Contents. Every person manufacturing or distributing malt liquor for sale within the state shall put upon all packages containing malt liquor so manufactured or distributed a distinctive label showing the nature of the contents, the name of the person by whom the malt liquor was manufactured, and the place where it was manufactured. For the purpose of this section, the contents of packages containing malt liquor shall be shown by the use of the word "beer," "ale," "malt liquor," "lager," "stout," or "porter," on the outside of the packages. [1997 c 100 § 1; 1982 c 39 § 2; 1961 c 36 § 1; 1933 ex.s. c 62 § 44; RRS § 7306-44.]

Additional notes found at www.leg.wa.gov

66.28.130 Selling, supplying, or serving of liquor to or consumption by standing or walking person. It shall not be unlawful for a retail licensee whose premises are open to the general public to sell, supply, or serve liquor to a person for consumption on the licensed retail premises if said person is standing or walking, nor shall it be unlawful for such licensee to permit any said person so standing or walking to consume liquor on such premises: PROVIDED HOWEVER, That the retail licensee of such a premises may, at his or her discretion, promulgate a house rule that no person shall be served nor allowed to consume liquor unless said person is seated. [2012 c 117 § 282; 1969 ex.s. c 112 § 2.]

66.28.140 Removing family beer or wine from home for use at wine tastings or competitions—Conditions. (1) An adult member of a household may remove family beer or wine from the home subject to the following conditions:

(a) The quantity removed by a producer is limited to a quantity not exceeding twenty gallons;

(b) Family beer or wine is not removed for sale; and

(c) Family beer or wine is removed from the home for private use, including use at organized affairs, exhibitions, or competitions such as homemaker's contests, tastings, or judging.

(2) As used in this section, "family beer or wine" means beer or wine manufactured in the home for private consumption, and not for sale. [2009 c 360 § 2; 1994 c 201 § 6; 1981 c 255 § 2.]

66.28.150 Breweries, microbreweries, wineries, distilleries, distributors, certificate of approval holders, and agents authorized to conduct courses of instruction on beer and wine. A domestic brewery, microbrewery, domestic winery, distillery, distributor, certificate of approval holder, or its licensed agent may, without charge, instruct licensees and their employees, or conduct courses of instruction for licensees and their employees, including chefs, on the subject of beer, wine, or spirituous liquor, including but not limited to, the history, nature, values, and characteristics of beer, wine, or spirituous liquor, the use of wine lists, and the methods of presenting, serving, storing, and handling beer, wine, or spirituous liquor, and what wines go well with different types of food. The domestic brewery, microbrewery, domestic winery, distillery, distributor, certificate of approval holder, or its licensed agent may furnish beer, wine, or spirituous liquor and such other equipment, materials, and utensils as may be required for use in connection with the instruction or courses of instruction. The instruction or courses of instruction may be given at the premises of the domestic brewery, microbrewery, domestic winery, distillery, or authorized representative holding a certificate of approval, at the premises of a retail licensee, or elsewhere within the state of Washington. [2007 c 217 § 2; 2004 c 160 § 14; 1997 c 39 § 2; 1982 1st ex.s. c 26 § 1.]

Additional notes found at www.leg.wa.gov

66.28.155 Breweries, microbreweries, wineries, distilleries, distributors, certificate of approval holders, and agents authorized to conduct educational activities on licensed premises of retailer. A domestic brewery, microbrewery, domestic winery, distillery, distributor, certificate of approval holder, or its licensed agent may conduct educational activities or provide product information to the consumer on the licensed premises of a retailer. Information on the subject of wine, beer, or spirituous liquor, including but not limited to, the history, nature, quality, and characteristics of a wine, beer, or spirituous liquor, methods of harvest, production, storage, handling, and distribution of a wine, beer, or spirituous liquor, and the general development of the wine, beer, and spirituous liquor industry may be provided by a domestic brewery, microbrewery, domestic winery, distillery, distributor, certificate of approval holder, or its licensed agent to the public on the licensed premises of a retailer. The retailer requesting such activity shall attempt to schedule a series of brewery, winery, authorized representative, or distillery and distributor appearances in an effort to equitably represent the industries. Nothing in this section permits a domestic brewery, microbrewery, domestic winery, distillery, distributor, certificate of approval holder, or its licensed agent to receive compensation or financial benefit from the educational activities or product information presented on the licensed premises of a retailer. The promotional value of such educational activities or product information shall not be considered advancement of moneys or of moneys' worth within the meaning of RCW 66.28.305. [2011 c 119 § 210; 2004 c 160 § 15; 1997 c 39 § 3; 1984 c 196 § 1.]

Additional notes found at www.leg.wa.gov

66.28.160 Promotion of liquor at colleges and universities. No liquor manufacturer, importer, distributor, retailer,

authorized representative holding a certificate of approval, agent thereof, or campus representative of any of the foregoing, may conduct promotional activities for any liquor product on the campus of any college or university nor may any such entities engage in activities that facilitate or promote the consumption of alcoholic beverages by the students of the college or university at which the activity takes place. This section does not prohibit the following:

(1) The sale of alcoholic beverages, by retail licensees on their licensed premises, to persons of legal age and condition to consume alcoholic beverages;

(2) Sponsorship of broadcasting services for events on a college or university campus;

(3) Liquor advertising in campus publications; or

(4) Financial assistance to an activity and acknowledgment of the source of the assistance, if the assistance, activity, and acknowledgment are each approved by the college or university administration. [2004 c 160 § 16; 1985 c 352 § 20.]

Additional notes found at www.leg.wa.gov

66.28.170 Wine or malt beverage manufacturers—Discrimination in price to purchaser for resale prohibited—Price differentials. It is unlawful for a manufacturer of spirits, wine, or malt beverages holding a certificate of approval or the manufacturer's authorized representative, a distillery, brewery, or a domestic winery to discriminate in price in selling to any purchaser for resale in the state of Washington. Price differentials for sales of spirits or wine based upon competitive conditions, costs of servicing a purchaser's account, efficiencies in handling goods, or other bona fide business factors, to the extent the differentials are not unlawful under trade regulation laws applicable to goods of all kinds, do not violate this section. [2012 c 2 § 119 (Initiative Measure No. 1183, approved November 8, 2011); 2004 c 160 § 17; 1997 c 321 § 50; 1985 c 226 § 3.]

Finding—Application—Rules—Effective date—Contingent effective date—2012 c 2 (Initiative Measure No. 1183): See notes following RCW 66.24.620.

Additional notes found at www.leg.wa.gov

66.28.180 Price list—Contents—Contracts and memoranda with distributors. (1) Beer and/or wine distributors.

(a) Every beer distributor must maintain at its liquor-licensed location a price list showing the wholesale prices at which any and all brands of beer sold by the distributor are sold to retailers within the state.

(b) Each price list must set forth:

(i) All brands, types, packages, and containers of beer offered for sale by the distributor; and

(ii) The wholesale prices thereof to retail licensees, including allowances, if any, for returned empty containers.

(c) No beer distributor may sell or offer to sell any package or container of beer to any retail licensee at a price differing from the price for such package or container as shown in the price list, according to rules adopted by the board.

(d) Quantity discounts of sales prices of beer are prohibited. No distributor's sale price of beer may be below the distributor's acquisition cost.

(e) Distributor prices below acquisition cost on a "close-out" item are allowed if the item to be discontinued has been listed for a period of at least six months, and upon the further condition that the distributor who offers such a close-out price may not restock the item for a period of one year following the first effective date of such close-out price.

(f) Any beer distributor may sell beer at the distributor's listed prices to any annual or special occasion retail licensee upon presentation to the distributor at the time of purchase or delivery of an original or facsimile license or a special permit issued by the board to such licensee.

(g) Every annual or special occasion retail licensee, upon purchasing any beer from a distributor, must immediately cause such beer to be delivered to the licensed premises, and the licensee may not thereafter permit such beer to be disposed of in any manner except as authorized by the license.

(h) Beer sold as provided in this section must be delivered by the distributor or an authorized employee either to the retailer's licensed premises or directly to the retailer at the distributor's licensed premises. When a brewery, microbrewery, or certificate of approval holder with a direct shipping endorsement is acting as a distributor of beer of its own production, a licensed retailer may contract with a common carrier to obtain the beer directly from the brewery, microbrewery, or certificate of approval holder with a direct shipping endorsement. A distributor's prices to retail licensees for beer must be the same at both such places of delivery. Wine sold to retailers must be delivered to the retailer's licensed premises, to a location specified by the retailer and approved for deliveries by the board, or to a carrier engaged by either party to the transaction.

(2) Beer suppliers' contracts and memoranda.

(a) Every domestic brewery, microbrewery, certificate of approval holder, and beer and/or wine importer offering beer for sale to distributors within the state and any beer distributor who sells to other beer distributors must maintain at its liquor-licensed location a beer price list and a copy of every written contract and a memorandum of every oral agreement which such brewery may have with any beer distributor for the supply of beer, which contracts or memoranda must contain:

(i) All advertising, sales and trade allowances, and incentive programs; and

(ii) All commissions, bonuses or gifts, and any and all other discounts or allowances.

(b) Whenever changed or modified, such revised contracts or memoranda must also be maintained at its liquor licensed location.

(c) Each price list must set forth all brands, types, packages, and containers of beer offered for sale by such supplier.

(d) Prices of a domestic brewery, microbrewery, or certificate of approval holder for beer must be uniform prices to all distributors or retailers on a statewide basis less bona fide allowances for freight differentials. Quantity discounts of suppliers' prices for beer are prohibited. No price may be below the supplier's acquisition or production cost.

(e) A domestic brewery, microbrewery, certificate of approval holder, importer, or distributor acting as a supplier to another distributor must file with the board a list of all distributor licensees of the board to which it sells or offers to sell beer.

(f) No domestic brewery, microbrewery, or certificate of approval holder may sell or offer to sell any package or container of beer to any distributor at a price differing from the price list for such package or container as shown in the price list of the domestic brewery, microbrewery, or certificate of approval holder and then in effect, according to rules adopted by the board.

(3) In selling wine to another retailer, to the extent consistent with the purposes of chapter 2, Laws of 2012, a grocery store licensee with a reseller endorsement must comply with all provisions of and regulations under this title applicable to wholesale distributors selling wine to retailers.

(4) With respect to any alleged violation of this title by sale of wine at a discounted price, all defenses under applicable trade regulation laws are available including, without limitation, good faith meeting of a competitor's lawful price and absence of harm to competition. [2012 c 2 § 121 (Initiative Measure No. 1183, approved November 8, 2011); 2009 c 506 § 10; 2006 c 302 § 10; (2006 c 302 § 9 expired July 1, 2006); 2005 c 274 § 327. Prior: 2004 c 269 § 1; 2004 c 160 § 18; 1997 c 321 § 51; 1995 c 232 § 10; 1985 c 226 § 4.]

Finding—Application—Rules—Effective date—Contingent effective date—2012 c 2 (Initiative Measure No. 1183): See notes following RCW 66.24.620.

Effective date—2006 c 302 §§ 10 and 12: "Sections 10 and 12 of this act take effect July 1, 2006." [2006 c 302 § 15.]

Expiration date—2006 c 302 §§ 9 and 11: "Sections 9 and 11 of this act expire July 1, 2006." [2007 c 9 § 1; 2006 c 302 § 14.]

Part headings not law—Effective date—2005 c 274: See RCW 42.56.901 and 42.56.902.

Additional notes found at www.leg.wa.gov

66.28.190 Sales of nonliquor food and food ingredients. (1) Any other provision of this title notwithstanding, persons licensed under this title to sell liquor for resale may sell at wholesale nonliquor food and food ingredients on thirty-day credit terms to persons licensed as retailers under this title, but complete and separate accounting records must be maintained on all sales of nonliquor food and food ingredients to ensure that such persons are in compliance with this title.

(2) For the purpose of this section, "nonliquor food and food ingredients" includes, without limitation, all food and food ingredients for human consumption as defined in RCW 82.08.0293 as it existed on July 1, 2004. [2012 c 2 § 122 (Initiative Measure No. 1183, approved November 8, 2011); 2011 c 119 § 211; 2003 c 168 § 305; 1997 c 321 § 52; 1988 c 50 § 1.]

Reviser's note: This section was amended by 2011 c 119 § 211 and by 2012 c 2 § 122, each without reference to the other. Both amendments are incorporated in the publication of this section under RCW 1.12.025(2). For rule of construction, see RCW 1.12.025(1).

Finding—Application—Rules—Effective date—Contingent effective date—2012 c 2 (Initiative Measure No. 1183): See notes following RCW 66.24.620.

Additional notes found at www.leg.wa.gov

66.28.200 Keg registration—Special endorsement for grocery store licensee—Requirements of seller. (1) Licensees holding a beer and/or wine restaurant or a tavern license in combination with an off-premises beer and wine retailer's license, licensees holding a spirits, beer, and wine restaurant license with an endorsement issued under RCW 66.24.400(4), and licensees holding a beer and/or wine specialty shop license with an endorsement issued under RCW 66.24.371(1) may sell malt liquor in kegs or other containers capable of holding four gallons or more of liquid. Under a special endorsement from the board, a grocery store licensee may sell malt liquor in containers no larger than five and one-half gallons. The sale of any container holding four gallons or more must comply with the provisions of this section and RCW 66.28.210 through 66.28.240.

(2) Any person who sells or offers for sale the contents of kegs or other containers containing four gallons or more of malt liquor, or leases kegs or other containers that will hold four gallons of malt liquor, to consumers who are not licensed under chapter 66.24 RCW shall do the following for any transaction involving the container:

(a) Require the purchaser of the malt liquor to sign a declaration and receipt for the keg or other container or beverage in substantially the form provided in RCW 66.28.220;

(b) Require the purchaser to provide one piece of identification pursuant to *RCW 66.16.040;

(c) Require the purchaser to sign a sworn statement, under penalty of perjury, that:

(i) The purchaser is of legal age to purchase, possess, or use malt liquor;

(ii) The purchaser will not allow any person under the age of twenty-one years to consume the beverage except as provided by RCW 66.44.270;

(iii) The purchaser will not remove, obliterate, or allow to be removed or obliterated, the identification required under RCW 66.28.220 to be affixed to the container;

(d) Require the purchaser to state the particular address where the malt liquor will be consumed, or the particular address where the keg or other container will be physically located; and

(e) Require the purchaser to maintain a copy of the declaration and receipt next to or adjacent to the keg or other container, in no event a distance greater than five feet, and visible without a physical barrier from the keg, during the time that the keg or other container is in the purchaser's possession or control.

(3) A violation of this section is a gross misdemeanor. [2009 c 373 § 7; 2007 c 53 § 2; 2003 c 53 § 296; 1998 c 126 § 13; 1997 c 321 § 38; 1993 c 21 § 2; 1989 c 271 § 229.]

***Reviser's note:** RCW 66.16.040 was repealed by 2012 c 2 § 215 (Initiative Measure No. 1183).

Intent—Effective date—2003 c 53: See notes following RCW 2.48.180.

Additional notes found at www.leg.wa.gov

66.28.210 Keg registration—Requirements of purchaser. (1) Any person who purchases the contents of kegs or other containers containing four gallons or more of malt liquor, or purchases or leases the container shall:

(a) Sign a declaration and receipt for the keg or other container or beverage in substantially the form provided in RCW 66.28.220;

(b) Provide one piece of identification pursuant to *RCW 66.16.040;

(c) Be of legal age to purchase, possess, or use malt liquor;

(d) Not allow any person under the age of twenty-one to consume the beverage except as provided by RCW 66.44.270;

(e) Not remove, obliterate, or allow to be removed or obliterated, the identification required under rules adopted by the board;

(f) Not move, keep, or store the keg or its contents, except for transporting to and from the distributor, at any place other than that particular address declared on the receipt and declaration; and

(g) Maintain a copy of the declaration and receipt next to or adjacent to the keg or other container, in no event a distance greater than five feet, and visible without a physical barrier from the keg, during the time that the keg or other container is in the purchaser's possession or control.

(2) A violation of this section is a gross misdemeanor. [2003 c 53 § 297; 1989 c 271 § 230.]

***Reviser's note:** RCW 66.16.040 was repealed by 2012 c 2 § 215 (Initiative Measure No. 1183).

Intent—Effective date—2003 c 53: See notes following RCW 2.48.180.

Additional notes found at www.leg.wa.gov

66.28.220 Keg registration—Identification of containers—Rules—Fees—Sale in violation of rules unlawful. (1) The board shall adopt rules requiring retail licensees to affix appropriate identification on all containers of four gallons or more of malt liquor for the purpose of tracing the purchasers of such containers. The rules may provide for identification to be done on a statewide basis or on the basis of smaller geographical areas.

(2) The board shall develop and make available forms for the declaration and receipt required by RCW 66.28.200. The board may charge spirits, beer, and wine restaurant licensees with an endorsement issued under RCW 66.24.400(4) and grocery store licensees for the costs of providing the forms and that money collected for the forms shall be deposited into the liquor revolving fund for use by the board, without further appropriation, to continue to administer the cost of the keg registration program.

(3) It is unlawful for any person to sell or offer for sale kegs or other containers containing four gallons or more of malt liquor to consumers who are not licensed under chapter 66.24 RCW if the kegs or containers are not identified in compliance with rules adopted by the board.

(4) A violation of this section is a gross misdemeanor. [2007 c 53 § 3; 2003 c 53 § 298; 1999 c 281 § 7; 1993 c 21 § 3; 1989 c 271 § 231.]

Intent—Effective date—2003 c 53: See notes following RCW 2.48.180.

Additional notes found at www.leg.wa.gov

66.28.230 Keg registration—Furnishing to minors—Penalties. Except as provided in RCW 66.44.270, a person who intentionally furnishes a keg or other container containing four or more gallons of malt liquor to a person under the age of twenty-one years is guilty of a gross misdemeanor punishable under RCW 9.92.020. [1999 c 189 § 1; 1989 c 271 § 232.]

Additional notes found at www.leg.wa.gov

66.28.240 Keg registration—State preemption. The state of Washington fully occupies and preempts the entire field of keg registration. Cities, towns, and counties or other municipalities may enact only those laws and ordinances relating to keg registration that are consistent with this chapter. Such local ordinances shall have the same or lesser penalties as provided for by state law. Local laws and ordinances that are inconsistent with, more restrictive than, or exceed the requirements of state law shall not be enacted and are preempted and repealed, regardless of the nature of the code, charter, or home rule status of the city, town, county, or municipality. [1989 c 271 § 233.]

Additional notes found at www.leg.wa.gov

66.28.260 Beer distributors—Restricted transactions. Licensed beer distributors may not buy or sell beer, for purposes of distribution, at farmers market locations authorized by the board pursuant to chapter 154, Laws of 2003. [2003 c 154 § 3.]

66.28.270 Cash payments—Electronic funds transfers. Nothing in this chapter prohibits the use of checks, credit or debit cards, prepaid accounts, electronic funds transfers, and other similar methods as approved by the board, as cash payments for purposes of this title. Electronic fund[s] transfers must be: (1) Voluntary; (2) conducted pursuant to a prior written agreement of the parties that includes a provision that the purchase be initiated by an irrevocable invoice or sale order before the time of delivery; (3) initiated by the retailer, manufacturer, importer, or distributor no later than the first business day following delivery; and (4) completed as promptly as is reasonably practical, and in no event, later than five business days following delivery. [2009 c 373 § 11.]

66.28.280 Finding. The legislature recognizes that the historical total prohibition on ownership of an interest in one tier by a person with an ownership interest in another tier, as well as the historical restriction on financial incentives and business relationships between tiers, is unduly restrictive. The legislature finds the provisions of RCW 66.28.285 through 66.28.320 appropriate for all varieties of liquor, because they do not impermissibly interfere with protecting the public interest and advancing public safety by preventing the use and consumption of alcohol by minors and other abusive consumption, and promoting the efficient collection of taxes by the state. [2012 c 2 § 124 (Initiative Measure No. 1183, approved November 8, 2011); 2009 c 506 § 1.]

Finding—Application—Rules—Effective date—Contingent effective date—2012 c 2 (Initiative Measure No. 1183): See notes following RCW 66.24.620.

66.28.285 Three-tier system—Definitions. The definitions in this section apply throughout RCW 66.28.280 through 66.28.315 unless the context clearly requires otherwise.

(1) "Adverse impact on public health and safety" means that an existing or proposed practice or occurrence has resulted or is more likely than not to result in alcohol being made significantly more attractive or available to minors than would otherwise be the case or has resulted or is more likely

than not to result in overconsumption, consumption by minors, or other harmful or abusive forms of consumption.

(2) "Affiliate" means any one of two or more persons if one of those persons has actual or legal control, directly or indirectly, whether by stock ownership or otherwise, of the other person or persons and any one of two or more persons subject to common control, actual or legal, directly or indirectly, whether by stock ownership or otherwise.

(3) "Industry member" means a licensed manufacturer, producer, supplier, importer, wholesaler, distributor, authorized representative, certificate of approval holder, warehouse, and any affiliates, subsidiaries, officers, directors, partners, agents, employees, and representatives of any industry member. "Industry member" does not include the board or any of the board's employees.

(4) "Person" means any individual, partnership, joint stock company, business trust, association, corporation, or other form of business enterprise, including a receiver, trustee, or liquidating agent and includes any officer or employee of a retailer or industry member.

(5) "Retailer" means the holder of a license issued by the board to allow for the sale of alcoholic beverages to consumers for consumption on or off premises and any of the retailer's agents, officers, directors, shareholders, partners, or employees. "Retailer" does not include the board or any of the board's employees.

(6) "Undue influence" means one retailer or industry member directly or indirectly influencing the purchasing, marketing, or sales decisions of another retailer or industry member by any agreement written or unwritten or any other business practices or arrangements such as but not limited to the following:

(a) Any form of coercion between industry members and retailers or between retailers and industry members through acts or threats of physical or economic harm, including threat of loss of supply or threat of curtailment of purchase;

(b) A retailer on an involuntary basis purchasing less than it would have of another industry member's product;

(c) Purchases made by a retailer or industry member as a prerequisite for purchase of other items;

(d) A retailer purchasing a specific or minimum quantity or type of a product or products from an industry member;

(e) An industry member requiring a retailer to take and dispose of a certain product type or quota of the industry member's products;

(f) A retailer having a continuing obligation to purchase or otherwise promote or display an industry member's product;

(g) An industry member having a continuing obligation to sell a product to a retailer;

(h) A retailer having a commitment not to terminate its relationship with an industry member with respect to purchase of the industry member's products or an industry member having a commitment not to terminate its relationship with a retailer with respect to the sale of a particular product or products;

(i) An industry member being involved in the day-to-day operations of a retailer or a retailer being involved in the day-to-day operations of an industry member in a manner that violates the provisions of this section;

(j) Discriminatory pricing practices as prohibited by law or other practices that are discriminatory in that product is not offered to all retailers in the local market on the same terms. [2009 c 506 § 2.]

66.28.290 Three-tier system—Direct or indirect interests between industry members, affiliates, and retailers. (1) Notwithstanding any prohibitions and restrictions contained in this title, it shall be lawful for an industry member or affiliate to have a direct or indirect financial interest in another industry member or a retailer, and for a retailer or affiliate to have a direct or indirect financial interest in an industry member unless such interest has resulted or is more likely than not to result in undue influence over the retailer or the industry member or has resulted or is more likely than not to result in an adverse impact on public health and safety. The structure of any such financial interest must be consistent with subsection (2) of this section.

(2) Subject to subsection (1) of this section and except as provided in RCW 66.28.295:

(a) An industry member in whose name a license or certificate of approval has been issued pursuant to this title may wholly own or hold a financial interest in a separate legal entity licensed pursuant to RCW 66.24.320, 66.24.330, 66.24.350, 66.24.360, 66.24.371, 66.24.380, 66.24.395, 66.24.400, 66.24.425, 66.24.452, 66.24.495, 66.24.540, 66.24.550, 66.24.570, 66.24.580, 66.24.590, 66.24.600, and 66.24.610, but may not have such a license issued in its name; and

(b) A retailer in whose name a license has been issued pursuant to this title may wholly own or hold a financial interest in a separate legal entity licensed or holding a certificate of approval pursuant to RCW 66.24.140, 66.24.170, 66.24.206, 66.24.240, 66.24.244, 66.24.270(2), 66.24.200, or 66.24.250, but may not have such a license or certificate of approval issued in its name; and

(c) A supplier in whose name a license or certificate of approval has been issued pursuant to this title may wholly own or hold a financial interest in a separate legal entity licensed as a distributor or importer under this title, but such supplier may not have a license as a distributor or importer issued in its own name; and

(d) A distributor or importer in whose name a license has been issued pursuant to this title may wholly own or hold a financial interest in a separate legal entity licensed or holding a certificate of approval as a supplier under this title, but such distributor or importer may not have a license or certificate of approval as a supplier issued in its own name. [2011 c 325 § 6; 2011 c 119 § 202; 2009 c 506 § 3.]

Reviser's note: This section was amended by 2011 c 119 § 202 and by 2011 c 325 § 6, each without reference to the other. Both amendments are incorporated in the publication of this section under RCW 1.12.025(2). For rule of construction, see RCW 1.12.025(1).

66.28.295 Three-tier system—Direct or indirect interests—Allowed activities. Nothing in RCW 66.28.290 shall prohibit:

(1) A licensed domestic brewery or microbrewery from being licensed as a retailer pursuant to chapter 66.24 RCW for the purpose of selling beer or wine at retail on the brewery premises and at one additional off-site retail only location.

(2) A domestic winery from being licensed as a retailer pursuant to chapter 66.24 RCW for the purpose of selling beer or wine at retail on the winery premises. Such beer and wine so sold at retail shall be subject to the taxes imposed by RCW 66.24.290 and 66.24.210 and to reporting and bonding requirements as prescribed by regulations adopted by the board pursuant to chapter 34.05 RCW, and beer and wine that is not produced by the brewery or winery shall be purchased from a licensed beer or wine distributor.

(3) A microbrewery holding a beer and/or wine restaurant license under RCW 66.24.320 from holding the same privileges and endorsements attached to the beer and/or wine restaurant license.

(4) A licensed craft distillery from selling spirits of its own production under RCW 66.24.145.

(5) A licensed distiller, domestic brewery, microbrewery, domestic winery, or a lessee of a licensed domestic brewer, microbrewery, or domestic winery, from being licensed as a spirits, beer, and wine restaurant pursuant to chapter 66.24 RCW for the purpose of selling liquor at a spirits, beer, and wine restaurant premises on the property on which the primary manufacturing facility of the licensed distiller, domestic brewer, microbrewery, or domestic winery is located or on contiguous property owned or leased by the licensed distiller, domestic brewer, microbrewery, or domestic winery as prescribed by rules adopted by the board pursuant to chapter 34.05 RCW.

(6) A microbrewery holding a spirits, beer, and wine restaurant license under RCW 66.24.420 from holding the same privileges and endorsements attached to the spirits, beer, and wine restaurant license.

(7) A brewery or microbrewery holding a spirits, beer, and wine restaurant license or a beer and/or wine license under chapter 66.24 RCW operated on the premises of the brewery or microbrewery from holding a second retail only license at a location separate from the premises of the brewery or microbrewery.

(8) Retail licensees with a caterer's endorsement issued under RCW 66.24.320 or 66.24.420 from operating on a domestic winery premises.

(9) An organization qualifying under RCW 66.24.375 formed for the purpose of constructing and operating a facility to promote Washington wines from holding retail licenses on the facility property or leasing all or any portion of such facility property to a retail licensee on the facility property if the members of the board of directors or officers of the board for the organization include officers, directors, owners, or employees of a licensed domestic winery. Financing for the construction of the facility must include both public and private money.

(10) A bona fide charitable nonprofit society or association registered under Title 26 U.S.C. Sec. 501(c)(3) of the federal internal revenue code, or a local wine industry association registered under Title 26 U.S.C. Sec. 501(c)(6) of the federal internal revenue code as it existed on July 22, 2007, and having an officer, director, owner, or employee of a licensed domestic winery or a wine certificate of approval holder on its board of directors from holding a special occasion license under RCW 66.24.380.

(11) A person licensed pursuant to RCW 66.24.170, 66.24.240, or 66.24.244 from exercising the privileges of distributing and selling at retail such person's own production or from exercising any other right or privilege that attaches to such license.

(12) A person holding a certificate of approval pursuant to RCW 66.24.206 from obtaining an endorsement to act as a distributor of their own product or from shipping their own product directly to consumers as authorized by RCW 66.20.360.

(13) A person holding a wine shipper's permit pursuant to RCW 66.20.375 from shipping their own product directly to consumers.

(14) A person holding a certificate of approval pursuant to RCW 66.24.270(2) from obtaining an endorsement to act as a distributor of their own product.

(15) A domestic winery and a restaurant licensed under RCW 66.24.320 or 66.24.400 from entering an arrangement to waive a corkage fee. [2011 c 66 § 2; 2009 c 506 § 4.]

Finding—Intent—2011 c 66: "The legislature finds that some restaurants allow patrons to bring bottles of wine to the restaurant so long as restaurant personnel open and serve the beverage. In these cases, the restaurants often charge a fee known as a corkage fee. The legislature supports activities in the free market that facilitate local businesses in selling their products. One of the methods restaurants and wineries have found to be mutually beneficial is a waiver of corkage fees for local businesses. The legislature intends to allow wineries and restaurants the ability to make agreements as to whether to charge a corkage fee without restriction or regulation under the tied-house laws." [2011 c 66 § 1.]

66.28.300 Three-tier system—Undue influence—Determination by board. Any industry member or retailer or any other person seeking a determination by the board as to whether a proposed or existing financial interest has resulted or is more likely than not to result in undue influence or has resulted or is more likely than not to result in an adverse impact on public health and safety may file a complaint or request for determination with the board. Upon receipt of a request or complaint the board may conduct such investigation as it deems appropriate in the circumstances. If the investigation reveals the financial interest has resulted or is more likely than not to result in undue influence or has resulted or is more likely than not to result in an adverse impact on public health and safety the board may issue an administrative violation notice or a notice of intent to deny the license to the industry member, to the retailer, or both. If the financial interest was acquired through a transaction that has already been consummated when the board issues its administrative violation notice, the board shall have the authority to require that the transaction be rescinded or otherwise undone. The recipient of the administrative notice of violation or notice of intent to deny the license may request a hearing under chapter 34.05 RCW. [2009 c 506 § 5.]

66.28.305 Three-tier system—Money advances—Prohibition. Except as provided in RCW 66.28.310, no industry member shall advance and no retailer shall receive moneys or moneys' worth under an agreement written or unwritten or by means of any other business practice or arrangement. [2009 c 506 § 6.]

66.28.310 Three-tier system—Promotional items. (1)(a) Nothing in RCW 66.28.305 prohibits an industry member from providing retailers branded promotional items which are of nominal value, singly or in the aggregate. Such

items include but are not limited to: Trays, lighters, blotters, postcards, pencils, coasters, menu cards, meal checks, napkins, clocks, mugs, glasses, bottles or can openers, corkscrews, matches, printed recipes, shirts, hats, visors, and other similar items. Branded promotional items:

(i) Must be used exclusively by the retailer or its employees in a manner consistent with its license;

(ii) Must bear imprinted advertising matter of the industry member only, except imprinted advertising matter of the industry member can include the logo of a professional sports team which the industry member is licensed to use;

(iii) May be provided by industry members only to retailers and their employees and may not be provided by or through retailers or their employees to retail customers; and

(iv) May not be targeted to or appeal principally to youth.

(b) An industry member is not obligated to provide any such branded promotional items, and a retailer may not require an industry member to provide such branded promotional items as a condition for selling any alcohol to the retailer.

(c) Any industry member or retailer or any other person asserting that the provision of branded promotional items as allowed in (a) of this subsection has resulted or is more likely than not to result in undue influence or an adverse impact on public health and safety, or is otherwise inconsistent with the criteria in (a) of this subsection may file a complaint with the board. Upon receipt of a complaint the board may conduct such investigation as it deems appropriate in the circumstances. If the investigation reveals the provision of branded promotional items has resulted in or is more likely than not to result in undue influence or has resulted or is more likely than not to result in an adverse impact on public health and safety or is otherwise inconsistent with (a) of this subsection the board may issue an administrative violation notice to the industry member, to the retailer, or both. The recipient of the administrative violation notice may request a hearing under chapter 34.05 RCW.

(2) Nothing in RCW 66.28.305 prohibits:

(a) An industry member from providing to a special occasion licensee and a special occasion licensee from receiving services for:

(i) Installation of draft beer dispensing equipment or advertising;

(ii) Advertising, pouring, or dispensing of beer or wine at a beer or wine tasting exhibition or judging event; or

(iii) Pouring or dispensing of spirits by a licensed domestic distiller or the accredited representative of a distiller, manufacturer, importer, or distributor of spirituous liquor licensed under RCW 66.24.310; or

(b) Special occasion licensees from paying for beer, wine, or spirits immediately following the end of the special occasion event; or

(c) Wineries, breweries, or distilleries that are participating in a special occasion event from paying reasonable booth fees to the special occasion licensee.

(3) Nothing in RCW 66.28.305 prohibits industry members from performing, and retailers from accepting the service of building, rotating, and restocking displays and stockroom inventories; rotating and rearranging can and bottle displays of their own products; providing point of sale material and brand signs; pricing case goods of their own brands; and performing such similar business services consistent with board rules, or personal services as described in subsection (5) of this section.

(4) Nothing in RCW 66.28.305 prohibits:

(a) Industry members from listing on their internet web sites information related to retailers who sell or promote their products, including direct links to the retailers' internet web sites; and

(b) Retailers from listing on their internet web sites information related to industry members whose products those retailers sell or promote, including direct links to the industry members' web sites; or

(c) Industry members and retailers from producing, jointly or together with regional, state, or local industry associations, brochures and materials promoting tourism in Washington state which contain information regarding retail licensees, industry members, and their products.

(5) Nothing in RCW 66.28.305 prohibits the performance of personal services offered from time to time by a domestic winery or certificate of approval holder to retailers when the personal services are (a) conducted at a licensed premises, and (b) intended to inform, educate, or enhance customers' knowledge or experience of the manufacturer's products. The performance of personal services may include participation and pouring, bottle signing events, and other similar informational or educational activities at the premises of a retailer holding a spirits, beer, and wine restaurant license, a wine and/or beer restaurant license, a specialty wine shop license, a special occasion license, a grocery store license with a tasting endorsement, or a private club license. A domestic winery or certificate of approval holder is not obligated to perform any such personal services, and a retail licensee may not require a domestic winery or certificate of approval holder to conduct any personal service as a condition for selling any alcohol to the retail licensee, or as a condition for including any product of the domestic winery or certificate of approval holder in any tasting conducted by the licensee. Except as provided in RCW 66.28.150, the cost of sampling may not be borne, directly or indirectly, by any domestic winery or certificate of approval holder or any distributor. Nothing in this section prohibits wineries, breweries, microbreweries, certificate of approval holders, and retail licensees from identifying the producers on private labels authorized under RCW 66.24.400, 66.24.425, 66.24.450, 66.24.360, and 66.24.371.

(6) Nothing in RCW 66.28.305 prohibits an industry member from entering into an arrangement with any holder of a sports entertainment facility license or an affiliated business for brand advertising at the licensed facility or promoting events held at the sports entertainment facility as authorized under RCW 66.24.570.

(7) Nothing in RCW 66.28.305 prohibits the performance of personal services offered from time to time by a domestic brewery, microbrewery, or beer certificate of approval holder to grocery store licensees with a tasting endorsement when the personal services are (a) conducted at a licensed premises in conjunction with a tasting event, and (b) intended to inform, educate, or enhance customers' knowledge or experience of the manufacturer's products. The performance of personal services may include participation

and pouring, bottle signing events, and other similar informational or educational activities. A domestic brewery, microbrewery, or beer certificate of approval holder is not obligated to perform any such personal services, and a grocery store licensee may not require the performance of any personal service as a condition for including any product in any tasting conducted by the licensee.

(8) Nothing in RCW 66.28.305 prohibits an arrangement between a domestic winery and a restaurant licensed under RCW 66.24.320 or 66.24.400 to waive a corkage fee.

(9) Nothing in this section prohibits professional sports teams who hold a retail liquor license or their agents from accepting bona fide liquor advertising from manufacturers, importers, distributors, or their agents for use in the sporting arena. Professional sports teams who hold a retail liquor license or their agents may license the manufacturer, importer, distributor, or their agents to use the name and trademarks of the professional sports team in their advertising and promotions, under the following conditions:

(a) Such advertising must be paid for by said manufacturer, importer, distributor, or their agent at the published advertising rate or at a reasonable fair market value.

(b) Such advertising may carry with it no express or implied offer on the part of the manufacturer, importer, distributor, or their agent, or promise on the part of the retail licensee whose operation is directly or indirectly part of the sporting arena, to stock or list any particular brand of liquor to the total or partial exclusion of any other brand. [2014 c 92 § 5; 2013 c 107 § 1. Prior: 2011 c 119 § 101; 2011 c 66 § 3; prior: 2010 c 290 § 3; 2010 c 141 § 4; 2009 c 506 § 7.]

Finding—Intent—2011 c 66: See note following RCW 66.28.295.

66.28.315 Three-tier system—Recordkeeping. All industry members and retailers shall keep and maintain the following records on their premises for a three-year period:

(1) Records of all items, services, and moneys' worth furnished to and received by a retailer and of all items, services, and moneys' worth provided to a retailer and purchased by a retailer at fair market value; and

(2) Records of all industry member financial ownership or interests in a retailer and of all retailer financial ownership interests in an industry member. [2009 c 506 § 8.]

66.28.320 Three-tier system—Rule adoption. The board shall adopt rules as are deemed necessary to carry out the purposes and provisions of this chapter in accordance with the administrative procedure act, chapter 34.05 RCW. [2009 c 506 § 9.]

66.28.330 Spirits sales—Foreign wine—Distilled spirits. (1) No price for spirits sold in the state by a distributor or other licensee acting as a distributor pursuant to this title may be below acquisition cost unless the item sold below acquisition cost has been stocked by the seller for a period of at least six months. The seller may not restock the item for a period of one year following the first effective date of such below cost price.

(2) Spirits sold to retailers for resale for consumption on or off the licensed premises may be delivered to the retailer's licensed premises, to a location specified by the retailer and approved for deliveries by the board, or to a carrier engaged by either party to the transaction.

(3) In selling spirits to another retailer, to the extent consistent with the purposes of chapter 2, Laws of 2012, a spirits retail licensee must comply with all provisions of and regulations under this title applicable to wholesale distributors selling spirits to retailers.

(4) A distiller holding a license or certificate of compliance as a distiller under this title may act as distributor in the state of spirits of its own production or of foreign-produced spirits it is entitled to import. The distiller must, to the extent consistent with the purposes of chapter 2, Laws of 2012, comply with all provisions of and regulations under this title applicable to wholesale distributors selling spirits to retailers.

(5) With respect to any alleged violation of this title by sale of spirits at a discounted price, all defenses under applicable trade regulation laws are available, including without limitation good faith meeting of a competitor's lawful price and absence of harm to competition.

(6) Notwithstanding any other provision of law, no licensee may import, purchase, distribute, or accept delivery of any wine that is produced outside of the United States or any distilled spirits without the written consent of the brand owner or its authorized agent. [2012 c 2 § 120 (Initiative Measure No. 1183, approved November 8, 2011).]

Finding—Application—Rules—Effective date—Contingent effective date—2012 c 2 (Initiative Measure No. 1183): See notes following RCW 66.24.620.

66.28.340 Retailer of wine or spirits—Wine or spirits delivery, warehouse, and distribution. A retailer authorized to sell wine may accept delivery of wine at its licensed premises or at one or more warehouse facilities registered with the board, which facilities may also warehouse and distribute nonliquor items, and from which it may deliver to its own licensed premises and, pursuant to sales permitted by this title, to other licensed retailers, to other registered facilities, or to lawful purchasers outside the state; such facilities may be registered and utilized by associations, cooperatives, or comparable groups of retailers including at least one retailer licensed to sell wine. A restaurant retailer authorized to sell spirits may accept delivery of spirits at its licensed premises or at one or more warehouse facilities registered with the board, which facilities may also warehouse and distribute nonliquor items, from which it may deliver to its own licensed premises and, pursuant to sales permitted by this title, to other licensed retailers, to other registered facilities, or to lawful purchasers outside the state; such facilities may be registered and utilized by associations, cooperatives, or comparable groups of retailers including at least one restaurant retailer licensed to sell spirits. Nothing in this section authorizes sales of spirits or wine by a retailer holding only an on-sale privilege to another retailer. [2012 c 2 § 123 (Initiative Measure No. 1183, approved November 8, 2011).]

Finding—Application—Rules—Effective date—Contingent effective date—2012 c 2 (Initiative Measure No. 1183): See notes following RCW 66.24.620.

66.28.350 Theft prevention—Regulating spirits retailers. (1) Subject to the procedural requirements of subsection (3) of this section, the board is authorized to regulate

spirits retailers licensed under RCW 66.24.630 for the purpose of reducing the theft of spirits from the premises of such retailers. The authority of the board to implement the regulatory measures set forth in this section requires a finding by the board that a licensee is experiencing an unacceptable rate of spirits theft from its premises. For the purposes of this section, "unacceptable rate of spirits theft" means two or more thefts of spirits from a licensee in a six-month period and that result in a minor unlawfully using or gaining possession of spirits, or that involves, or results in, adults unlawfully providing spirits to minors, and where such thefts result in an incident report being generated by a law enforcement agency.

(2) The regulatory measures that may be considered and implemented under this section may require the imposition of one or more of the following requirements on licensees who are experiencing an unacceptable rate of spirits theft:

(a) Participation in one or more consultations with an authorized representative of the board to discuss and analyze spirits theft issues;

(b) The implementation of inventory control and/or other recordkeeping system designed to reveal and track spirits theft;

(c) The structural modification or relocation of the areas where spirits are displayed or stored;

(d) The installation of adequate in-store security systems;

(e) The employment of a sufficient number of staff for the purpose of monitoring display, checkout, and storage areas; and

(f) Requiring additional training for the licensee's staff.

(3) The imposition of the regulatory provisions authorized under subsection (2) of this section are subject to the following procedural steps and requirements:

(a) If a state or local law enforcement agency obtains information indicating that a licensee is experiencing an unacceptable rate of spirits theft, the law enforcement agency is granted the discretionary authority to initiate and participate in, on a voluntary basis, the procedures outlined in this subsection (3). Should the law enforcement agency opt to initiate the investigative and consultation procedures set forth in this subsection (3), the law enforcement agency must first contact the licensee's manager and/or owner to inform him or her of such alleged theft and arrange a meeting with the licensee's manager or owner to discuss theft issues and possible solutions. This first contact by the law enforcement agency with the licensee must occur prior to the law enforcement agency informing the board of the alleged theft issues and thus initiating the procedures set forth in (c) through (h) of this subsection. At this early stage of the law enforcement consultation process, the board may not be involved in the investigation of the theft allegation until such time as the law enforcement agency has had an opportunity to consult with the licensee's manager or owner as provided under this subsection (3)(a).

(b) Following the initial consultation between the law enforcement agency and the licensee as required under (a) of this subsection, the law enforcement agency is granted the discretionary authority to forego any further consultation with the licensee and may terminate its investigation of the theft allegation. However, if the law enforcement agency opts to continue the consultation process with the licensee and proceed with its investigation, the law enforcement agency must endeavor to work with the licensee to identify theft issues and reach cooperative agreements regarding measures that should be taken to eliminate spirits theft problems.

(c) If during the consultation process outlined under (a) and (b) of this subsection the law enforcement agency determines that no spirits theft problem exists at the premises of the licensee, or that the licensee has taken the steps necessary to adequately address the theft problem, then the procedural processes outlined in this section may be terminated at the discretion of the law enforcement agency without the involvement of the board. However, if the law enforcement agency finds that a spirits theft problem exists at the licensee's premises and the licensee either refuses or fails to implement remedial measures adequate to address the theft problem, or otherwise fails to cooperate with the law enforcement agency, then the law enforcement agency must formally inform the board in writing regarding the licensee's lack of cooperation in resolving its spirits theft problem.

(d) Upon the receipt of law enforcement agency notification as required under (c) of this subsection, the board must provide written notification to the licensee of the alleged theft problem and may demand that the licensee participate in a consultation process involving a representative of the board and the licensee. The reporting law enforcement agency may be included in this consultation process at the discretion of the board and upon the agreement of the law enforcement agency. The licensee's participation in the consultation process is mandatory and the licensee is entitled to at least thirty days' notice by the board. In the event a licensee fails to attend or otherwise cooperate in initial or subsequent consultations, the board is authorized to suspend the licensee's spirits retail license until such time as the retailer is in compliance with the requirements of this subsection (3)(d).

(e) At the consultation, the board must provide the licensee with any information or evidence pertinent to any allegation that the retailer has an unacceptable spirits theft rate. The licensee must be provided with a reasonable opportunity to respond and present evidence, and, if necessary, the consultation may be continued at the discretion of the board to allow adequate time for the licensee to prepare such response.

(f) At the conclusion of the initial consultation process, if the board finds that the licensee has an unacceptable spirits theft rate, it may develop a corrective action plan outlining the remedial measures that must be taken by the licensee pursuant to subsection (2) of this section. In developing the plan, the board must make a concerted effort to obtain voluntary participation in the plan by the licensee. At every step in the consultation and corrective action plan process, the board is encouraged to work with the licensee in a cooperative manner and, where possible, to strive for voluntary agreements with the licensee. However, in the absence of licensee cooperation or agreement, the board is authorized to unilaterally develop and enforce a corrective action plan as authorized under this section. Once the plan is finalized, it must be filed with the board and a copy provided to the licensee either personally or through certified mail.

(g) Not more than thirty days after the filing and service of the original corrective action plan, the board must schedule one or more follow-up consultations with the licensee. The

purpose of these consultations is to review the licensee's performance with respect to the requirements of the corrective action plan and to generally assess the licensee's progress in addressing spirits theft issues. If the licensee is following the corrective action plan but is continuing to experience an unacceptable spirits theft rate, then the board and the licensee may review and revise the plan as deemed necessary by the board. Following the filing of a revised plan, the board may schedule one or more follow-up consultations at its discretion.

(h) During the review process established in (g) of this subsection, if the board finds that the licensee has failed to comply with the requirements of the original or revised corrective action plan the board may:

(i) Demand that the licensee take remedial steps so as to be compliant with the corrective action plan and schedule an additional follow-up consultation at the board's discretion; or

(ii) If the licensee's noncompliance is deemed to be willful, suspend the retailer's spirits retail license for a period to be determined by the board by rule.

(i) If a licensee remains consistently noncompliant with the original corrective action plan and any revised plans for a period of at least nine months, then the board is authorized to suspend or revoke the licensee's spirits retail license.

(4) The board is granted the rule-making authority necessary to implement and enforce the provisions of this section pertaining to the regulation of licensees deemed to have unacceptable spirits theft rates.

(5) If the board suspends or revokes a licensee's spirits retail license under this section, the licensee may appeal and request a hearing under chapter 34.05 RCW, the administrative procedure act. [2014 c 63 § 1.]

66.28.360 Cider sales—Container brought by purchaser. (1) Licensees holding either a license that permits or a license with an endorsement that permits the sale of beer to a purchaser in a container supplied by the licensee or a sanitary container brought to the premises by the purchaser and filled at the tap at the time of sale may similarly sell cider to a purchaser in such a container. Nothing in this section relieves a licensee from complying with federal law.

(2) For purposes of this section, "cider" has the same meaning as in RCW 66.24.210(6). [2014 c 54 § 1.]

Chapter 66.32 RCW
SEARCH AND SEIZURE

Sections

66.32.010 Possession of contraband liquor.
66.32.020 Search warrant—Search and seizure.
66.32.030 Service of warrant—Receipt for seized property.
66.32.040 Forfeiture of liquor directed if kept unlawfully.
66.32.050 Hearing.
66.32.060 Claimants may appear.
66.32.070 Judgment of forfeiture—Disposition of proceeds of property sold.
66.32.080 Forfeiture action no bar to criminal prosecution.
66.32.090 Seized liquor to be reported to board.

66.32.010 Possession of contraband liquor. The board may, to the extent required to control unlawful diversion of liquor from authorized channels of distribution, require that packages of liquor transported within the state be sealed with such official seal as may be adopted by the board, except in the case of:

(1) Liquor manufactured in the state; or

(2) Liquor purchased within the state or for shipment to a consumer within the state in accordance with the provisions of law; or

(3) Wine or beer exempted in RCW 66.12.010. [2012 c 2 § 208 (Initiative Measure No. 1183, approved November 8, 2011); 1955 c 39 § 3. Prior: 1943 c 216 § 3(1); 1933 ex.s. c 62 § 33(1); Rem. Supp. 1943 § 7306-33(1).]

Finding—Application—Rules—Effective date—Contingent effective date—2012 c 2 (Initiative Measure No. 1183): See notes following RCW 66.24.620.

66.32.020 Search warrant—Search and seizure. If, upon the sworn complaint of any person, it is made to appear to any judge of the superior court or district court, that there is probable cause to believe that intoxicating liquor is being manufactured, sold, bartered, exchanged, given away, furnished, or otherwise disposed of or kept in violation of the provisions of this title, such judge shall, with or without the approval of the prosecuting attorney, issue a warrant directed to a civil officer of the state duly authorized to enforce or assist in enforcing any law thereof, or to an inspector of the board, commanding the civil officer or inspector to search the premises, room, house, building, boat, vehicle, structure or place designated and described in the complaint and warrant, and to seize all intoxicating liquor there found, together with the vessels in which it is contained, and all implements, furniture, and fixtures used or kept for the illegal manufacture, sale, barter, exchange, giving away, furnishing, or otherwise disposing of the liquor, and to safely keep the same, and to make a return of the warrant within ten days, showing all acts and things done thereunder, with a particular statement of all articles seized and the name of the person or persons in whose possession they were found, if any, and if no person is found in the possession of the articles, the return shall so state. [1987 c 202 § 220; 1955 c 288 § 1; 1955 c 39 § 4. Prior: 1943 c 216 § 3(2), part; 1933 ex.s. c 62 § 33(2), part; Rem. Supp. 1943 § 7306-33(2), part.]

Intent—1987 c 202: See note following RCW 2.04.190.

66.32.030 Service of warrant—Receipt for seized property. A copy of the warrant, together with a detailed receipt for the property taken shall be served upon the person found in possession of any intoxicating liquor, furniture, or fixtures so seized, and if no person is found in possession thereof, a copy of the warrant and receipt shall be left in a conspicuous place upon the premises wherein they are found. [1955 c 39 § 5. Prior: 1943 c 216 § 3(2), part; 1933 ex.s. c 62 § 33(2), part; Rem. Supp. 1943 § 7306-33(2), part.]

66.32.040 Forfeiture of liquor directed if kept unlawfully. All liquor seized pursuant to the authority of a search warrant or an arrest shall, upon adjudication that it was kept in violation of this title, be forfeited and upon forfeiture be disposed of by the agency seizing the liquor. [1993 c 26 § 1; 1955 c 39 § 6. Prior: 1943 c 216 § 3(2), part; 1933 ex.s. c 62 § 23(2), part; Rem. Supp. 1943 § 7306-33(2), part.]

66.32.050 Hearing. Upon the return of the warrant as provided herein, the judge shall fix a time, not less than ten days, and not more than thirty days thereafter, for the hearing of the return, when he or she shall proceed to hear and determine whether or not the articles seized, or any part thereof, were used or in any manner kept or possessed by any person with the intention of violating any of the provisions of this title. [1987 c 202 § 221; 1955 c 39 § 7. Prior: 1943 c 216 § 3(3), part; 1933 ex.s. c 62 § 33(2), part; Rem. Supp. 1943 § 7306-33(3), part.]

Intent—1987 c 202: See note following RCW 2.04.190.

66.32.060 Claimants may appear. At the hearing, any person claiming any interest in any of the articles seized may appear and be heard upon filing a written claim setting forth particularly the character and extent of his or her interest, and the burden shall rest upon the claimant to show, by competent evidence, his or her property right or interest in the articles claimed, and that they were not used in violation of any of the provisions of this title, and were not in any manner kept or possessed with the intention of violating any of its provisions. [2012 c 117 § 283; 1955 c 39 § 8. Prior: 1943 c 216 § 3(3), part; 1933 ex.s. c 62 § 33(2), part; Rem. Supp. 1943 § 7306-33(3), part.]

66.32.070 Judgment of forfeiture—Disposition of proceeds of property sold. If, upon the hearing, the evidence warrants, or, if no person appears as claimant, the judge shall thereupon enter a judgment of forfeiture, and order such articles destroyed forthwith: PROVIDED, That if, in the opinion of the judge, any of the forfeited articles other than intoxicating liquors are of value and adapted to any lawful use, the judge shall, as a part of the order and judgment, direct that the articles other than intoxicating liquor be sold as

upon execution by the officer having them in custody, and the proceeds of the sale after payment of all costs of the proceedings shall be paid into the liquor revolving fund. [1987 c 202 § 222; 1955 c 39 § 9. Prior: 1943 c 216 § 3(3), part; 1933 ex.s. c 62 § 33(2), part; Rem. Supp. 1943 § 7306-33(3), part.]

Intent—1987 c 202: See note following RCW 2.04.190.

66.32.080 Forfeiture action no bar to criminal prosecution. Action under RCW 66.32.010 through 66.32.080 and the forfeiture, destruction, or sale of any articles thereunder shall not bar prosecution under any other provision. [1955 c 39 § 10. Prior: 1943 c 216 § 3(3), part; 1933 ex.s. c 62 § 33(2), part; Rem. Supp. 1943 § 7306-33(3), part.]

66.32.090 Seized liquor to be reported to board. In every case in which liquor is seized by a sheriff or deputy of any county or by a police officer of any municipality or by a member of the Washington state patrol, or any other authorized peace officer or inspector, it shall be the duty of the sheriff or deputy of any county, or chief of police of the municipality, or the chief of the Washington state patrol, as the case may be, to forthwith report in writing to the board of particulars of such seizure. [1993 c 26 § 2; 1987 c 202 § 223; 1935 c 174 § 8; 1933 ex.s. c 62 § 55; RRS § 7306-55.]

Intent—1987 c 202: See note following RCW 2.04.190.

Chapter 66.36 RCW
ABATEMENT PROCEEDINGS

Sections

66.36.010 Places where liquor unlawfully kept declared a nuisance—Abatement of activity and realty—Judgment—Bond to reopen.

66.36.010 Places where liquor unlawfully kept declared a nuisance—Abatement of activity and realty—Judgment—Bond to reopen. Any room, house, building, boat, vehicle, structure, or place, except premises licensed under this title, where liquor, as defined in this title, is manufactured, kept, sold, bartered, exchanged, given away, furnished, or otherwise disposed of in violation of the provisions of this title or of the laws of this state relating to the manufacture, importation, transportation, possession, distribution, and sale of liquor, and all property kept in and used in maintaining such a place, are hereby declared to be a common nuisance. The prosecuting attorney of the county in which such nuisance is situated shall institute and maintain an action in the superior court of such county in the name of the state of Washington to abate and perpetually enjoin such nuisance. The plaintiff shall not be required to give bond in such action, and restraining orders, temporary injunctions, and permanent injunctions may be granted in said cause as in other injunction proceedings, and upon final judgment against the defendant, such court may also order that said room, house, building, boat, vehicle, structure, or place, shall be closed for a period of one year; or until the owner, lessee, tenant, or occupant thereof shall give bond with sufficient surety, to be approved by the court making the order, in the penal sum of not less than one thousand dollars payable to the state of Washington, and conditioned that liquor will not thereafter be manufactured, kept, sold, bartered, exchanged, given away, furnished, or otherwise disposed of thereon or therein in violation of the provisions of this title or of the laws of this state relating to the manufacture, importation, transportation, possession, distribution, and sale of liquor, and that he or she will pay all fines, costs, and damages assessed against him or her for any violation of this title or of the laws of this state relating to the manufacture, importation, transportation, possession, distribution, and sale of liquor. If any condition of such bond be violated, the whole amount may be recovered as a penalty for the use of the county wherein the premises are situated.

In all cases where any person has been convicted of a violation of this title or the laws of this state relating to the manufacture, importation, transportation, possession, distribution, and sale of liquor an action may be brought in the superior court of the county in which the premises are situated, to abate as a nuisance any real estate or other property involved in the commission of said offense, and in any such action a certified copy of the record of such conviction shall be admissible in evidence and prima facie evidence that the room, house, building, boat, vehicle, structure, or place against which such action is brought is a public nuisance.

[2012 c 117 § 284; 1939 c 172 § 9 (adding new section 33-A to 1933 ex.s. c 62); RRS § 7306-33A. Formerly RCW 66.36.010 through 66.36.040.]

Chapter 66.40 RCW
LOCAL OPTION

Sections

66.40.010 Local option units.
66.40.020 Election may be held.
66.40.030 License elections.
66.40.040 Petition for election—Contents—Procedure—Signatures, filing, form, copies, fees, etc.—Public inspection.
66.40.100 Check of petitions.
66.40.110 Form of ballot.
66.40.120 Canvass of votes—Effect.
66.40.130 Effect of election as to licenses.
66.40.140 Certificate of result to board—Grace period—Permitted activities.
66.40.150 Concurrent liquor elections in same election unit prohibited.

66.40.010 Local option units. For the purpose of an election upon the question of whether the sale of liquors shall be permitted, the election unit shall be any incorporated city or town, or all that portion of any county not included within the limits of incorporated cities and towns. [1957 c 263 § 3. Prior: (i) 1933 ex.s. c 62 § 82; RRS § 7306-82. (ii) 1949 c 5 § 2, part (adding new section 23-S-2 to 1933 ex.s. c 62); Rem. Supp. 1949 § 7306-23S-2, part.]

Additional notes found at www.leg.wa.gov

66.40.020 Election may be held. Within any unit referred to in RCW 66.40.010, upon compliance with the conditions hereinafter prescribed, there may be held, at the time and as a part of any general election, an election upon the question of whether the sale of liquor shall be permitted within such unit; and in the event that any such election is held in any such unit, no other election under this section shall be held prior to the next succeeding general election. [1933 ex.s. c 62 § 83; RRS § 7306-83.]

66.40.030 License elections. Within any unit referred to in RCW 66.40.010, there may be held a separate election upon the question of whether the sale of liquor under spirits, beer, and wine restaurant; spirits, beer, and wine private club; spirits, beer, and wine nightclub; and sports entertainment facility licenses, shall be permitted within such unit. The conditions and procedure for holding such election shall be those prescribed by RCW 66.40.020, 66.40.040, 66.40.100, 66.40.110 and 66.40.120. Whenever a majority of qualified voters voting upon said question in any such unit shall have voted "against the sale of liquor under spirits, beer, and wine restaurant; spirits, beer, and wine private club; spirits, beer, and wine nightclub; and sports entertainment facility licenses", the county auditor shall file with the liquor control board a certificate showing the result of the canvass at such election; and after ninety days from and after the date of the canvass, it shall not be lawful for licensees to maintain and operate premises within the election unit licensed under spirits, beer, and wine restaurant; spirits, beer, and wine private club; spirits, beer, and wine nightclub; and sports entertainment facility licenses. The addition after an election under this section of new territory to a city, town, or county, by annexation, disincorporation, or otherwise, shall not extend the prohibition against the sale of liquor under spirits, beer, and wine restaurant; spirits, beer, and wine private club; spirits, beer, and wine nightclub; and sports entertainment facility licenses to the new territory. Elections held under RCW 66.40.010, 66.40.020, 66.40.040, 66.40.100, 66.40.110, 66.40.120 and 66.40.140, shall be limited to the question of whether the sale of liquor by means other than under spirits, beer, and wine restaurant; spirits, beer, and wine private club; spirits, beer, and wine nightclub; and sports entertainment facility licenses shall be permitted within such election unit. [2009 c 271 § 9; 1999 c 281 § 8; 1994 c 55 § 1; 1949 c 5 § 12 (adding new section 83-A to 1933 ex.s. c 62); Rem. Supp. 1949 § 7306-83A.]

Additional notes found at www.leg.wa.gov

66.40.040 Petition for election—Contents—Procedure—Signatures, filing, form, copies, fees, etc.—Public inspection. Any unit referred to in RCW 66.40.010 may hold such election upon the question of whether the sale of liquor shall be permitted within the boundaries of such unit, upon the filing with the county auditor of the county within which such unit is located, of a petition subscribed by qualified electors of the unit equal in number to at least thirty percent of the electors voting at the last general election within such unit. Such petition shall designate the unit in which the election is desired to be had, the date upon which the election is desired to be held, and the question that is desired to be submitted. The persons signing such a petition shall state their post office address, the name or number of the precinct in which they reside, and in case the subscriber be a resident of a city, the street and house number, if any, of his or her residence, and the date of signature. Said petition shall be filed not less than sixty days nor more than ninety days prior to the date upon which the election is to be held. No signature shall be valid unless the above requirements are complied with, and unless the date of signing the same is less than ninety days preceding the date of filing. No signature shall be withdrawn after the filing of such petition. Such petition may consist of one or more sheets and shall be fastened together as one document, filed as a whole, and when filed shall not be withdrawn or added to. Such petition shall be a public document and shall be subject to the inspection of the public. Upon the request of anyone filing such a petition and paying, or tendering to the county auditor one dollar for each hundred names, or fraction thereof, signed thereto, together with a copy thereof, said county auditor shall immediately compare the original and copy and attach to such copy and deliver to such person his or her official certificate that such copy is a true copy of the original, stating the date when such original was filed in his or her office; and said officer shall furnish, upon the demand of any person, a copy of said petition, upon payment of the same fee required for the filing of original

petitions. [2012 c 117 § 285; 1933 ex.s. c 62 § 84; RRS § 7306-84. Formerly RCW 66.40.040 through 66.40.090.]

66.40.100 Check of petitions. Upon the filing of a petition as hereinbefore provided, the county auditor with whom it is filed shall cause the names on said petition to be compared with the names on the voters' official registration records provided for by law with respect to such unit. The officer or deputy making the comparison shall place his or her initials in ink opposite the signatures of those persons who are shown by such registration records to be legal voters and shall certify that the signatures so initialed are the signatures of legal voters of the state of Washington and of said unit, and shall sign such certificate. In the event that said petition, after such comparison, shall be found to have been signed by the percentage of legal voters of said unit referred to in RCW 66.40.040, the question shall be placed upon the ballot at the next general election. [2012 c 117 § 286; 1933 ex.s. c 62 § 85; RRS § 7306-85.]

66.40.110 Form of ballot. Upon the ballot to be used at such general election the question shall be submitted in the following form:

"Shall the sale of liquor be permitted within . . . . . (here specify the unit in which election is to be held)." Immediately below said question shall be placed the alternative answers, as follows:

"For sale of liquor . . . . . .( )
Against sale of liquor . . . . . .( )."

Each person desiring to vote in favor of permitting the sale of liquor within the unit in which the election is to be held shall designate his or her choice beside the words "For sale of liquor," and those desiring to vote against the permitting of the sale of liquor within such unit shall designate their choice beside the words "Against sale of liquor," and the ballot shall be counted accordingly. [2012 c 117 § 287; 1933 ex.s. c 62 § 86; RRS § 7306-86.]

66.40.120 Canvass of votes—Effect. The returns of any such election shall be canvassed in the manner provided by law. If the majority of qualified electors voting upon said question at said election shall have voted "For sale of liquor" within the unit in which the election is held, the sale of liquor may be continued in accordance with the provisions of this title. If the majority of the qualified electors voting on such question at any such election shall vote "Against sale of liquor", then, within thirty days after such canvass no sale or purchase of liquor, save as herein provided, shall be made within such unit until such permission so to do be subsequently granted at an election held for that purpose under the provisions of this title. [1933 ex.s. c 62 § 87; RRS § 7306-87.]

66.40.130 Effect of election as to licenses. Ninety days after December 2, 1948, spirits, beer, and wine restaurant; spirits, beer, and wine private club; spirits, beer, and wine nightclub; and sports entertainment facility licenses may be issued in any election unit in which the sale of liquor is then lawful. No spirits, beer, and wine restaurant; spirits, beer, and wine private club; spirits, beer, and wine nightclub; and sports entertainment facility license shall be issued in any election unit in which the sale of liquor is forbidden as the result of an election held under RCW 66.40.010, 66.40.020, 66.40.040, 66.40.100, 66.40.110, 66.40.120 and 66.40.140, unless a majority of the qualified electors in such election unit voting upon this initiative at the general election in November, 1948, vote in favor of this initiative, or unless at a subsequent general election in which the question of whether the sale of liquor under spirits, beer, and wine restaurant; spirits, beer, and wine private club; spirits, beer, and wine nightclub; and sports entertainment facility licenses shall be permitted within such unit is submitted to the electorate, as provided in RCW 66.40.030, a majority of the qualified electors voting upon such question vote "for the sale of liquor under spirits, beer, and wine restaurant; spirits, beer, and wine private club; spirits, beer, and wine nightclub; and sports entertainment facility licenses." [2009 c 271 § 10; 1999 c 281 § 9; 1949 c 5 § 13 (adding new section 87-A to 1933 ex.s. c 62); Rem. Supp. 1949 § 7306-87A.]

Additional notes found at www.leg.wa.gov

66.40.140 Certificate of result to board—Grace period—Permitted activities. Whenever a majority of qualified voters voting upon said question in any such unit shall have voted "Against sale of liquor," the county auditor shall file with the liquor control board a certificate showing the result of the canvass at such election; and thereafter, except as hereinafter provided, it shall not be lawful for a liquor store to be operated therein nor for licensees to maintain and operate licensed premises therein except as hereinafter provided:

(1) As to any stores maintained by the board within any such unit at the time of such licensing, the board shall have a period of thirty days from and after the date of the canvass of the vote upon such election to continue operation of its store or stores therein.

(2) As to any premises licensed hereunder within any such unit at the time of such election, such licensee shall have a period of sixty days from and after the date of the canvass of the vote upon such election in which to discontinue operation of its store or stores therein.

(3) Nothing herein contained shall prevent any distillery, brewery, rectifying plant or winery or the licensed operators thereof from selling its manufactured product, manufactured within such unit, outside the boundaries thereof.

(4) Nothing herein contained shall prevent any person residing in any unit in which the sale of liquor shall have been forbidden by popular vote as herein provided, who is otherwise qualified to receive and hold a permit under this title, from lawfully purchasing without the unit and transporting into or receiving within the unit, liquor lawfully purchased by him or her outside the boundaries of such unit. [2012 c 117 § 288; 1933 ex.s. c 62 § 88; RRS § 7306-88.]

66.40.150 Concurrent liquor elections in same election unit prohibited. No election in any unit referred to in RCW 66.40.010, 66.40.020, 66.40.040, 66.40.100, 66.40.110, 66.40.120 and 66.40.140, upon the question of whether the sale of liquor shall be permitted within the boundaries of such unit shall be held at the same time as an election is held in the same unit upon the question of whether the sale of liquor under the provisions of RCW 66.40.030

shall be permitted. In the event valid and sufficient petitions are filed which would otherwise place both questions on the same ballot that question upon which the petition was filed with the county auditor first shall be placed on the ballot to the exclusion of the other. [1949 c 93 § 1 (adding new section 88-A to 1933 ex.s. c 62); Rem. Supp. 1949 § 7306-88A.]

Chapter 66.44 RCW
ENFORCEMENT—PENALTIES

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Minors

access to tobacco, role of liquor control board: Chapter 70.155 RCW.

prohibited to enter bars or taverns: RCW 26.28.080.

Sale or gift of tobacco to persons under certain age is gross misdemeanor: RCW 26.28.080.

State institutions, bringing in liquor prohibited: RCW 72.23.300.

66.44.010 Local officers to enforce law—Authority of board—Liquor enforcement officers. (1) All county and municipal peace officers are hereby charged with the duty of investigating and prosecuting all violations of this title, and the penal laws of this state relating to the manufacture, importation, transportation, possession, distribution and sale of liquor, and all fines imposed for violations of this title and the penal laws of this state relating to the manufacture, importation, transportation, possession, distribution and sale of liquor shall belong to the county, city or town wherein the court imposing the fine is located, and shall be placed in the general fund for payment of the salaries of those engaged in the enforcement of the provisions of this title and the penal laws of this state relating to the manufacture, importation, transportation, possession, distribution and sale of liquor: PROVIDED, That all fees, fines, forfeitures and penalties collected or assessed by a district court because of the violation of a state law shall be remitted as provided in chapter 3.62 RCW as now exists or is later amended.

(2) In addition to any and all other powers granted, the board shall have the power to enforce the penal provisions of this title and the penal laws of this state relating to the manufacture, importation, transportation, possession, distribution and sale of liquor.

(3) In addition to the other duties under this section, the board shall enforce chapters 82.24 and 82.26 RCW.

(4) The board may appoint and employ, assign to duty and fix the compensation of, officers to be designated as liquor enforcement officers. Such liquor enforcement officers shall have the power, under the supervision of the board, to enforce the penal provisions of this title and the penal laws of this state relating to the manufacture, importation, transportation, possession, distribution and sale of liquor. They shall have the power and authority to serve and execute all warrants and process of law issued by the courts in enforcing the penal provisions of this title or of any penal law of this state relating to the manufacture, importation, transportation, possession, distribution and sale of liquor, and the provisions of chapters 82.24 and 82.26 RCW. They shall have the power to arrest without a warrant any person or persons found in the act of violating any of the penal provisions of this title or of any penal law of this state relating to the manufacture, importation, transportation, possession, distribution and sale of liquor, and the provisions of chapters 82.24 and 82.26 RCW. [1998 c 18 § 1; 1987 c 202 § 224; 1969 ex.s. c 199 § 28; 1939 c 172 § 5; 1935 c 174 § 11; 1933 ex.s. c 62 § 70; RRS § 7306-70. Formerly RCW 66.44.010 through 66.44.030.]

Intent—1987 c 202: See note following RCW 2.04.190.

66.44.040 Sufficiency of description of offenses in complaints, informations, process, etc. In describing the offense respecting the sale, or keeping for sale or other disposal, of liquor, or the having, keeping, giving, purchasing or consumption of liquor in any information, summons, conviction, warrant, or proceeding under this title, it shall be sufficient to simply state the sale, or keeping for sale or disposal,

having, keeping, giving, purchasing, or consumption of liquor, without stating the name or kind of such liquor or the price thereof, or to whom it was sold or disposed of, or by whom consumed, or from whom it was purchased or received; and it shall not be necessary to state the quantity of liquor so sold, kept for sale, disposed of, had, kept, given, purchased, or consumed, except in the case of offenses where the quantity is essential, and then it shall be sufficient to allege the sale or disposal of more or less than such quantity. [1933 ex.s. c 62 § 57; RRS § 7306-57.]

66.44.050 Description of offense in words of statutes—Proof required. The description of any offense under this title, in the words of this title, or in any words of like effect, shall be sufficient in law; and any exception, exemption, provision, excuse, or qualification, whether it occurs by way of proviso or in the description of the offense in this title, may be proved by the defendant, but need not be specified or negatived in the information; but if it is so specified or negatived, no proof in relation to the matter so specified or negatived shall be required on the part of the informant or complainant. [1933 ex.s. c 62 § 58; RRS § 7306-58.]

66.44.060 Proof of unlawful sale establishes prima facie intent. In any proceeding under this title, proof of one unlawful sale of liquor shall suffice to establish prima facie the intent or purpose of unlawfully keeping liquor for sale in violation of this title. [1933 ex.s. c 62 § 59; RRS § 7306-59.]

66.44.070 Certified analysis is prima facie evidence of alcoholic content. A certificate, signed by any person appointed or designated by the board in writing as an analyst, as to the percentage of alcohol contained in any liquid, drink, liquor, or combination of liquors, when produced in any court or before any court shall be prima facie evidence of the percentage of alcohol contained therein. [1933 ex.s. c 62 § 60; RRS § 7306-60.]

66.44.080 Service of process on corporation. In all prosecutions, actions, or proceedings under the provisions of this title against a corporation, every summons, warrant, order, writ or other proceeding may be served on the corporation in the same manner as is now provided by law for service of civil process. [1933 ex.s. c 62 § 61; RRS § 7306-61.]

66.44.090 Acting without license. Any person doing any act required to be licensed under this title without having in force a license issued to him or her shall be guilty of a gross misdemeanor. [2012 c 117 § 289; 1955 c 289 § 2. Prior: (i) 1933 ex.s. c 62 § 28; RRS § 7306-28.(ii) 1939 c 172 § 6(1); 1935 c 174 § 6(1); 1933 ex.s. c 62 § 92(1); RRS § 7306-92(1).]

66.44.100 Opening or consuming liquor in public place—Penalty. Except as permitted by this title, no person shall open the package containing liquor or consume liquor in a public place. Every person who violates any provision of this section shall be guilty of a class 3 civil infraction under chapter 7.80 RCW. [1999 c 189 § 3; 1981 1st ex.s. c 5 § 21; 1933 ex.s. c 62 § 34; RRS § 7306-34.]

Additional notes found at www.leg.wa.gov

66.44.120 Unlawful use of seal. (1) No person other than an employee of the board may keep or have in his or her possession any official seal adopted by the board under this title, unless the same is attached to a package in accordance with the law; nor may any person keep or have in his or her possession any design in imitation of any official seal prescribed under this title, or calculated to deceive by its resemblance thereto, or any paper upon which any design in imitation thereof, or calculated to deceive as aforesaid, is stamped, engraved, lithographed, printed, or otherwise marked.

(2)(a) Except as provided in (b) of this subsection, every person who willfully violates this section is guilty of a gross misdemeanor and is liable on conviction thereof for a first offense to imprisonment in the county jail for a period of not less than three months nor more than six months, without the option of the payment of a fine, and for a second offense, to imprisonment in the county jail for not less than six months nor more than three hundred sixty-four days, without the option of the payment of a fine.

(b) A third or subsequent offense is a class C felony, punishable by imprisonment in a state correctional facility for not less than one year nor more than two years. [2012 c 2 § 209 (Initiative Measure No. 1183, approved November 8, 2011); 2011 c 96 § 46; 2005 c 151 § 11; 2003 c 53 § 299; 1992 c 7 § 42; 1933 ex.s. c 62 § 47; RRS § 7306-47.]

Finding—Application—Rules—Effective date—Contingent effective date—2012 c 2 (Initiative Measure No. 1183): See notes following RCW 66.24.620.

Findings—Intent—2011 c 96: See note following RCW 9A.20.021.

Intent—Effective date—2003 c 53: See notes following RCW 2.48.180.

66.44.130 Sales of liquor by drink or bottle. Except as otherwise provided in this title, every person who sells by the drink or bottle, any liquor shall be guilty of a violation of this title. [1955 c 289 § 3. Prior: 1939 c 172 § 6(2); 1935 c 174 § 15(2); 1933 ex.s. c 62 § 92(2); RRS § 7306-92(2).]

66.44.140 Unlawful sale, transportation of spirituous liquor without stamp or seal—Unlawful operation, possession of still or mash. Every person who shall sell or offer for sale, or transport in any manner, any spirituous liquor, without government stamp or seal attached thereto, or who shall operate without a license, any still or other device for the production of spirituous liquor, or shall have in his or her possession or under his or her control any mash capable of being distilled into spirituous liquor except as provided in RCW 66.12.130, shall be guilty of a gross misdemeanor and upon conviction thereof shall upon his or her first conviction be fined not less than five hundred dollars and confined in the county jail not less than six months, and upon second and subsequent conviction shall be fined not less than one thousand dollars and confined in the county jail not less than one year. [2012 c 117 § 290; 1980 c 140 § 4; 1955 c 289 § 4. Prior: 1939 c 172 § 6(3); 1935 c 174 § 15(3); 1933 ex.s. c 62 § 92(3); RRS § 7306-92(3).]

66.44.150 Buying liquor illegally. If any person in this state buys alcoholic beverages from any person other than a person authorized by the board to sell alcoholic beverages, he or she is guilty of a misdemeanor. [2012 c 2 § 210 (Initiative Measure No. 1183, approved November 8, 2011); 1955 c 289

§ 5. Prior: 1939 c 172 § 6(4); 1935 c 174 § 15(4); 1933 ex.s. c 62 § 92(4); RRS § 7306-92(4).]

Finding—Application—Rules—Effective date—Contingent effective date—2012 c 2 (Initiative Measure No. 1183): See notes following RCW 66.24.620.

66.44.160 Illegal possession, transportation of alcoholic beverages. Except as otherwise provided in this title, any person who has or keeps or transports alcoholic beverages other than those purchased from the board, a state liquor store, or some person authorized by the board to sell them, shall be guilty of a violation of this title. [1955 c 289 § 6. Prior: 1939 c 172 § 6(5); 1935 c 174 § 15(5); 1933 ex.s. c 62 § 92(5); RRS § 7306-92(5).]

66.44.170 Illegal possession of liquor with intent to sell—Prima facie evidence, what is. Any person who keeps or possesses liquor upon his or her person or in any place, or on premises conducted or maintained by him or her as principal or agent with the intent to sell it contrary to provisions of this title, shall be guilty of a violation of this title. The possession of liquor by the principal or agent on premises conducted or maintained, under federal authority, as a retail dealer in liquors, shall be prima facie evidence of the intent to sell liquor. [2012 c 117 § 291; 1955 c 289 § 7. Prior: 1937 c 144 § 1 (adding new section 92A to 1933 ex.s. c 62); RRS § 7306-92A.]

66.44.175 Violations of law. Every person who violates any provision of this title or the regulations shall be guilty of a violation of this title, whether otherwise declared or not. [1933 ex.s. c 62 § 91; RRS § 7306-91.]

66.44.180 General penalties—Jurisdiction for violations. (1) Every person guilty of a violation of this title for which no penalty has been specifically provided:

(a) For a first offense, is guilty of a misdemeanor punishable by a fine of not more than five hundred dollars, or by imprisonment for not more than two months, or both;

(b) For a second offense, is guilty of a gross misdemeanor punishable by imprisonment for not more than six months; and

(c) For a third or subsequent offense, is guilty of a gross misdemeanor punishable by imprisonment for up to three hundred sixty-four days.

(2) If the offender convicted of an offense referred to in this section is a corporation, it shall for a first offense be liable to a penalty of not more than five thousand dollars, and for a second or subsequent offense to a penalty of not more than ten thousand dollars, or to forfeiture of its corporate license, or both.

(3) Every district judge and municipal judge shall have concurrent jurisdiction with superior court judges of the state of Washington of all violations of the provisions of this title and may impose any punishment provided therefor. [2011 c 96 § 47; 2003 c 53 § 300; 1987 c 202 § 225; 1981 1st ex.s. c 5 § 22; 1935 c 174 § 16; 1933 ex.s. c 62 § 93; RRS § 7306-93.]

Findings—Intent—2011 c 96: See note following RCW 9A.20.021.

Intent—Effective date—2003 c 53: See notes following RCW 2.48.180.

Intent—1987 c 202: See note following RCW 2.04.190.

Additional notes found at www.leg.wa.gov

66.44.193 Sales on university or college campus. If an institution of higher education chooses to allow the sale of alcoholic beverages on campus, the legislature encourages the institution to feature products produced in the state of Washington. [2003 c 51 § 2.]

66.44.200 Sales to persons apparently under the influence of liquor—Purchases or consumption by persons apparently under the influence of liquor on licensed premises—Penalty—Notice—Separation of actions. (1) No person shall sell any liquor to any person apparently under the influence of liquor.

(2)(a) No person who is apparently under the influence of liquor may purchase or consume liquor on any premises licensed by the board.

(b) A violation of this subsection is an infraction punishable by a fine of not more than five hundred dollars.

(c) A defendant's intoxication may not be used as a defense in an action under this subsection.

(d) Until July 1, 2000, every establishment licensed under RCW 66.24.330 or 66.24.420 shall conspicuously post in the establishment notice of the prohibition against the purchase or consumption of liquor under this subsection.

(3) An administrative action for violation of subsection (1) of this section and an infraction issued for violation of subsection (2) of this section arising out of the same incident are separate actions and the outcome of one shall not determine the outcome of the other. [1998 c 259 § 1; 1933 ex.s. c 62 § 36; RRS § 7306-36.]

66.44.210 Obtaining liquor for ineligible person. Except in the case of liquor administered by a physician or dentist or sold upon a prescription in accordance with the provisions of this title, no person shall procure or supply, or assist directly or indirectly in procuring or supplying, liquor for or to anyone whose permit is suspended or has been canceled. [1933 ex.s. c 62 § 38; RRS § 7306-38.]

66.44.240 Drinking in public conveyance—Penalty against carrier—Exception. Every person engaged wholly or in part in the business of carrying passengers for hire, and every agent, servant, or employee of such person, who knowingly permits any person to drink any intoxicating liquor in any public conveyance, except in the compartment where such liquor is sold or served under the authority of a license lawfully issued, is guilty of a misdemeanor. This section does not apply to a public conveyance that is commercially chartered for group use or a for-hire vehicle licensed under city, county, or state law. [1983 c 165 § 29; 1909 c 249 § 442; RRS § 2694.]

Legislative finding, intent—Effective dates—Severability—1983 c 165: See notes following RCW 46.20.308.

Alcoholic beverages, drinking or open container in vehicle on highway, exceptions: RCW 46.61.519.

66.44.250 Drinking in public conveyance—Penalty against individual—Restricted application. Every person who drinks any intoxicating liquor in any public conveyance,

except in a compartment or place where sold or served under the authority of a license lawfully issued, is guilty of a misdemeanor. With respect to a public conveyance that is commercially chartered for group use and with respect to a for-hire vehicle licensed under city, county, or state law, this section applies only to the driver of the vehicle. [1983 c 165 § 30; 1909 c 249 § 441; RRS § 2693.]

Legislative finding, intent—Effective dates—Severability—1983 c 165: See notes following RCW 46.20.308.

Alcoholic beverages, drinking or open container in vehicle on highway, exceptions: RCW 46.61.519.

66.44.265 Candidates giving or purchasing liquor on election day prohibited. It shall be unlawful for a candidate for office or for nomination thereto whose name appears upon the ballot at any election to give to or purchase for another person, not a member of his or her family, any liquor in or upon any premises licensed by the state for the sale of any such liquor by the drink during the hours that the polls are open on the day of such election. [1971 ex.s. c 112 § 2.]

66.44.270 Furnishing liquor to minors—Possession, use—Penalties—Exhibition of effects—Exceptions. (1) It is unlawful for any person to sell, give, or otherwise supply liquor to any person under the age of twenty-one years or permit any person under that age to consume liquor on his or her premises or on any premises under his or her control. For the purposes of this subsection, "premises" includes real property, houses, buildings, and other structures, and motor vehicles and watercraft. A violation of this subsection is a gross misdemeanor punishable as provided for in chapter 9A.20 RCW.

(2)(a) It is unlawful for any person under the age of twenty-one years to possess, consume, or otherwise acquire any liquor. A violation of this subsection is a gross misdemeanor punishable as provided for in chapter 9A.20 RCW.

(b) It is unlawful for a person under the age of twenty-one years to be in a public place, or to be in a motor vehicle in a public place, while exhibiting the effects of having consumed liquor. For purposes of this subsection, exhibiting the effects of having consumed liquor means that a person has the odor of liquor on his or her breath and either: (i) Is in possession of or close proximity to a container that has or recently had liquor in it; or (ii) by speech, manner, appearance, behavior, lack of coordination, or otherwise, exhibits that he or she is under the influence of liquor. This subsection (2)(b) does not apply if the person is in the presence of a parent or guardian or has consumed or is consuming liquor under circumstances described in subsection (4), (5), or (6) of this section.

(3) Subsections (1) and (2)(a) of this section do not apply to liquor given or permitted to be given to a person under the age of twenty-one years by a parent or guardian and consumed in the presence of the parent or guardian. This subsection shall not authorize consumption or possession of liquor by a person under the age of twenty-one years on any premises licensed under chapter 66.24 RCW.

(4) This section does not apply to liquor given for medicinal purposes to a person under the age of twenty-one years by a parent, guardian, physician, or dentist.

(5) This section does not apply to liquor given to a person under the age of twenty-one years when such liquor is being used in connection with religious services and the amount consumed is the minimal amount necessary for the religious service.

(6)(a) A person under the age of twenty-one years acting in good faith who seeks medical assistance for someone experiencing alcohol poisoning shall not be charged or prosecuted under subsection (2)(a) of this section, if the evidence for the charge was obtained as a result of the person seeking medical assistance.

(b) A person under the age of twenty-one years who experiences alcohol poisoning and is in need of medical assistance shall not be charged or prosecuted under subsection (2)(a) of this section, if the evidence for the charge was obtained as a result of the poisoning and need for medical assistance.

(c) The protection in this subsection shall not be grounds for suppression of evidence in other criminal charges.

(7) Conviction or forfeiture of bail for a violation of this section by a person under the age of twenty-one years at the time of such conviction or forfeiture shall not be a disqualification of that person to acquire a license to sell or dispense any liquor after that person has attained the age of twenty-one years. [2013 c 112 § 2; 1998 c 4 § 1; 1993 c 513 § 1; 1987 c 458 § 3; 1955 c 70 § 2. Prior: 1935 c 174 § 6(1); 1933 ex.s. c 62 § 37(1); RRS § 7306-37(1); prior: Code 1881 § 939; 1877 p 205 § 5.]

Intent—2013 c 112: "The legislature intends to save lives by increasing timely medical attention to alcohol poisoning victims through the establishment of limited immunity from prosecution for people under the age of twenty-one years who seek medical assistance in alcohol poisoning situations. Dozens of alcohol poisonings occur each year in Washington state. Many of these incidents occur because people delay or forego seeking medical assistance for fear of arrest or police involvement, which researchers continually identify as a significant barrier to the ideal response of calling 911." [2013 c 112 § 1.]

Minors, access to tobacco, role of liquor control board: Chapter 70.155 RCW.

Additional notes found at www.leg.wa.gov

66.44.280 Minor applying for permit. Every person under the age of twenty-one years who makes application for a permit shall be guilty of an offense against this title. [1955 c 70 § 3. Prior: 1935 c 174 § 6(2); 1933 ex.s. c 62 § 37(2); RRS § 7306-37(2).]

66.44.290 Minor purchasing or attempting to purchase liquor—Penalty. (1) Every person under the age of twenty-one years who purchases or attempts to purchase liquor shall be guilty of a violation of this title. This section does not apply to persons between the ages of eighteen and twenty-one years who are participating in a controlled purchase program authorized by the liquor control board under rules adopted by the board. Violations occurring under a private, controlled purchase program authorized by the liquor control board may not be used for criminal or administrative prosecution.

(2) An employer who conducts an in-house controlled purchase program authorized under this section shall provide his or her employees a written description of the employer's in-house controlled purchase program. The written descrip-

tion must include notice of actions an employer may take as a consequence of an employee's failure to comply with company policies regarding the sale of alcohol during an in-house controlled purchase.

(3) An in-house controlled purchase program authorized under this section shall be for the purposes of employee training and employer self-compliance checks. An employer may not terminate an employee solely for a first-time failure to comply with company policies regarding the sale of alcohol during an in-house controlled purchase program authorized under this section.

(4) Every person between the ages of eighteen and twenty, inclusive, who is convicted of a violation of this section is guilty of a misdemeanor punishable as provided by RCW 9A.20.021, except that a minimum fine of two hundred fifty dollars shall be imposed and any sentence requiring community restitution shall require not fewer than twenty-five hours of community restitution. [2003 c 53 § 301; 2001 c 295 § 1; 1965 c 49 § 1; 1955 c 70 § 4. Prior: 1935 c 174 § 6(1); 1933 ex.s. c 62 § 37(1); RRS § 7306-37(1).]

Intent—Effective date—2003 c 53: See notes following RCW 2.48.180.

66.44.292 Sales to minors by licensee or employee—Board notification to prosecuting attorney to formulate charges against minors. The Washington state liquor control board shall furnish notification of any hearing or hearings held, wherein any licensee or his or her employee is found to have sold liquor to a minor, to the prosecuting attorney of the county in which the sale took place, upon which the prosecuting attorney may formulate charges against said minor or minors for such violation of RCW 66.44.290 as may appear. [2012 c 117 § 292; 1981 1st ex.s. c 5 § 23; 1965 c 49 § 3.]

Additional notes found at www.leg.wa.gov

66.44.300 Treats, gifts, purchases of liquor for or from minor, or holding out minor as at least twenty-one, in public place where liquor sold. Any person who invites a minor into a public place where liquor is sold and treats, gives or purchases liquor for such minor, or permits a minor to treat, give or purchase liquor for the adult; or holds out such minor to be twenty-one years of age or older to the owner or employee of the liquor establishment, a law enforcement officer, or a liquor enforcement officer shall be guilty of a misdemeanor. [1994 c 201 § 7; 1941 c 78 § 1; Rem. Supp. 1941 § 7306-37A.]

66.44.310 Minors frequenting off-limits area—Misrepresentation of age—Penalty—Classification of licensees. (1) Except as otherwise provided by RCW 66.44.316, 66.44.350, and 66.24.590, it shall be a misdemeanor:

(a) To serve or allow to remain in any area classified by the board as off-limits to any person under the age of twenty-one years;

(b) For any person under the age of twenty-one years to enter or remain in any area classified as off-limits to such a person, but persons under twenty-one years of age may pass through a restricted area in a facility holding a spirits, beer, and wine private club license;

(c) For any person under the age of twenty-one years to represent his or her age as being twenty-one or more years for the purpose of purchasing liquor or securing admission to, or remaining in any area classified by the board as off-limits to such a person.

(2) The Washington state liquor control board shall have the power and it shall be its duty to classify licensed premises or portions of licensed premises as off-limits to persons under the age of twenty-one years of age. [2007 c 370 § 12; 1998 c 126 § 14; 1997 c 321 § 53; 1994 c 201 § 8; 1981 1st ex.s. c 5 § 24; 1943 c 245 § 1 (adding new section 36-A to 1933 ex.s. c 62); Rem. Supp. 1943 § 7306-36A. Formerly RCW 66.24.130 and 66.44.310.]

Effective date—2007 c 370 §§ 10-20: See note following RCW 66.04.010.

Minors, access to tobacco, role of liquor control board: Chapter 70.155 RCW.

Additional notes found at www.leg.wa.gov

66.44.316 Certain persons eighteen years and over permitted to enter and remain upon licensed premises during employment. It is lawful for:

(1) Professional musicians, professional disc jockeys, or professional sound or lighting technicians actively engaged in support of professional musicians or professional disc jockeys, eighteen years of age and older, to enter and to remain in any premises licensed under the provisions of Title 66 RCW, but only during and in the course of their employment as musicians, disc jockeys, or sound or lighting technicians;

(2) Persons eighteen years of age and older performing janitorial services to enter and remain on premises licensed under the provisions of Title 66 RCW when the premises are closed but only during and in the course of their performance of janitorial services;

(3) Employees of amusement device companies, which employees are eighteen years of age or older, to enter and to remain in any premises licensed under the provisions of Title 66 RCW, but only during and in the course of their employment for the purpose of installing, maintaining, repairing, or removing an amusement device. For the purposes of this section amusement device means coin-operated video games, pinball machines, juke boxes, or other similar devices; and

(4) Security and law enforcement officers, and firefighters eighteen years of age or older to enter and to remain in any premises licensed under Title 66 RCW, but only during and in the course of their official duties and only if they are not the direct employees of the licensee. However, the application of the [this] subsection to security officers is limited to casual, isolated incidents arising in the course of their duties and does not extend to continuous or frequent entering or remaining in any licensed premises.

This section shall not be construed as permitting the sale or distribution of any alcoholic beverages to any person under the age of twenty-one years. [1985 c 323 § 1; 1984 c 136 § 1; 1980 c 22 § 1; 1973 1st ex.s. c 96 § 1.]

66.44.318 Employees aged eighteen to twenty-one stocking, merchandising, and handling beer and wine. Licensees holding nonretail class liquor licenses are permitted to allow their employees between [the] ages of eighteen and twenty-one to stock, merchandise, and handle beer or wine on or about the nonretail premises if there is an adult

twenty-one years of age or older on duty supervising such activities on the premises. [1995 c 100 § 2.]

66.44.325 Unlawful transfer to minor of age identification. Any person who transfers in any manner an identification of age to a minor for the purpose of permitting such minor to obtain alcoholic beverages shall be guilty of a misdemeanor punishable as provided by RCW 9A.20.021, except that a minimum fine of two hundred fifty dollars shall be imposed and any sentence requiring community restitution shall require not fewer than twenty-five hours of community restitution: PROVIDED, That corroborative testimony of a witness other than the minor shall be a condition precedent to conviction. [2002 c 175 § 43; 1987 c 101 § 2; 1961 c 147 § 1.]

Cards of identification: RCW 66.20.170 through 66.20.210.

Additional notes found at www.leg.wa.gov

66.44.328 Preparation or acquisition and supply to persons under age twenty-one of facsimile of official identification card—Penalty. No person may forge, alter, counterfeit, otherwise prepare or acquire and supply to a person under the age of twenty-one years a facsimile of any of the officially issued cards of identification that are required for presentation under *RCW 66.16.040. A violation of this section is a gross misdemeanor punishable as provided by RCW 9A.20.021 except that a minimum fine of two thousand five hundred dollars shall be imposed. [1987 c 101 § 3.]

***Reviser's note:** RCW 66.16.040 was repealed by 2012 c 2 § 215 (Initiative Measure No. 1183).

66.44.340 Employees eighteen years and over allowed to sell and handle beer and wine for certain licensed employers. (1) Employers holding grocery store or beer and/or wine specialty shop licenses exclusively are permitted to allow their employees, between the ages of eighteen and twenty-one years, to sell, stock, and handle liquor in, on or about any establishment holding a license to sell such liquor, if:

(a) There is an adult twenty-one years of age or older on duty supervising the sale of liquor at the licensed premises; and

(b) In the case of spirits, there are at least two adults twenty-one years of age or older on duty supervising the sale of spirits at the licensed premises.

(2) *Employees under twenty-one years of age may make deliveries of beer and/or wine purchased from licensees holding grocery store or beer and/or wine specialty shop licenses exclusively, when delivery is made to cars of customers adjacent to such licensed premises but only, however, when the underage employee is accompanied by the purchaser. [2012 c 2 § 211 (Initiative Measure No. 1183, approved November 8, 2011); 1999 c 281 § 11; 1986 c 5 § 1; 1981 1st ex.s. c 5 § 48; 1969 ex.s. c 38 § 1.]

***Reviser's note:** Initiative Measure No. 1183 removed the word "minor" and inserted the phrase "Employees under twenty-one years of age" without enclosing "minor" in double parentheses with strike-through and without underlining "Employees under twenty-one years of age."

Finding—Application—Rules—Effective date—Contingent effective date—2012 c 2 (Initiative Measure No. 1183): See notes following RCW 66.24.620.

Additional notes found at www.leg.wa.gov

66.44.350 Employees eighteen years and over allowed to serve and carry liquor, clean up, etc., for certain licensed employers. Notwithstanding provisions of RCW 66.44.310, employees holding beer and/or wine restaurant; beer and/or wine private club; snack bar; spirits, beer, and wine restaurant; spirits, beer, and wine private club; catering; and sports entertainment facility licenses who are licensees eighteen years of age and over may take orders for, serve, and sell liquor in any part of the licensed premises except cocktail lounges, bars, or other areas classified by the Washington state liquor control board as off-limits to persons under twenty-one years of age: PROVIDED, That such employees may enter such restricted areas to perform work assignments including picking up liquor for service in other parts of the licensed premises, performing clean up work, setting up and arranging tables, delivering supplies, delivering messages, serving food, and seating patrons: PROVIDED FURTHER, That such employees shall remain in the areas off-limits to minors no longer than is necessary to carry out their aforementioned duties: PROVIDED FURTHER, That such employees shall not be permitted to perform activities or functions of a bartender. [2014 c 29 § 4; 1999 c 281 § 12; 1988 c 160 § 1; 1975 1st ex.s. c 204 § 1.]

66.44.365 Juvenile driving privileges—Alcohol or drug violations. (1) If a juvenile thirteen years of age or older and under the age of eighteen is found by a court to have committed any offense that is a violation of this chapter, the court shall notify the department of licensing within twenty-four hours after entry of the judgment.

(2) Except as otherwise provided in subsection (3) of this section, upon petition of a juvenile whose privilege to drive has been revoked pursuant to RCW 46.20.265, the court may notify the department of licensing that the juvenile's privilege to drive should be reinstated.

(3) If the conviction is for the juvenile's first violation of this chapter or chapter 69.41, 69.50, or 69.52 RCW, a juvenile may not petition the court for reinstatement of the juvenile's privilege to drive revoked pursuant to RCW 46.20.265 until the later of ninety days after the date the juvenile turns sixteen or ninety days after the judgment was entered. If the conviction was for the juvenile's second or subsequent violation of this chapter or chapter 69.41, 69.50, or 69.52 RCW, the juvenile may not petition the court for reinstatement of the juvenile's privilege to drive revoked pursuant to RCW 46.20.265 until the later of the date the juvenile turns seventeen or one year after the date judgment was entered. [1989 c 271 § 118; 1988 c 148 § 3.]

Legislative finding—Severability—1988 c 148: See notes following RCW 13.40.265.

Additional notes found at www.leg.wa.gov

66.44.370 Resisting or opposing officers in enforcement of title. No person shall knowingly or wilfully resist or oppose any state, county, or municipal peace officer, or liquor enforcement officer, in the discharge of his/her duties under Title 66 RCW, or aid and abet such resistance or opposition. Any person who violates this section shall be guilty of a violation of this title and subject to arrest by any such officer. [1981 1st ex.s. c 5 § 27.]

Additional notes found at www.leg.wa.gov

66.44.800 Compliance by Washington wine and beer commissions. (1) Nothing contained in chapter 15.88 RCW shall affect the compliance by the Washington wine commission with this chapter.

(2) Nothing contained in chapter 15.89 RCW shall affect the compliance by the Washington beer commission with this chapter. [2006 c 330 § 22; 1987 c 452 § 17.]

Construction—Severability—2006 c 330: See RCW 15.89.900 and 15.89.901.

Additional notes found at www.leg.wa.gov

Chapter 66.98 RCW
CONSTRUCTION

Sections

66.98.010 Short title.
66.98.020 Severability and construction—1933 ex.s. c 62.
66.98.030 Effect of act on certain laws—1933 ex.s. c 62.
66.98.040 Effective date and application—1937 c 217.
66.98.050 Effective date and application—1939 c 172.
66.98.060 Rights of spirits, beer, and wine restaurant licensees—1949 c 5.
66.98.070 Regulations by board—1949 c 5.
66.98.080 Severability—1949 c 5.
66.98.090 Severability—1981 1st ex.s. c 5.
66.98.100 Effective date—1981 1st ex.s. c 5.

66.98.010 Short title. This act may be cited as the "Washington State Liquor Act." [1933 ex.s. c 62 § 1; RRS § 7306-1.]

66.98.020 Severability and construction—1933 ex.s. c 62. If any clause, part, or section of this act shall be adjudged invalid, such judgment shall not affect nor invalidate the remainder of the act, but shall be confined in its operation to the clause, part, or section directly involved in the controversy in which such judgment was rendered. If the operation of any clause, part, or section of this act shall be held to impair the obligation of contract, or to deny to any person any right or protection secured to him or her by the Constitution of the United States of America, or by the Constitution of the state of Washington, it is hereby declared that, had the invalidity of such clause, part[,] or section been considered at the time of the enactment of this act, the remainder of the act would nevertheless have been adopted without such and any and all such invalid clauses, parts, or sections. [2012 c 117 § 293; 1933 ex.s. c 62 § 94; RRS § 7306-94.]

66.98.030 Effect of act on certain laws—1933 ex.s. c 62. Nothing in this act shall be construed to amend or repeal chapter 2 of the Laws of 1933, or any portion thereof. [1933 ex.s. c 62 § 95; RRS § 7306-95.]

Reviser's note: 1933 c 2 referred to herein consisted of two sections, section 1 of which is codified as RCW 66.44.320 and section 2 was a repeal of earlier liquor laws.

66.98.040 Effective date and application—1937 c 217. This act is necessary for the support of the state government and its existing public institutions and shall take effect immediately: PROVIDED, HOWEVER, That any person, who shall at the time this act takes effect be the bona fide holder of a license duly issued under *chapter 62, Laws of 1933, extraordinary session, as amended by chapters 13, 80, 158 and 174, Laws of 1935, shall be entitled to exercise the rights and privileges granted by such license until the 30th day of September, 1937: AND PROVIDED FURTHER, That all persons lawfully engaged in activities not required to be licensed prior to the taking effect of this act but which are required to be licensed under the provisions of this act shall have thirty days from and after the taking effect of this act in which to comply with the same. [1937 c 217 § 8; RRS § 7306-97.]

***Reviser's note:** Chapter 62, Laws of 1933, extraordinary session, is the basic liquor act codified in this title. The 1937 act in which it appears amended it.

66.98.050 Effective date and application—1939 c 172. This act is necessary for the support of the state government and its existing public institutions and shall take effect immediately: PROVIDED, HOWEVER, That any person, who shall at the time this act takes effect be the bona fide holder of a license duly issued under *chapter 62, Laws of 1933, extraordinary session, as amended by chapters 13, 80, 158 and 174, Laws of 1935 and chapters 62 and 217, Laws of 1937, shall be entitled to exercise the rights and privileges granted by such license until the 30th day of September, 1939: AND PROVIDED FURTHER, That all persons lawfully engaged in activities not required to be licensed prior to the taking effect of this act but which are required to be licensed under the provisions of this act shall have thirty days from and after the taking effect of this act in which to comply with the same. [1939 c 172 § 11; RRS § 7306-97a.]

***Reviser's note:** Chapter 62, Laws of 1933, extraordinary session, is the basic liquor act codified in this title. The 1939 act in which it appears amended it.

66.98.060 Rights of spirits, beer, and wine restaurant licensees—1949 c 5. Notwithstanding any provisions of chapter 62, Laws of 1933 ex. sess., as last amended, or of any provisions of any other law which may otherwise be applicable, it shall be lawful for the holder of a spirits, beer, and wine restaurant license to sell beer, wine, and spirituous liquor in this state in accordance with the terms of chapter 5, Laws of 1949. [1998 c 126 § 15; 1997 c 321 § 54; 1949 c 5 § 14; No RRS. Formerly: RCW 66.24.460.]

Additional notes found at www.leg.wa.gov

66.98.070 Regulations by board—1949 c 5. For the purpose of carrying into effect the provisions of this act, the board shall have the same power to make regulations not inconsistent with the spirit of this act as is provided by RCW 66.08.030. [1949 c 5 § 15; No RRS. Formerly: RCW 66.24.470.]

66.98.080 Severability—1949 c 5. If any section or provision of this act shall be adjudged to be invalid, such adjudication shall not affect the validity of the act as whole or any section, provision, or part thereof not adjudged to be invalid. [1949 c 5 § 17; No RRS.]

66.98.090 Severability—1981 1st ex.s. c 5. If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected. [1981 1st ex.s. c 5 § 50.]

66.98.100 Effective date—1981 1st ex.s. c 5. This act is necessary for the immediate preservation of the public peace, health, and safety, the support of the state government and its existing public institutions, and shall take effect July 1, 1981. [1981 1st ex.s. c 5 § 51.]

Title 314 WAC
LIQUOR CONTROL BOARD

Chapters

314-01 Definitions.
314-02 Requirements for retail liquor licensees.
314-03 Allowed activities.
314-05 Special occasion licenses.
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314-10 Sale and distribution of tobacco products.
314-11 General requirements for licensees.
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314-20 Beer—Brewers, holders, importers, etc.
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314-24 Domestic wineries and domestic wine distributors.
314-25 Ships chandler's license.
314-27 Interstate commercial common passenger carriers.
314-28 Distillers.
314-29 Violations and penalties.
314-30 Manufacturers.
314-31 Compliance checks.
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314-33 Cigarette and tobacco products license process.
314-34 Cigarette and tobacco products violations.
314-36 Importers, public storage warehouses and importation of liquor.
314-38 Permits.
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314-42 Liquor control board operations.
314-44 Licensed agents.
314-45 Serving and donating of liquor by suppliers at trade conventions of licensees.
314-52 Advertising.
314-55 Marijuana licenses, application process, requirements, and reporting.
314-60 Public records.
314-62 Liquor law pamphlets and annual reports.
314-64 Liquor samples.
314-68 Importation of alcoholic beverages for personal or household use.
314-70 Disposition of liquor stock following discontinuance of business and/or lawful seizure of liquor by a governmental agency.
314-72 Agency guidelines—State environmental policy.

DISPOSITION OF CHAPTERS FORMERLY CODIFIED IN THIS TITLE

Chapter 314-04
HEARINGS

314-04-005 What are the procedures for a licensee to be notified of an alleged violation of a board statute or regulation? [Statutory Authority: RCW 66.08.030, 66.44.010 and 66.24.010(3). WSR 99-12-129, § 314-04-005, filed 6/2/99, effective 7/3/99; Order 35, § 314-04-005, filed 7/2/75.] Repealed by WSR 01-03-086, filed 1/17/01, effective 2/17/01. Statutory Authority: RCW 66.08.030, 66.44.010.

314-04-006 Are the notification procedures different for an alleged first-time violation of a board statute or regulation? [Statutory Authority: RCW 66.08.030, 66.44.010 and 66.24.010(3). WSR 99-12-129, § 314-04-006, filed 6/2/99, effective 7/3/99.] Repealed by WSR 01-03-086, filed 1/17/01, effective 2/17/01. Statutory Authority: RCW 66.08.030, 66.44.010.

314-04-007 What options does a licensee have once he/she receives a notice of initial board action? [Statutory Authority: RCW 66.08.030, 66.44.010 and 66.24.010(3). WSR 99-12-129, § 314-04-007, filed 6/2/99, effective 7/3/99.] Repealed by WSR 01-03-086, filed 1/17/01, effective 2/17/01. Statutory Authority: RCW 66.08.030, 66.44.010.

314-04-010 Method. [Resolution No. 1, filed 6/13/63; Rule 114, filed 6/13/63.] Repealed by WSR 99-15-023, filed 7/12/99, effective 8/12/99. Statutory Authority: RCW 66.08.030, 66.44.010 and 66.24.010(3).

Chapter 314-08
PRACTICE AND PROCEDURE

314-08-001 Promulgation for rules. [Promulgation, filed 6/13/63.] Repealed by WSR 01-11-058, filed 5/11/01, effective 6/11/01. Statutory Authority: RCW 66.08.030, 66.44.010, 66.24.010(3), chapter 34.05 RCW.

314-08-010 Appearance and practice before the board—Who may appear. [Resolution No. 2, Rule 08.010, filed 6/13/63.] Repealed by WSR 01-11-058, filed 5/11/01, effective 6/11/01. Statutory Authority: RCW 66.08.030, 66.44.010, 66.24.010(3), chapter 34.05 RCW.

314-08-020 Appearance in certain proceedings may be limited to attorneys. [Resolution No. 2, Rule 08.020, filed 6/13/63.] Repealed by WSR 01-11-058, filed 5/11/01, effective 6/11/01. Statutory Authority: RCW 66.08.030, 66.44.010, 66.24.010(3), chapter 34.05 RCW.

314-08-030 Solicitation of business unethical. [Resolution No. 2, Rule 08.030, filed 6/13/63.] Repealed by WSR 01-11-058, filed 5/11/01, effective 6/11/01. Statutory Authority: RCW 66.08.030, 66.44.010, 66.24.010(3), chapter 34.05 RCW.

314-08-040 Standards of ethical conduct. [Resolution No. 2, Rule 08.040, filed 6/13/63.] Repealed by WSR 01-11-058, filed 5/11/01, effective 6/11/01. Statutory Authority: RCW 66.08.030, 66.44.010, 66.24.010(3), chapter 34.05 RCW.

314-08-050 Appearance by former employee of board or former member of attorney general's staff. [Resolution No. 2, Rule 08.050, filed 6/13/63.] Repealed by WSR 01-11-058, filed 5/11/01, effective 6/11/01. Statutory Authority: RCW 66.08.030, 66.44.010, 66.24.010(3), chapter 34.05 RCW.

314-08-070 Computation of time. [Resolution No. 2, Rule 08.070, filed 6/13/63.] Repealed by WSR 01-11-058, filed 5/11/01, effective 6/11/01. Statutory Authority: RCW 66.08.030, 66.44.010, 66.24.010(3), chapter 34.05 RCW.

314-08-075 Waiver of hearing. [Resolution No. 2, Rule 08.075, filed 6/13/63.] Repealed by Order 35, filed 7/2/75.

314-08-080 Notice of hearing in contested cases. [Statutory Authority: RCW 66.08.030, 34.05.434, 66.08.150 and

66.24.010(3). WSR 99-23-012, § 314-08-080, filed 11/5/99, effective 12/6/99. Statutory Authority: RCW 66.08.030. WSR 88-08-057 (Order 245, Resolution No. 254), § 314-08-080, filed 4/5/88; Resolution No. 2, Rule 08.080, filed 6/13/63.] Repealed by WSR 01-11-058, filed 5/11/01, effective 6/11/01. Statutory Authority: RCW 66.08.030, 66.44.010, 66.24.010(3), chapter 34.05 RCW.

314-08-090 Service of process—By whom served. [Resolution No. 2, Rule 08.090, filed 6/13/63.] Repealed by WSR 01-11-058, filed 5/11/01, effective 6/11/01. Statutory Authority: RCW 66.08.030, 66.44.010, 66.24.010(3), chapter 34.05 RCW.

314-08-100 Service of process—Upon whom served. [Resolution No. 2, Rule 08.100, filed 6/13/63.] Repealed by WSR 01-11-058, filed 5/11/01, effective 6/11/01. Statutory Authority: RCW 66.08.030, 66.44.010, 66.24.010(3), chapter 34.05 RCW.

314-08-110 Service of process—Service upon parties. [Resolution No. 2, Rule 08.110, filed 6/13/63.] Repealed by WSR 01-11-058, filed 5/11/01, effective 6/11/01. Statutory Authority: RCW 66.08.030, 66.44.010, 66.24.010(3), chapter 34.05 RCW.

314-08-120 Service of process—Method of service. [Resolution No. 2, Rule 08.120, filed 6/13/63.] Repealed by WSR 01-11-058, filed 5/11/01, effective 6/11/01. Statutory Authority: RCW 66.08.030, 66.44.010, 66.24.010(3), chapter 34.05 RCW.

314-08-130 Service of process—When service complete. [Resolution No. 2, Rule 08.130, filed 6/13/63.] Repealed by WSR 01-11-058, filed 5/11/01, effective 6/11/01. Statutory Authority: RCW 66.08.030, 66.44.010, 66.24.010(3), chapter 34.05 RCW.

314-08-140 Service of process—Filing with agency. [Resolution No. 2, Rule 08.140, filed 6/13/63.] Repealed by WSR 01-11-058, filed 5/11/01, effective 6/11/01. Statutory Authority: RCW 66.08.030, 66.44.010, 66.24.010(3), chapter 34.05 RCW.

314-08-150 Subpoenas—Form. [Resolution No. 2, Rule 08.150, filed 6/13/63.] Repealed by WSR 01-11-058, filed 5/11/01, effective 6/11/01. Statutory Authority: RCW 66.08.030, 66.44.010, 66.24.010(3), chapter 34.05 RCW.

314-08-160 Subpoenas—Issuance to parties. [Statutory Authority: RCW 66.08.030 and 66.98.070. WSR 81-19-116 (Order 81, Resolution No. 90), § 314-08-160, filed 9/23/81; Resolution No. 2, Rule 08.160, filed 6/13/63.] Repealed by WSR 01-11-058, filed 5/11/01, effective 6/11/01. Statutory Authority: RCW 66.08.030, 66.44.010, 66.24.010(3), chapter 34.05 RCW.

314-08-170 Subpoenas—Service. [Resolution No. 2, Rule 08.170, filed 6/13/63.] Repealed by WSR 01-11-058, filed 5/11/01, effective 6/11/01. Statutory Authority: RCW 66.08.030, 66.44.010, 66.24.010(3), chapter 34.05 RCW.

314-08-180 Subpoenas—Fees. [Statutory Authority: RCW 66.08.030 and 66.98.070. WSR 81-19-116 (Order 81, Resolution No. 90), § 314-08-180, filed 9/23/81; Resolution No. 2, Rule 08.180, filed 6/13/63.] Repealed by WSR 01-11-058, filed 5/11/01, effective 6/11/01. Statutory Authority: RCW 66.08.030, 66.44.010, 66.24.010(3), chapter 34.05 RCW.

314-08-190 Subpoenas—Proof of service. [Resolution No. 2, Rule 08.190, filed 6/13/63.] Repealed by WSR 01-11-058, filed 5/11/01, effective 6/11/01. Statutory Authority: RCW 66.08.030, 66.44.010, 66.24.010(3), chapter 34.05 RCW.

314-08-200 Subpoenas—Quashing. [Resolution No. 2, Rule 08.200, filed 6/13/63.] Repealed by WSR 01-11-058, filed 5/11/01, effective 6/11/01. Statutory Authority: RCW 66.08.030, 66.44.010, 66.24.010(3), chapter 34.05 RCW.

314-08-210 Subpoenas—Enforcement. [Resolution No. 2, Rule 08.210, filed 6/13/63.] Repealed by WSR 01-11-058, filed 5/11/01, effective 6/11/01. Statutory Authority: RCW 66.08.030, 66.44.010, 66.24.010(3), chapter 34.05 RCW.

314-08-220 Subpoenas—Geographical scope. [Resolution No. 2, Rule 08.220, filed 6/13/63.] Repealed by WSR 01-11-058, filed 5/11/01, effective 6/11/01. Statutory Authority: RCW 66.08.030, 66.44.010, 66.24.010(3), chapter 34.05 RCW.

314-08-230 Depositions and interrogatories in contested cases—Right to take. [Resolution No. 2, Rule 08.230, filed 6/13/63.] Repealed by WSR 01-11-058, filed 5/11/01, effective 6/11/01. Statutory Authority: RCW 66.08.030, 66.44.010, 66.24.010(3), chapter 34.05 RCW.

314-08-240 Depositions and interrogatories in contested cases—Scope. [Resolution No. 2, Rule 08.240, filed 6/13/63.] Repealed by WSR 01-11-058, filed 5/11/01, effective 6/11/01. Statutory Authority: RCW 66.08.030, 66.44.010, 66.24.010(3), chapter 34.05 RCW.

314-08-250 Depositions and interrogatories in contested cases—Officer before whom taken. [Resolution No. 2, Rule 08.250, filed 6/13/63.] Repealed by WSR 01-11-058, filed 5/11/01, effective 6/11/01. Statutory Authority: RCW 66.08.030, 66.44.010, 66.24.010(3), chapter 34.05 RCW.

314-08-260 Depositions and interrogatories in contested cases—Authorization. [Resolution No. 2, Rule 08.260, filed 6/13/63.] Repealed by WSR 01-11-058, filed 5/11/01, effective 6/11/01. Statutory Authority: RCW 66.08.030, 66.44.010, 66.24.010(3), chapter 34.05 RCW.

314-08-270 Depositions and interrogatories in contested cases—Protection of parties and deponents. [Resolution No. 2, Rule 08.270, filed 6/13/63.] Repealed by WSR 01-11-058, filed 5/11/01, effective 6/11/01. Statutory Authority: RCW 66.08.030, 66.44.010, 66.24.010(3), chapter 34.05 RCW.

314-08-280 Depositions and interrogatories in contested cases—Oral examination and cross-examination. [Resolution No. 2, Rule 08.280, filed 6/13/63.] Repealed by WSR 01-11-058, filed 5/11/01, effective 6/11/01. Statutory Authority: RCW 66.08.030, 66.44.010, 66.24.010(3), chapter 34.05 RCW.

314-08-290 Depositions and interrogatories in contested cases—Recordation. [Resolution No. 2, Rule 08.290, filed 6/13/63.] Repealed by WSR 01-11-058, filed 5/11/01, effective 6/11/01. Statutory Authority: RCW 66.08.030, 66.44.010, 66.24.010(3), chapter 34.05 RCW.

314-08-300 Depositions and interrogatories in contested cases—Signing attestation and return. [Resolution No. 2, Rule 08.300, filed 6/13/63.] Repealed by WSR 01-11-058, filed 5/11/01, effective 6/11/01. Statutory Authority: RCW 66.08.030, 66.44.010, 66.24.010(3), chapter 34.05 RCW.

314-08-310 Depositions and interrogatories in contested cases—Use and effect. [Resolution No. 2, Rule 08.310, filed 6/13/63.] Repealed by WSR 01-11-058, filed 5/11/01, effective 6/11/01. Statutory Authority: RCW 66.08.030, 66.44.010, 66.24.010(3), chapter 34.05 RCW.

314-08-320 Depositions and interrogatories in contested cases—Fees of deponents—Costs of deposition. [Resolution No. 2, Rule 08.320, filed 6/13/63.] Repealed by WSR 01-11-058, filed 5/11/01, effective 6/11/01. Statutory Authority: RCW 66.08.030, 66.44.010, 66.24.010(3), chapter 34.05 RCW.

314-08-330 Depositions upon interrogatories—Submission of interrogatories. [Resolution No. 2, Rule 08.330, filed 6/13/63.] Repealed by WSR 01-11-058, filed 5/11/01, effective 6/11/01. Statutory Authority: RCW 66.08.030, 66.44.010, 66.24.010(3), chapter 34.05 RCW.

314-08-340 Depositions upon interrogatories—Interrogation. [Resolution No. 2, Rule 08.340, filed 6/13/63.] Repealed by WSR 01-11-058, filed 5/11/01, effective 6/11/01. Statutory Authority: RCW 66.08.030, 66.44.010, 66.24.010(3), chapter 34.05 RCW.

314-08-350 Depositions upon interrogatories—Attestation and return. [Resolution No. 2, Rule 08.350, filed 6/13/63.] Repealed by WSR 01-11-058, filed 5/11/01, effective 6/11/01. Statutory Authority: RCW 66.08.030, 66.44.010, 66.24.010(3), chapter 34.05 RCW.

314-08-360 Depositions upon interrogatories—Provisions of deposition rule. [Resolution No. 2, Rule 08.360, filed 6/13/63.] Repealed by WSR 01-11-058, filed 5/11/01, effective 6/11/01. Statutory Authority: RCW 66.08.030, 66.44.010, 66.24.010(3), chapter 34.05 RCW.

314-08-370 Official notice—Matters of law. [Resolution No. 2, Rule 08.370, filed 6/13/63.] Repealed by WSR 01-11-058, filed 5/11/01, effective 6/11/01. Statutory Authority: RCW 66.08.030, 66.44.010, 66.24.010(3), chapter 34.05 RCW.

314-08-380 Official notice—Material facts. [Resolution No. 2, Rule 08.380, filed 6/13/63.] Repealed by WSR 01-11-058, filed 5/11/01, effective 6/11/01. Statutory Authority:

RCW 66.08.030, 66.44.010, 66.24.010(3), chapter 34.05 RCW.

314-08-390 Presumptions. [Resolution No. 2, Rule 08.390, filed 6/13/63.] Repealed by WSR 01-11-058, filed 5/11/01, effective 6/11/01. Statutory Authority: RCW 66.08.030, 66.44.010, 66.24.010(3), chapter 34.05 RCW.

314-08-400 Stipulations and admissions of record. [Resolution No. 2, Rule 08.400, filed 6/13/63.] Repealed by WSR 01-11-058, filed 5/11/01, effective 6/11/01. Statutory Authority: RCW 66.08.030, 66.44.010, 66.24.010(3), chapter 34.05 RCW.

314-08-410 Form and content of decisions in contested cases and proposed orders. [Statutory Authority: Chapters 34.04 and 66.08 RCW. WSR 80-12-021 (Order 74, Resolution No. 83), § 314-08-410, filed 8/27/80; Resolution No. 2, Rule 08.410, filed 6/13/63.] Repealed by WSR 01-11-058, filed 5/11/01, effective 6/11/01. Statutory Authority: RCW 66.08.030, 66.44.010, 66.24.010(3), chapter 34.05 RCW.

314-08-415 Written arguments. [Order 55, § 314-08-415, filed 5/31/77, effective 7/1/77.] Repealed by WSR 01-11-058, filed 5/11/01, effective 6/11/01. Statutory Authority: RCW 66.08.030, 66.44.010, 66.24.010(3), chapter 34.05 RCW.

314-08-420 Definition of issues before hearing. [Resolution No. 2, Rule 08.420, filed 6/13/63.] Repealed by WSR 01-11-058, filed 5/11/01, effective 6/11/01. Statutory Authority: RCW 66.08.030, 66.44.010, 66.24.010(3), chapter 34.05 RCW.

314-08-430 Prehearing conference rule—Authorized. [Resolution No. 2, Rule 08.430, filed 6/13/63.] Repealed by WSR 01-11-058, filed 5/11/01, effective 6/11/01. Statutory Authority: RCW 66.08.030, 66.44.010, 66.24.010(3), chapter 34.05 RCW.

314-08-440 Prehearing conference rule—Record of conference action. [Resolution No. 2, Rule 08.440, filed 6/13/63.] Repealed by WSR 01-11-058, filed 5/11/01, effective 6/11/01. Statutory Authority: RCW 66.08.030, 66.44.010, 66.24.010(3), chapter 34.05 RCW.

314-08-450 Submission of documentary evidence in advance. [Resolution No. 2, Rule 08.450, filed 6/13/63.] Repealed by WSR 01-11-058, filed 5/11/01, effective 6/11/01. Statutory Authority: RCW 66.08.030, 66.44.010, 66.24.010(3), chapter 34.05 RCW.

314-08-460 Excerpts from documentary evidence. [Resolution No. 2, Rule 08.460, filed 6/13/63.] Repealed by WSR 01-11-058, filed 5/11/01, effective 6/11/01. Statutory Authority: RCW 66.08.030, 66.44.010, 66.24.010(3), chapter 34.05 RCW.

314-08-470 Expert or opinion testimony and testimony based on economic and statistical data—Number and qualifications of witnesses. [Resolution No. 2, Rule 08.470, filed 6/13/63.] Repealed by WSR 01-11-058, filed 5/11/01, effective 6/11/01. Statutory Authority: RCW 66.08.030, 66.44.010, 66.24.010(3), chapter 34.05 RCW.

314-08-480 Expert or opinion testimony and testimony based on economic and statistical data—Written sworn statements. [Resolution No. 2, Rule 08.480, filed 6/13/63.] Repealed by WSR 01-11-058, filed 5/11/01, effective 6/11/01. Statutory Authority: RCW 66.08.030, 66.44.010, 66.24.010(3), chapter 34.05 RCW.

314-08-490 Expert or opinion testimony and testimony based on economic and statistical data—Supporting data. [Resolution No. 2, Rule 08.490, filed 6/13/63.] Repealed by WSR 01-11-058, filed 5/11/01, effective 6/11/01. Statutory Authority: RCW 66.08.030, 66.44.010, 66.24.010(3), chapter 34.05 RCW.

314-08-500 Expert or opinion testimony and testimony based on economic and statistical data—Effect of noncompliance with WAC 314-08-470 or 314-08-480. [Resolution No. 2, Rule 08.500, filed 6/13/63.] Repealed by WSR 01-11-058, filed 5/11/01, effective 6/11/01. Statutory Authority: RCW 66.08.030, 66.44.010, 66.24.010(3), chapter 34.05 RCW.

314-08-510 Continuances. [Resolution No. 2, Rule 08.510, filed 6/13/63.] Repealed by WSR 01-11-058, filed 5/11/01, effective 6/11/01. Statutory Authority: RCW 66.08.030, 66.44.010, 66.24.010(3), chapter 34.05 RCW.

314-08-520 Rules of evidence—Admissibility criteria. [Resolution No. 2, Rule 08.520, filed 6/13/63.] Repealed by WSR 01-11-058, filed 5/11/01, effective 6/11/01. Statutory Authority: RCW 66.08.030, 66.44.010, 66.24.010(3), chapter 34.05 RCW.

314-08-530 Rules of evidence—Tentative admission—Exclusion—Discontinuance—Objections. [Resolution No. 2, Rule 08.530, filed 6/13/63.] Repealed by WSR 01-11-058, filed 5/11/01, effective 6/11/01. Statutory Authority: RCW 66.08.030, 66.44.010, 66.24.010(3), chapter 34.05 RCW.

314-08-540 Petitions for rule making, amendments or repeal—Who may petition. [Resolution No. 2, Rule 08.540, filed 6/13/63.] Repealed by WSR 01-11-058, filed 5/11/01, effective 6/11/01. Statutory Authority: RCW 66.08.030, 66.44.010, 66.24.010(3), chapter 34.05 RCW.

314-08-550 Petitions for rule making, amendments or repeal—Requisites. [Resolution No. 2, Rule 08.550, filed 6/13/63.] Repealed by WSR 01-11-058, filed 5/11/01, effective 6/11/01. Statutory Authority: RCW 66.08.030, 66.44.010, 66.24.010(3), chapter 34.05 RCW.

314-08-560 Petitions for rule making, amendments or repeal—Agency must consider. [Resolution No. 2, Rule 08.560, filed 6/13/63.] Repealed by WSR 01-11-058, filed 5/11/01, effective 6/11/01. Statutory Authority: RCW 66.08.030, 66.44.010, 66.24.010(3), chapter 34.05 RCW.

314-08-570 Petitions for rule making, amendments or repeal—Notice of disposition. [Resolution No. 2, Rule 08.570, filed 6/13/63.] Repealed by WSR 01-11-058, filed 5/11/01, effective 6/11/01. Statutory Authority: RCW 66.08.030, 66.44.010, 66.24.010(3), chapter 34.05 RCW.

314-08-580 Declaratory rulings. [Resolution No. 2, Rule 08.580, filed 6/13/63.] Repealed by WSR 01-11-058, filed 5/11/01, effective 6/11/01. Statutory Authority: RCW 66.08.030, 66.44.010, 66.24.010(3), chapter 34.05 RCW.

314-08-590 Forms. [Resolution No. 2, Rule 08.590, filed 6/13/63.] Repealed by WSR 01-11-058, filed 5/11/01, effective 6/11/01. Statutory Authority: RCW 66.08.030, 66.44.010, 66.24.010(3), chapter 34.05 RCW.

Chapter 314-14
ALCOHOL SERVER TRAINING PROGRAM

314-14-010 Class 12 permit—Mixologist. [Statutory Authority: RCW 66.08.030 and 66.20.300 - 66.20.350. WSR 96-03-074, § 314-14-010, filed 1/17/96, effective 2/17/96.] Repealed by WSR 01-03-085, filed 1/17/01, effective 2/17/01. Statutory Authority: RCW 66.08.030, 66.20.300, 66.20.310, 66.20.320, 66.20.330, 66.20.340, 66.20.350.

314-14-020 Class 13 permit—Server. [Statutory Authority: RCW 66.08.030 and 66.20.300 - 66.20.350. WSR 96-03-074, § 314-14-020, filed 1/17/96, effective 2/17/96.] Repealed by WSR 01-03-085, filed 1/17/01, effective 2/17/01. Statutory Authority: RCW 66.08.030, 66.20.300, 66.20.310, 66.20.320, 66.20.330, 66.20.340, 66.20.350.

314-14-030 Permit expiration—Lost, replacement and upgraded permits. [Statutory Authority: RCW 66.08.030 and 66.20.300 - 66.20.350. WSR 96-03-074, § 314-14-030, filed 1/17/96, effective 2/17/96.] Repealed by WSR 01-03-085, filed 1/17/01, effective 2/17/01. Statutory Authority: RCW 66.08.030, 66.20.300, 66.20.310, 66.20.320, 66.20.330, 66.20.340, 66.20.350.

314-14-040 Temporary certification as a provider. [Statutory Authority: RCW 66.08.030 and 66.20.300 - 66.20.350. WSR 96-03-074, § 314-14-040, filed 1/17/96, effective 2/17/96.] Repealed by WSR 01-03-085, filed 1/17/01, effective 2/17/01. Statutory Authority: RCW 66.08.030, 66.20.300, 66.20.310, 66.20.320, 66.20.330, 66.20.340, 66.20.350.

314-14-050 Illegal possession of a permit. [Statutory Authority: RCW 66.08.030 and 66.20.300 - 66.20.350. WSR 96-03-074, § 314-14-050, filed 1/17/96, effective 2/17/96.] Repealed by WSR 01-03-085, filed 1/17/01, effective 2/17/01. Statutory Authority: RCW 66.08.030, 66.20.300, 66.20.310, 66.20.320, 66.20.330, 66.20.340, 66.20.350.

314-14-060 Training entity—Provider—Trainers. [Statutory Authority: RCW 66.08.030 and 66.20.300 - 66.20.350. WSR 96-03-074, § 314-14-060, filed 1/17/96, effective 2/17/96.] Repealed by WSR 01-03-085, filed 1/17/01, effective 2/17/01. Statutory Authority: RCW 66.08.030, 66.20.300, 66.20.310, 66.20.320, 66.20.330, 66.20.340, 66.20.350.

314-14-070 Provider certification. [Statutory Authority: RCW 66.08.030 and 66.20.300 - 66.20.350. WSR 96-03-074,

§ 314-14-070, filed 1/17/96, effective 2/17/96.] Repealed by WSR 01-03-085, filed 1/17/01, effective 2/17/01. Statutory Authority: RCW 66.08.030, 66.20.300, 66.20.310, 66.20.320, 66.20.330, 66.20.340, 66.20.350.

314-14-080 Provider and trainer records—Rights of inspection. [Statutory Authority: RCW 66.08.030 and 66.20.300 - 66.20.350. WSR 96-03-074, § 314-14-080, filed 1/17/96, effective 2/17/96.] Repealed by WSR 01-03-085, filed 1/17/01, effective 2/17/01. Statutory Authority: RCW 66.08.030, 66.20.300, 66.20.310, 66.20.320, 66.20.330, 66.20.340, 66.20.350.

314-14-090 Alcohol server education provider course standards—Class 12 mixologist permit. [Statutory Authority: RCW 66.08.030 and 66.20.300 - 66.20.350. WSR 96-03-074, § 314-14-090, filed 1/17/96, effective 2/17/96.] Repealed by WSR 01-03-085, filed 1/17/01, effective 2/17/01. Statutory Authority: RCW 66.08.030, 66.20.300, 66.20.310, 66.20.320, 66.20.330, 66.20.340, 66.20.350.

314-14-100 Alcohol server education provider course standards—Class 13 server permit. [Statutory Authority: RCW 66.08.030 and 66.20.300 - 66.20.350. WSR 96-03-074, § 314-14-100, filed 1/17/96, effective 2/17/96.] Repealed by WSR 01-03-085, filed 1/17/01, effective 2/17/01. Statutory Authority: RCW 66.08.030, 66.20.300, 66.20.310, 66.20.320, 66.20.330, 66.20.340, 66.20.350.

314-14-110 Sanctions against providers and trainers. [Statutory Authority: RCW 66.08.030 and 66.20.300 - 66.20.350. WSR 96-03-074, § 314-14-110, filed 1/17/96, effective 2/17/96.] Repealed by WSR 01-03-085, filed 1/17/01, effective 2/17/01. Statutory Authority: RCW 66.08.030, 66.20.300, 66.20.310, 66.20.320, 66.20.330, 66.20.340, 66.20.350.

314-14-120 Provider responsible for acts of trainers. [Statutory Authority: RCW 66.08.030 and 66.20.300 - 66.20.350. WSR 96-03-074, § 314-14-120, filed 1/17/96, effective 2/17/96.] Repealed by WSR 01-03-085, filed 1/17/01, effective 2/17/01. Statutory Authority: RCW 66.08.030, 66.20.300, 66.20.310, 66.20.320, 66.20.330, 66.20.340, 66.20.350.

314-14-130 Prohibited conduct. [Statutory Authority: RCW 66.08.030 and 66.20.300 - 66.20.350. WSR 96-03-074, § 314-14-130, filed 1/17/96, effective 2/17/96.] Repealed by WSR 01-03-085, filed 1/17/01, effective 2/17/01. Statutory Authority: RCW 66.08.030, 66.20.300, 66.20.310, 66.20.320, 66.20.330, 66.20.340, 66.20.350.

314-14-140 Provider and trainer advertising and promotion standards. [Statutory Authority: RCW 66.08.030 and 66.20.300 - 66.20.350. WSR 96-03-074, § 314-14-140, filed 1/17/96, effective 2/17/96.] Repealed by WSR 01-03-085, filed 1/17/01, effective 2/17/01. Statutory Authority: RCW 66.08.030, 66.20.300, 66.20.310, 66.20.320, 66.20.330, 66.20.340, 66.20.350.

314-14-150 On premise liquor licensees must check identification of employees and verify their possession of an alcohol servers permit. [Statutory Authority: RCW 66.08.030 and 66.20.300 - 66.20.350. WSR 96-03-074, § 314-14-150, filed 1/17/96, effective 2/17/96.] Repealed by WSR 01-03-085, filed 1/17/01, effective 2/17/01. Statutory Authority: RCW 66.08.030, 66.20.300, 66.20.310, 66.20.320, 66.20.330, 66.20.340, 66.20.350.

314-14-160 What are the penalties if a permit holder violates the liquor laws? [Statutory Authority: RCW 66.08.030, 66.20.079 and 66.20.340. WSR 99-03-033, § 314-14-160, filed 1/13/99, effective 2/13/99. Statutory Authority: RCW 66.08.030 and 66.20.300 - 66.20.350. WSR 96-03-074, § 314-14-160, filed 1/17/96, effective 2/17/96.] Repealed by WSR 01-03-085, filed 1/17/01, effective 2/17/01. Statutory Authority: RCW 66.08.030, 66.20.300, 66.20.310, 66.20.320, 66.20.330, 66.20.340, 66.20.350.

314-14-165 Can the board impose sanctions or penalties other than those indicated in WAC 314-14-160? [Statutory Authority: RCW 66.08.030, 66.20.079 and 66.20.340. WSR 99-03-033, § 314-14-165, filed 1/13/99, effective 2/13/99.] Repealed by WSR 01-03-085, filed 1/17/01, effective 2/17/01. Statutory Authority: RCW 66.08.030, 66.20.300, 66.20.310, 66.20.320, 66.20.330, 66.20.340, 66.20.350.

314-14-170 If my Class Twelve (12) or Class Thirteen (13) permit is suspended, can I still work? [Statutory Authority: RCW 66.08.030, 66.20.079 and 66.20.340. WSR 99-03-033, § 314-14-170, filed 1/13/99, effective 2/13/99.] Repealed by WSR 01-03-085, filed 1/17/01, effective 2/17/01. Statutory Authority: RCW 66.08.030, 66.20.300, 66.20.310, 66.20.320, 66.20.330, 66.20.340, 66.20.350.

Reviser's note: Later promulgation, see chapter 314-17 WAC.

Chapter 314-15
CLASS M LICENSE

314-15-010 Motel—Definition—General provisions—Fee. [Statutory Authority: RCW 66.08.030, 15.88.030, 19.126.020, 66.04.010, 66.08.180, 66.16.100, 66.20.010, 66.20.300, 66.20.310, 66.24.150, 66.24.170, 66.24.185, 66.24.200, 66.24.206, 66.24.210, 66.24.230, 66.24.240, 66.24.244, 66.24.250, 66.24.375, 66.24.380, 66.24.395, 66.24.400, 66.24.420, 66.24.425, 66.24.440, 66.24.450, 66.24.455, 66.24.495, 66.24.540, 66.28.010, 66.28.040, 66.28.050, 66.28.170, 66.28.180, 66.28.190, 66.28.200, 66.28.310, 66.44.190, 66.44.310, 66.98.060 and 82.08.150. WSR 98-18-097, § 314-15-010, filed 9/2/98, effective 10/3/98. Statutory Authority: RCW 66.08.030. WSR 93-23-015, § 314-15-010, filed 11/5/93, effective 12/6/93.] Repealed by WSR 00-07-117, filed 3/21/00, effective 4/21/00. Statutory Authority: RCW 66.08.030, 66.24.010, 66.24.120.

314-15-020 Purchase of liquor. [Statutory Authority: RCW 66.08.030, 15.88.030, 19.126.020, 66.04.010, 66.08.180, 66.16.100, 66.20.010, 66.20.300, 66.20.310, 66.24.150, 66.24.170, 66.24.185, 66.24.200, 66.24.206, 66.24.210, 66.24.230, 66.24.240, 66.24.244, 66.24.250, 66.24.375, 66.24.380, 66.24.395, 66.24.400, 66.24.420, 66.24.425, 66.24.440, 66.24.450, 66.24.455, 66.24.495, 66.24.540, 66.28.010, 66.28.040, 66.28.050, 66.28.170, 66.28.180, 66.28.190, 66.28.200, 66.28.310, 66.44.190, 66.44.310, 66.98.060 and 82.08.150. WSR 98-18-097, § 314-15-020, filed 9/2/98, effective 10/3/98. Statutory Authority: RCW 66.08.030. WSR 93-23-015, § 314-15-020, filed 11/5/93, effective 12/6/93.] Repealed by WSR 00-07-117, filed 3/21/00, effective 4/21/00. Statutory Authority: RCW 66.08.030, 66.24.010, 66.24.120.

314-15-030 Sale of liquor—Motel. [Statutory Authority: RCW 66.08.030, 15.88.030, 19.126.020, 66.04.010, 66.08.180, 66.16.100, 66.20.010, 66.20.300, 66.20.310, 66.24.150, 66.24.170, 66.24.185, 66.24.200, 66.24.206, 66.24.210, 66.24.230, 66.24.240, 66.24.244, 66.24.250, 66.24.375, 66.24.380, 66.24.395, 66.24.400, 66.24.420, 66.24.425, 66.24.440, 66.24.450, 66.24.455, 66.24.495, 66.24.540, 66.28.010, 66.28.040, 66.28.050, 66.28.170, 66.28.180, 66.28.190, 66.28.200, 66.28.310, 66.44.190, 66.44.310, 66.98.060 and 82.08.150. WSR 98-18-097, § 314-15-030, filed 9/2/98, effective 10/3/98. Statutory Authority: RCW 66.08.030. WSR 93-23-015, § 314-15-030, filed 11/5/93, effective 12/6/93.] Repealed by WSR 00-07-117, filed 3/21/00, effective 4/21/00. Statutory Authority: RCW 66.08.030, 66.24.010, 66.24.120.

314-15-040 Security and storage of liquor—Definition of honor bar—Motel. [Statutory Authority: RCW 66.08.030, 15.88.030, 19.126.020, 66.04.010, 66.08.180, 66.16.100, 66.20.010, 66.20.300, 66.20.310, 66.24.150, 66.24.170, 66.24.185, 66.24.200, 66.24.206, 66.24.210, 66.24.230, 66.24.240, 66.24.244, 66.24.250, 66.24.375, 66.24.380, 66.24.395, 66.24.400, 66.24.420, 66.24.425, 66.24.440, 66.24.450, 66.24.455, 66.24.495, 66.24.540, 66.28.010, 66.28.040, 66.28.050, 66.28.170, 66.28.180, 66.28.190, 66.28.200, 66.28.310, 66.44.190, 66.44.310, 66.98.060 and 82.08.150. WSR 98-18-097, § 314-15-040, filed 9/2/98, effective 10/3/98. Statutory Authority: RCW 66.08.030. WSR 93-23-015, § 314-15-040, filed 11/5/93, effective 12/6/93.] Repealed by WSR 00-07-117, filed 3/21/00, effective 4/21/00. Statutory Authority: RCW 66.08.030, 66.24.010, 66.24.120.

314-15-050 Records—Motel. [Statutory Authority: RCW 66.08.030, 15.88.030, 19.126.020, 66.04.010, 66.08.180, 66.16.100, 66.20.010, 66.20.300, 66.20.310, 66.24.150, 66.24.170, 66.24.185, 66.24.200, 66.24.206, 66.24.210, 66.24.230, 66.24.240, 66.24.244, 66.24.250, 66.24.375, 66.24.380, 66.24.395, 66.24.400, 66.24.420, 66.24.425, 66.24.440, 66.24.450, 66.24.455, 66.24.495, 66.24.540, 66.28.010, 66.28.040, 66.28.050, 66.28.170, 66.28.180, 66.28.190, 66.28.200, 66.28.310, 66.44.190, 66.44.310, 66.98.060 and 82.08.150. WSR 98-18-097, § 314-15-050, filed 9/2/98, effective 10/3/98. Statutory Authority: RCW 66.08.030. WSR 93-23-015, § 314-15-

050, filed 11/5/93, effective 12/6/93.] Repealed by WSR 00-07-117, filed 3/21/00, effective 4/21/00. Statutory Authority: RCW 66.08.030, 66.24.010, 66.24.120.

Chapter 314-22
LICENSE DESIGNATIONS

314-22-010 Nonretail licenses—License designations. [Statutory Authority: RCW 66.08.030. WSR 88-07-090 (Order 243, Resolution No. 252), § 314-22-010, filed 3/22/88.] Repealed by WSR 98-18-097, filed 9/2/98, effective 10/3/98. Statutory Authority: RCW 66.08.030, 15.88.030, 19.126.020, 66.04.010, 66.08.180, 66.16.100, 66.20.010, 66.20.300, 66.20.310, 66.24.150, 66.24.170, 66.24.185, 66.24.200, 66.24.206, 66.24.210, 66.24.230, 66.24.240, 66.24.244, 66.24.250, 66.24.375, 66.24.380, 66.24.395, 66.24.400, 66.24.420, 66.24.425, 66.24.440, 66.24.450, 66.24.455, 66.24.495, 66.24.540, 66.28.010, 66.28.040, 66.28.050, 66.28.170, 66.28.180, 66.28.190, 66.28.200, 66.28.310, 66.44.190, 66.44.310, 66.98.060 and 82.08.150.

Chapter 314-26
UNSALABLE BEER AND WINE

314-26-010 Procedures for tax refunds. [Statutory Authority: RCW 66.08.030, 15.88.030, 19.126.020, 66.04.010, 66.08.180, 66.16.100, 66.20.010, 66.20.300, 66.20.310, 66.24.150, 66.24.170, 66.24.185, 66.24.200, 66.24.206, 66.24.210, 66.24.230, 66.24.240, 66.24.244, 66.24.250, 66.24.375, 66.24.380, 66.24.395, 66.24.400, 66.24.420, 66.24.425, 66.24.440, 66.24.450, 66.24.455, 66.24.495, 66.24.540, 66.28.010, 66.28.040, 66.28.050, 66.28.170, 66.28.180, 66.28.190, 66.28.200, 66.28.310, 66.44.190, 66.44.310, 66.98.060 and 82.08.150. WSR 98-18-097, § 314-26-010, filed 9/2/98, effective 10/3/98. Statutory Authority: RCW 66.08.030. WSR 91-19-070, § 314-26-010, filed 9/16/91, effective 10/17/91; WSR 88-13-118 (Order 253, Resolution No. 262), § 314-26-010, filed 6/22/88; Order 40, § 314-26-010, (Rule 83.5), filed 8/21/75.] Repealed by WSR 00-17-065, filed 8/9/00, effective 9/9/00. Statutory Authority: RCW 66.08.030, 66.24.210, 66.24.230, 66.24.290, 66.24.305, 66.24.270, 66.24.215, 66.24.580, 66.24.206.

Chapter 314-37
NONSTATE LIQUOR STORES

314-37-010 Liquor sales in Indian country—Appointment of tribal liquor stores—Qualifications. [Statutory Authority: RCW 66.08.030 and 66.08.050(2). WSR 09-19-002, § 314-37-010, filed 9/2/09, effective 10/3/09. Statutory Authority: RCW 66.08.030, 15.88.030, 19.126.020, 66.04.010, 66.08.180, 66.16.100, 66.20.010, 66.20.300, 66.20.310, 66.24.150, 66.24.170, 66.24.185, 66.24.200, 66.24.206, 66.24.210, 66.24.230, 66.24.240, 66.24.244, 66.24.250, 66.24.375, 66.24.380, 66.24.395, 66.24.400, 66.24.420, 66.24.425, 66.24.440, 66.24.450, 66.24.455, 66.24.495, 66.24.540, 66.28.010, 66.28.040, 66.28.050, 66.28.170, 66.28.180, 66.28.190, 66.28.200, 66.28.310, 66.44.190, 66.44.310, 66.98.060 and 82.08.150. WSR 98-18-097, § 314-37-010, filed 9/2/98, effective 10/3/98. Statutory Authority: RCW 66.08.030 and 66.08.050(2). WSR 83-24-021 (Order 131, Resolution No. 140), § 314-37-010, filed 11/30/83; WSR 83-04-017 (Order 118, Resolution No. 127), § 314-37-010, filed 1/26/83.] Repealed by WSR 12-17-006, filed 8/1/12, effective 9/1/12. Statutory Authority: RCW 66.08.030 and 66.08.050.

314-37-020 Manufacturer's on-site liquor store appointment—Qualifications. [Statutory Authority: RCW 66.08.030 and 66.08.050(2). WSR 09-19-002, § 314-37-020, filed 9/2/09, effective 10/3/09. Statutory Authority: RCW 66.08.050(2). WSR 86-07-023 (Order 180, Resolution No. 189), § 314-37-020, filed 3/13/86.] Repealed by WSR 12-17-006, filed 8/1/12, effective 9/1/12. Statutory Authority: RCW 66.08.030 and 66.08.050.

314-37-030 Bank credit cards and debit cards. [Statutory Authority: RCW 66.08.030 and 66.08.050(2). WSR 09-19-002, § 314-37-030, filed 9/2/09, effective 10/3/09. Statutory Authority: RCW 66.08.030 and 66.16.041. WSR 99-04-114, § 314-37-030, filed 2/3/99, effective 3/6/99.] Repealed by WSR 12-17-006, filed 8/1/12, effective 9/1/12. Statutory Authority: RCW 66.08.030 and 66.08.050.

Chapter 314-48
TRANSPORTATION OF LIQUOR

314-48-010 Transportation through state—Permit required. [Rule 115, filed 6/13/63.] Repealed by WSR 08-17-035, filed 8/13/08, effective 9/13/08. Statutory Authority: RCW 66.08.030.

Chapter 314-56
SCIENTIFIC STUDIES AND RESEARCH

314-56-010 Scientific studies and research. [Rule 127, filed 6/13/63.] Repealed by WSR 00-12-012, filed 5/25/00, effective 6/25/00. Statutory Authority: RCW 66.08.030.

314-56-020 Report of findings. [Rule 128, filed 6/13/63.] Repealed by WSR 00-12-012, filed 5/25/00, effective 6/25/00. Statutory Authority: RCW 66.08.030.

Chapter 314-76
PROCESSING SPECIAL ORDERS OF LIQUOR FROM THE BOARD

314-76-010 Special order of liquor by customers. [Order 55, § 314-76-010, Rule 145, filed 5/31/77, effective 7/1/77.] Repealed by WSR 08-21-133, filed 10/20/08, effective 11/20/08. Statutory Authority: RCW 66.08.030.

314-76-015 What is the purpose of this chapter? [Statutory Authority: RCW 66.08.030. WSR 08-21-133, § 314-76-015, filed 10/20/08, effective 11/20/08.] Repealed by WSR 12-17-006, filed 8/1/12, effective 9/1/12. Statutory Authority: RCW 66.08.030 and 66.08.050.

314-76-020 Who may special order liquor from the board? [Statutory Authority: RCW 66.08.030. WSR 08-21-133, § 314-76-020, filed 10/20/08, effective 11/20/08.] Repealed by WSR 12-17-006, filed 8/1/12, effective 9/1/12. Statutory Authority: RCW 66.08.030 and 66.08.050.

314-76-025 What liquor products may be special ordered? [Statutory Authority: RCW 66.08.030. WSR 08-21-133, § 314-76-025, filed 10/20/08, effective 11/20/08.] Repealed by WSR 12-17-006, filed 8/1/12, effective 9/1/12. Statutory Authority: RCW 66.08.030 and 66.08.050.

314-76-030 Are there special requirements for a special order? [Statutory Authority: RCW 66.08.030. WSR 08-21-133, § 314-76-030, filed 10/20/08, effective 11/20/08.] Repealed by WSR 12-17-006, filed 8/1/12, effective 9/1/12. Statutory Authority: RCW 66.08.030 and 66.08.050.

314-76-035 How does an individual place a special order? [Statutory Authority: RCW 66.08.030. WSR 08-21-133, § 314-76-035, filed 10/20/08, effective 11/20/08.] Repealed by WSR 12-17-006, filed 8/1/12, effective 9/1/12. Statutory Authority: RCW 66.08.030 and 66.08.050.

Chapter 314-78
OFFICIAL SEAL OF THE BOARD

314-78-010 Official seal of the board. [Statutory Authority: RCW 66.08.030 and 66.98.070. WSR 81-19-116 (Order 81, Resolution No. 90), § 314-78-010, filed 9/23/81.] Repealed by WSR 00-12-012, filed 5/25/00, effective 6/25/00. Statutory Authority: RCW 66.08.030.

Chapter 314-01 WAC
DEFINITIONS

WAC
314-01-005 Definitions.

WAC 314-01-005 Definitions. The following definitions apply to Title 314 WAC. Additional definitions are in RCW 66.04.010.

(1) "Licensed premises" or "premises" means all areas of a premises under the legal control of the licensee and available to or used by customers and/or employees in the conduct of business operations. Specific alcohol consumption areas of a licensed premises shall be approved by the board.

(2) "Card of identification" means the forms of identification that are acceptable to verify a person's age per RCW 66.16.040.

(3) "Employee" means any person performing services on a licensed premises for the benefit of the licensee.

(4) "Liquor enforcement officers" means any individual designated as a liquor enforcement officer by the board, and any peace officer as defined by RCW 9A.04.110(15) as it now exists or may later be amended.

(5) "Liquor" means beer, wine, or spirits (per RCW 66.04.010(19) - Definitions).

[Statutory Authority: RCW 66.08.030, 66.04.010. WSR 01-06-016, § 314-01-005, filed 2/26/01, effective 3/29/01.]

Chapter 314-02 WAC
REQUIREMENTS FOR RETAIL LIQUOR LICENSEES

WAC

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314-02-010 Definitions.
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314-02-025 What are the floor space requirements to obtain and maintain a spirits, beer, and wine restaurant license or a beer and wine restaurant license?
314-02-027 What are the requirements/restrictions for a spirits, beer, and wine restaurant license at a cinema with a dinner theater venue?
314-02-030 Can a spirits, beer, and wine restaurant exclude persons under twenty-one years of age from the premises?
314-02-033 Do spirits, beer, and wine restaurants that exclude minors from the premises have to put barriers around their dedicated dining area(s)?
314-02-035 What are the food service requirements for a spirits, beer, and wine restaurant license?
314-02-036 What is a spirits, beer, and wine nightclub license?
314-02-037 What are the floor space requirements for a spirits, beer, and wine nightclub license?
314-02-038 Can a spirits, beer, and wine nightclub license exclude persons under twenty-one years of age from the premises?
314-02-039 What type of restrictions may be placed on a spirits, beer, and wine nightclub license?
314-02-041 What is a hotel license?
314-02-0411 What are the food service requirements for a hotel license?
314-02-0412 Are minors restricted from any areas of the hotel premises?
314-02-0413 What are the requirements if the hotel licensee does not operate the business serving alcohol or food within the hotel premises?
314-02-0414 Can a hotel licensee use its alcohol inventory for sales and service at events outside of the hotel premises?
314-02-0415 What are the requirements for instructing employees on spirits, beer, or wine?
314-02-042 Spirits, beer and wine restaurant restricted—Qualifications.
314-02-043 What is a VIP airport lounge license?
314-02-044 Application process and guidelines for a VIP airport lounge liquor license.
314-02-045 What is a beer and/or wine restaurant license?
314-02-051 What are the requirements/restrictions for a beer and wine restaurant license at a cinema with a dinner theater venue?
314-02-055 Can a beer and/or wine restaurant exclude minors from the dining area?
314-02-056 Sports/entertainment facility license—Purpose.
314-02-057 Definitions.
314-02-058 Sports/entertainment facility licenses—Operating plans.
314-02-059 How will the operating plans be enforced?
314-02-060 What is a caterer's endorsement?
314-02-061 What is required for offsite storage of liquor under a caterer's endorsement?
314-02-065 What is a snack bar license?
314-02-070 What is a tavern license?
314-02-075 What is a motel license?
314-02-080 What are the requirements for a motel licensee or a hotel licensee to sell liquor in honor bars?
314-02-082 What is a beer and wine theater license?
314-02-087 What is a spirits, beer, and wine theater license?
314-02-090 What is a nonprofit arts organization license?
314-02-100 What is a grocery store license?
314-02-102 What are the requirements for a grocery store licensee to conduct beer and wine tastings?
314-02-103 What is a wine retailer reseller endorsement?
314-02-104 Central warehousing.
314-02-105 What is a beer and/or wine specialty store license?
314-02-106 What is a spirits retailer license?
314-02-107 What are the requirements for a spirits retail license?
314-02-1071 What is "trade area"?
314-02-108 Responsible vendor program.
314-02-1081 What is the responsible vendor program for beer and wine retail licensees selling beer and wine for off-premises consumption?
314-02-109 What are the quarterly reporting and payment requirements for a spirits retailer license?
314-02-110 What is a beer and/or wine gift delivery license?
314-02-112 What is a caterer's license?
314-02-114 What is a senior center license?
314-02-115 What are the requirements for licensees that sell keg beer?
314-02-120 How do licensees get keg registration forms?
314-02-125 What types of activities on a licensed premises require notice to the board?
314-02-130 What types of changes to a licensed premises require board approval?

DISPOSITION OF SECTIONS FORMERLY CODIFIED IN THIS CHAPTER

314-02-040 Can a hotel with a spirits, beer, and wine restaurant license sell liquor by the bottle to guests? [Statutory Authority: RCW 66.08.030, 66.24.010, 66.24.120. WSR 00-07-091, § 314-02-040, filed 3/15/00, effective 4/15/00.] Repealed by WSR 08-17-067, filed 8/19/08, effective 9/19/08. Statutory Authority: RCW 66.08.030 and 66.24.590.

314-02-050 What are the floor space requirements to obtain and maintain a beer and/or wine restaurant license? [Statutory Authority: RCW 66.08.030, 66.24.010, 66.24.120. WSR 00-07-091, § 314-02-050, filed 3/15/00, effective 4/15/00.] Repealed by WSR 05-22-022, filed 10/24/05, effective 11/24/05. Statutory Authority: RCW 66.04.010, 66.08.030, 66.24.410, 66.44.310, and 66.44.420.

314-02-085 What is a bed and breakfast permit? [Statutory Authority: RCW 66.08.030, 66.24.010, 66.24.120. WSR 00-07-091, § 314-02-085, filed 3/15/00, effective 4/15/00.] Repealed by WSR 11-01-133, filed 12/21/10, effective 1/21/11. Statutory Authority: RCW 66.08.030 and 66.24.363.

314-02-095 What is a public house license? [Statutory Authority: RCW 66.08.030 and 66.24.600. WSR 10-01-091, § 314-02-095, filed 12/16/09, effective 1/16/10. Statutory Authority: RCW 66.04.010, 66.08.030, 66.24.410, 66.44.310, and 66.44.420. WSR 05-22-022, § 314-02-095, filed 10/24/05, effective 11/24/05. Statutory Authority: RCW 66.08.030, 66.24.010, 66.24.120. WSR 00-07-091, § 314-02-095, filed 3/15/00, effective 4/15/00.] Repealed by WSR 11-01-133, filed 12/21/10, effective 1/21/11. Statutory Authority: RCW 66.08.030 and 66.24.363.

WAC 314-02-005 What is the purpose of chapter 314-02 WAC? Chapter 314-02 WAC outlines the qualifications for the following liquor licenses:

(1) Spirits, beer, and wine restaurants;
(2) Nightclubs;
(3) Spirits, beer, and wine restaurant restricted;
(4) Hotels;
(5) Beer and/or wine restaurants;
(6) Sports/entertainment facilities;
(7) Snack bars;
(8) Taverns;
(9) Motels;
(10) Nonprofit arts organizations;

(11) Grocery stores;

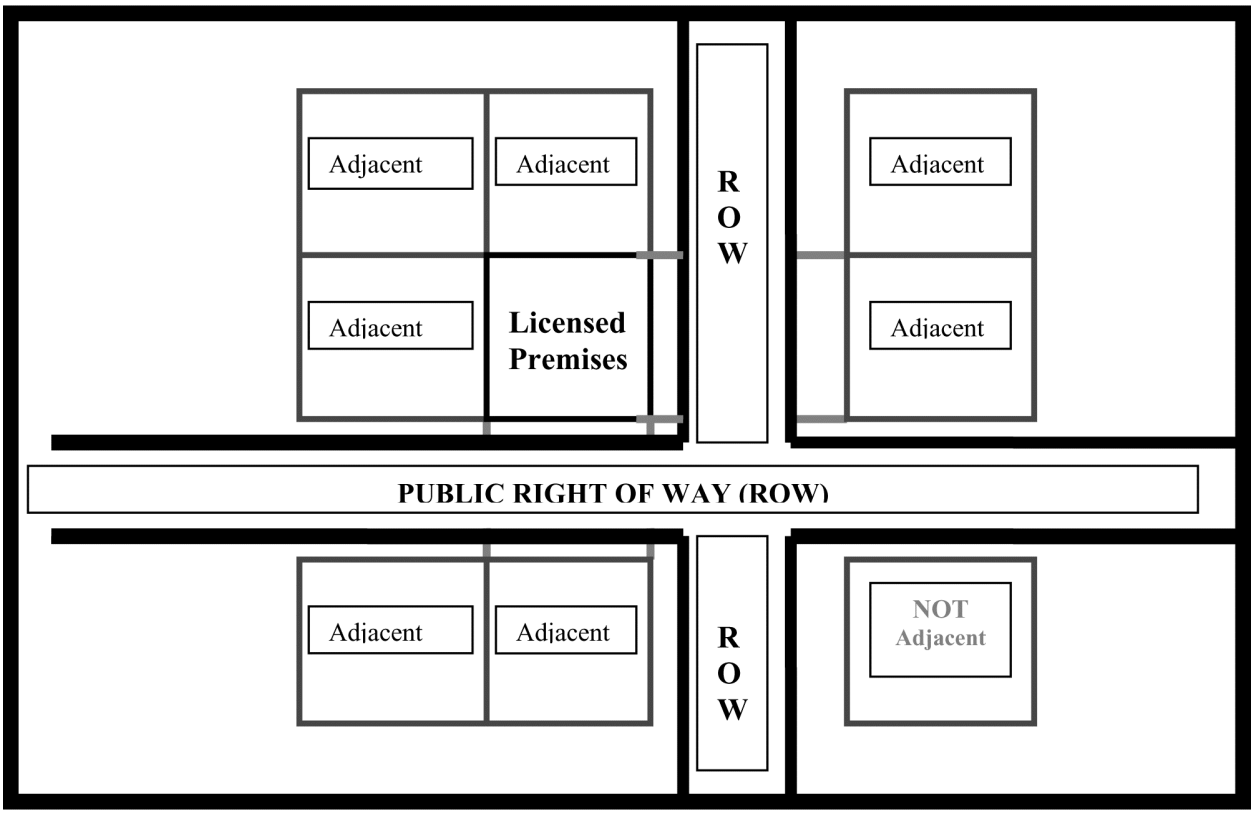
(12) Beer/wine specialty shops; and

(13) Beer/wine gift delivery businesses.

[Statutory Authority: RCW 66.08.030 and 66.24.363. WSR 11-01-133, § 314-02-005, filed 12/21/10, effective 1/21/11. Statutory Authority: RCW 66.08.030 and 66.24.600. WSR 10-01-091, § 314-02-005, filed 12/16/09, effective 1/16/10. Statutory Authority: RCW 66.08.030 and 66.24.590. WSR 08-17-067, § 314-02-005, filed 8/19/08, effective 9/19/08. Statutory Authority: RCW 66.08.030, 66.24.010, 66.24.120. WSR 00-07-091, § 314-02-005, filed 3/15/00, effective 4/15/00.]

WAC 314-02-010 Definitions. The following definitions are to clarify the purpose and intent of the rules and laws governing liquor licenses and permits. Additional definitions can be found in RCW 66.04.010.

(1) "Adjacent" means having a common endpoint or border where the extension of the property lines of the licensed premises contacts that common border.



(2) "Appetizer" means a small portion of food served before the main course of a meal to stimulate the appetite. An appetizer does not qualify as minimum food service.

(3) "Banquet room" means any room used primarily for the sale and service of food and liquor to private groups.

(4) "Customer service area" means areas where food and/or liquor are normally sold and served to the public, i.e., lounges and dining areas. A banquet room is not considered a customer service area.

(5) "Dedicated dining area." In order for an area to qualify as a dedicated dining area, it must be a distinct portion of a restaurant that is used primarily for the sale, service, and consumption of food, and have accommodations for eating, e.g., tables, chairs, booths, etc. See WAC 314-02-025 for more information.

(6) "Designated area" means a space where alcohol may be sold, served, or consumed.

(7) "Entertainer" means someone who performs for an audience such as a disc jockey, singer, or comedian, or anyone providing entertainment services for the licensee. An entertainer is considered an employee of the liquor licensee per WAC 314-01-005. Patrons participating in entertainment are not considered employees.

(8) "Entertainment" means dancing, karaoke, singing, comedy shows, concerts, TV broadcasts, contests with patron participation and/or performing for an audience.

(9) "Food counter" means a table or counter set up for the primary purpose of food service to customers who sit or stand at the counter. Any alcohol served is incidental to food service.

(10) "Game room" means an area of a business set up for the primary purpose of patrons using games or gaming devices.

(11) "Limited food service" means items such as appetizers, sandwiches, salads, soups, pizza, hamburgers, or fry orders.

(12) "Liquor bar" means a table or counter where alcohol is stored or prepared and served to customers who sit or stand at the bar. Liquor bars can only be in lounges or in premises where minors are not allowed at any time.

(13) "Lounge" means the portion of a restaurant used primarily for the preparation, sale, and service of beer, wine, or spirits. Minors are not allowed in a lounge (see RCW

66.44.316 for information on employees and professional musicians under twenty-one years of age).

(14) "Minimum food service" means items such as sandwiches, salad, soup, pizza, hamburgers, and fry orders.

(15) "Minor" means a person under twenty-one years of age.

(16) "On-premises liquor licensed premises" means a building in which a business is located inside that is allowed to sell alcohol for consumption on the licensed premises.

(17) "Service bar" means a fixed or portable table, counter, cart, or similar work station primarily used to prepare, mix, serve, and sell alcohol that is picked up by employees or customers. Customers may not be seated or allowed to consume food or alcohol at a service bar.

(18) "Snack food" means items such as peanuts, popcorn, and chips.

[Statutory Authority: RCW 66.08.030 and 66.24.363. WSR 11-01-133, § 314-02-010, filed 12/21/10, effective 1/21/11. Statutory Authority: RCW 66.08.030 and 66.24.600. WSR 10-01-091, § 314-02-010, filed 12/16/09, effective 1/16/10. Statutory Authority: RCW 66.08.030 and 66.24.590. WSR 08-17-067, § 314-02-010, filed 8/19/08, effective 9/19/08. Statutory Authority: RCW 66.04.010, 66.08.030, 66.24.410, 66.44.310, and 66.44.420. WSR 05-22-022, § 314-02-010, filed 10/24/05, effective 11/24/05. Statutory Authority: RCW 66.08.030, 66.24.010, 66.24.120. WSR 00-07-091, § 314-02-010, filed 3/15/00, effective 4/15/00.]

WAC 314-02-014 What is a food counter, a liquor bar, and a service bar and are minors allowed in these areas?

	Allowed in areas where minors are permitted?	Area where alcoholic beverages are prepared.
A food counter is a table or counter set up for the primary purpose of food service to customers who sit or stand at the counter. Any alcohol served is incidental to food service. Alcoholic beverages are not prepared at a food counter.	yes	no
A liquor bar is a table or counter where alcohol is stored or prepared and served to customers who sit or stand at the bar. This includes alcohol dispensers that are placed on or attached to the table or counter. Liquor bars can only be in lounges or in premises where minors are not allowed at any time.	no	yes
A service bar is a fixed or portable table, counter, cart, or similar work station primarily used to prepare, mix, serve, and sell alcohol that is picked up by employees or customers. Customers may not be seated or allowed to consume food or alcohol at a service bar.	yes	yes

[Statutory Authority: RCW 66.04.010, 66.08.030, 66.24.410, 66.44.310, and 66.44.420. WSR 05-22-022, § 314-02-014, filed 10/24/05, effective 11/24/05.]

WAC 314-02-015 What is a spirits, beer, and wine restaurant license? (1) Per RCW 66.24.400, this license allows a restaurant to:

(a) Serve spirits by the individual glass for on-premises consumption;

(b) Serve beer by the bottle or can or by tap for on-premises consumption;

(c) Serve wine for on-premises consumption;

(d) Allow patrons to remove recorked wine from the licensed premises;

(e) Sell wine by the bottle for off-premises consumption with the appropriate endorsement; and

(f) Sell kegs of malt liquor with the appropriate endorsement. This endorsement also allows the sale of beer or cider as defined in RCW 66.24.210(6) to a purchaser in a sanitary container brought to the premises by the purchaser or furnished by the licensee and filled at the tap by the retailer at the time of sale.

(2) To obtain and maintain a spirits, beer, and wine restaurant license, the restaurant must be open to the public at least five hours a day during the hours of 8:00 a.m. and 11:00 p.m., three days a week.

(3) All applicants for a spirits, beer, and wine license must establish, to the satisfaction of the board, that the premises will operate as a bona fide restaurant. The term "bona fide restaurant" is defined in RCW 66.24.410(2).

[Statutory Authority: RCW 66.08.030, 66.24.371, and 66.24.590. WSR 15-01-001, § 314-02-015, filed 12/3/14, effective 1/3/15. Statutory Authority: RCW 66.08.030. WSR 13-06-024, § 314-02-015, filed 2/27/13, effective 3/30/13. Statutory Authority: RCW 66.08.030 and chapter 66.24 RCW. WSR 11-23-045, § 314-02-015, filed 11/9/11, effective 12/10/11. Statutory Authority: RCW 66.08.030 and 66.24.363. WSR 11-01-133, § 314-02-015, filed 12/21/10, effective 1/21/11. Statutory Authority: RCW 66.08.030. WSR 09-02-012, § 314-02-015, filed 12/29/08, effective 1/29/09. Statutory Authority: RCW 66.04.010, 66.08.030, 66.24.410, 66.44.310, and 66.44.420. WSR 05-22-022, § 314-02-015, filed 10/24/05, effective 11/24/05. Statutory Authority: RCW 66.08.030, 66.24.010, 66.24.120. WSR 00-07-091, § 314-02-015, filed 3/15/00, effective 4/15/00.]

WAC 314-02-020 What are the fee categories for a spirits, beer, and wine restaurant license? (1) Per RCW 66.24.420, the annual fee for a spirits, beer, and wine restaurant license is graduated, as follows:

Amount of customer service area dedicated to dining	Annual fee
100%	$1,000
50 - 99%	$1,600
Less than 50%	$2,000

(2) In order for an area to qualify as a dedicated dining area it must be a separate and distinct portion of a restaurant that is used primarily for the sale, service, and consumption of food, and have accommodations for eating, e.g., tables, chairs, booths, etc. Areas dedicated to live music or entertainment, such as dance floors or stages are not considered dedicated dining areas. Dedicated dining areas may not contain:

(a) Liquor bars (see definition under WAC 314-02-010(2)); or

(b) Areas dedicated to games or gaming devices.

(3) The fee for a spirits, beer, and wine restaurant license outside of an incorporated city or town will be prorated according to the calendar quarters the licensee is open for business. This proration does not apply in the case of a suspension or revocation of the license.

(4) A duplicate license is required in order to sell liquor from more than one site on your property. These sites must be located on the same property and owned by the same licensee. The following types of businesses may apply for a duplicate license:

Type of Business	Annual fee per duplicate license
Airport terminal	25% of annual license fee
Civic center (such as a convention center)	$10
Privately owned facility open to the public	$20

[Statutory Authority: RCW 66.08.030 and chapter 66.24 RCW. WSR 11-23-045, § 314-02-020, filed 11/9/11, effective 12/10/11. Statutory Authority: RCW 66.08.030 and 66.24.600. WSR 10-01-091, § 314-02-020, filed 12/16/09, effective 1/16/10. Statutory Authority: RCW 66.04.010, 66.08.030, 66.24.410, 66.44.310, and 66.44.420. WSR 05-22-022, § 314-02-020, filed 10/24/05, effective 11/24/05. Statutory Authority: RCW 66.08.030, 66.24.010, 66.24.120. WSR 00-07-091, § 314-02-020, filed 3/15/00, effective 4/15/00.]

WAC 314-02-025 What are the floor space requirements to obtain and maintain a spirits, beer, and wine restaurant license or a beer and wine restaurant license? (1) The liquor control board has the responsibility to classify what licensed premises or what portions of the licensed premises are off-limits to minors. (RCW 66.44.310(2).) Minors may not purchase, possess, or consume liquor, and may not enter any areas that are classified as off-limits to minors. (RCW 66.44.290 and 66.44.310.) The purpose of this rule is to clarify the ways in which licensees can prevent minors from consuming alcohol or entering restricted areas.

(2) Dedicated dining areas - If a spirits, beer, and wine restaurant licensee or a beer and wine restaurant licensee that allows minors chooses to have live music, Karaoke, patron dancing, live entertainment, or contests involving physical participation by patrons in the dedicated dining area after 11:00 p.m., the licensee must either:

(a) Request board approval to reclassify the dining area to a lounge for the period of time that live entertainment is conducted, thus restricting minors during that time; or

(b) Notify the board's licensing and regulation division in writing at least forty-eight hours in advance that the sale, service, and consumption of liquor will end in the dedicated dining area after 11:00 p.m.

Request or notifications may cover one event or a series of recurring events over a period of time.

(3) **Barriers -** Licensees must place barriers around areas that are classified as off-limits to minors and around game rooms.

(a) The barriers must clearly separate restricted areas, and must be at least forty-two inches high.

(b) The barriers must be permanently affixed (folding or retractable doors or other barriers that are permanently affixed are acceptable). A portable or moveable rope and stanchion is not acceptable. Those licensees that have been approved by the board for moveable barriers prior to the effective date of this rule may keep their movable barriers until the licensee requests alterations to the premises or the premises change ownership.

(c) Liquor bars cannot be used as the required barriers (see definition of liquor bar in WAC 314-02-010(10)).

(d) Entrances to restricted areas may not be wider than ten feet. If a licensee has more than one entrance along one wall, the total entrance areas may not exceed ten feet.

(e) "Minor prohibited" signs, as required by WAC 314-11-060(1), must be posted at each entrance to restricted areas.

(4) If the business allows minors, the business's primary entrance must open directly into a dedicated dining area or into a neutral area, such as a lobby or foyer, that leads directly to a dedicated dining area. Minors must be able to access restrooms without passing through a lounge or other age-restricted area.

(5) **Floor plans -** When applying for a license, the applicant must provide to the board's licensing and regulation division two copies of a detailed drawing of the entire premises. The drawing must:

(a) Be drawn one foot to one-quarter-inch scale;

(b) Have all rooms labeled according to their use; e.g., dining room, lounge, game room, kitchen, etc.; and

(c) Have all barriers labeled in a descriptive way; e.g., "full wall," "half wall," etc.

[Statutory Authority: RCW 66.08.030 and 66.24.363. WSR 11-01-133, § 314-02-025, filed 12/21/10, effective 1/21/11. Statutory Authority: RCW 66.04.010, 66.08.030, 66.24.410, 66.44.310, and 66.44.420. WSR 05-22-022, § 314-02-025, filed 10/24/05, effective 11/24/05. Statutory Authority: RCW 66.08.030, 66.24.010, 66.24.120. WSR 00-07-091, § 314-02-025, filed 3/15/00, effective 4/15/00.]

WAC 314-02-027 What are the requirements/restrictions for a spirits, beer, and wine restaurant license at a cinema with a dinner theater venue? (1) A spirits, beer, and wine restaurant licensee at a cinema with a dinner theater venue must meet the following requirements:

(a) Food service requirements under WAC 314-02-035; and

(b) Lighting requirements under WAC 314-11-055.

(2) Alcohol sales and service may not be provided from the concession area in the cinema lobby.

(3) Alcohol may be consumed only in the theater rooms approved by the board.

(4) Minor patrons and employees are prohibited in the individual theater rooms that allow alcohol service and consumption.

(5) A spirits, beer, and wine restaurant licensee at a cinema with a dinner theater venue must provide a floor plan of the cinema and indicate which theater rooms within the cinema will be operated as dinner theaters. Those theater rooms not operated as dinner theaters with alcohol sales and service may be open to minors and minor employees.

Example: A cinema has eight theater rooms. The licensee wants to operate theater rooms five and six as dinner theaters with meals and alcohol sales and service. Minor patrons and employees are prohibited in theater rooms five and six, but would be allowed in the lobby area and in theater rooms one, two, three, four, seven, and eight.

Example: A cinema has eight theater rooms. The licensee wants to operate all eight theater rooms as dinner theaters with meals and alcohol sales and service. Minor patrons and employees are prohibited in the lobby area and all eight theater rooms in the cinema. No minors would be allowed on the entire premises at all times.

[Statutory Authority: RCW 66.08.030. WSR 10-10-127, § 314-02-027, filed 5/5/10, effective 6/5/10.]

WAC 314-02-030 Can a spirits, beer, and wine restaurant exclude persons under twenty-one years of age from the premises? A spirits, beer, and wine restaurant licensee may exclude minors from the entire premises at all times as approved by the board.

(1) To exclude minors from the entire licensed premises at all times the applicant or licensee must:

(a) Indicate during the liquor license application process that he/she does not wish to have minors on the entire premises at all times; or

(b) If already licensed as a spirits, beer, and wine restaurant that allows minors, the applicant may request permission from the board's licensing and regulation division to exclude minors at all times or for a specific event. See WAC 314-02-130 for instructions on requesting this approval.

(c) Spirits, beer, and wine restaurant licensees who exclude minors from the entire premises at all times or at certain times must meet all other requirements of this license, including the food service requirements outlined in WAC 314-02-035.

(d) During the times that a spirits, beer, and wine restaurant licensee excludes minors from the entire premises, the licensee may not employ minors. (See RCW 66.44.316 for more information on employing minors.)

(2) Restaurants that have less than fifteen percent of their total customer service area dedicated to dining must exclude minors from the entire premises. The licensee:

(a) Must pay the largest annual license fee (less than fifty percent dedicated dining;

(b) Must meet all other requirements of this license, including the food service requirements outlined in WAC 314-02-035; and

(c) May not employ minors at any time. (See RCW 66.44.316 for information on employing certain persons eighteen years and over under specific conditions.)

(3) See WAC 314-11-060(1) regarding requirements for "minors prohibited" signage.

[Statutory Authority: RCW 66.08.030 and 66.24.363. WSR 11-01-133, § 314-02-030, filed 12/21/10, effective 1/21/11. Statutory Authority: RCW 66.04.010, 66.08.030, 66.24.410, 66.44.310, and 66.44.420. WSR 05-22-022, § 314-02-030, filed 10/24/05, effective 11/24/05. Statutory Authority: RCW 66.08.030, 66.24.010, 66.24.120. WSR 00-07-091, § 314-02-030, filed 3/15/00, effective 4/15/00.]

WAC 314-02-033 Do spirits, beer, and wine restaurants that exclude minors from the premises have to put barriers around their dedicated dining area(s)? Spirits, beer, and wine restaurant licensees who exclude minors from the entire premises at all times are only required to place the barriers described in WAC 314-02-025(2) around dedicated dining areas for the purpose of paying the lower annual license fee (fifty percent to ninety-nine percent dedicated dining area). Restaurants that do not allow minors at any time and do not wish to have barriers around their dining area(s) must pay the higher annual license fee (less than fifty percent dedicated dining area). (See WAC 314-02-020 for an explanation of fees.)

[Statutory Authority: RCW 66.08.030 and 66.24.363. WSR 11-01-133, § 314-02-033, filed 12/21/10, effective 1/21/11. Statutory Authority: RCW 66.04.010, 66.08.030, 66.24.410, 66.44.310, and 66.44.420. WSR 05-22-022, § 314-02-033, filed 10/24/05, effective 11/24/05.]

WAC 314-02-035 What are the food service requirements for a spirits, beer, and wine restaurant license? (1) A spirits, beer, and wine restaurant licensee must serve at least eight complete meals. The board may make an exception to the eight complete meal requirement on a case-by-case basis. Establishments shall be maintained in a substantial manner as a place for preparing, cooking and serving of complete meals. For purposes of this title:

(a) "Complete meal" means an entree and at least one side dish.

(b) "Entree" means the main course of a meal. Some examples of entrees are fish, steak, chicken, pork, pasta, pizza, hamburgers, seafood salad, Cobb salad, chef's salad, sandwiches, and breakfast items (as long as they include a side dish). Entrees do not include snack items, or menu items which consist solely of precooked frozen food that is reheated, or consist solely of carry-out items obtained from another business.

(c) Examples of side dishes are soups, vegetables, salads, potatoes, french fries, rice, fruit, and bread.

(2) The restaurant must maintain the kitchen equipment necessary to prepare the complete meals required under this section.

(3) The complete meals must be prepared on the restaurant premises.

(4) A chef or cook must be on duty while complete meals are offered.

(5) A menu must be available to customers.

(6) The food items required to maintain the menu must be on the restaurant premises. These items must be edible.

(7) Restaurants that have one hundred percent dedicated dining area must maintain complete meal service any time liquor is available for sale, service, or consumption.

(8) Restaurants with less than one hundred percent dedicated dining area must maintain complete meal service for a

minimum of five hours a day during the hours of 8:00 a.m. and 11:00 p.m., five days a week. The board may consider written requests for exceptions to this requirement due to demonstrated hardship, under such terms and conditions as the board determines are in the best interests of the public.

Limited food service, such as appetizers, sandwiches, salads, soups, pizza, hamburgers, or fry orders, must be available outside of these hours. Snacks such as peanuts, popcorn, and chips do not qualify as limited food service.

(9) The hours of complete meal service must be conspicuously posted on the premises or listed on the menu. A statement that limited food service is available outside of those hours must also be posted or listed on the menu.

[Statutory Authority: RCW 66.08.030 and 66.24.363. WSR 11-01-133, § 314-02-035, filed 12/21/10, effective 1/21/11. Statutory Authority: RCW 66.08.030 and 66.24.600. WSR 10-01-091, § 314-02-035, filed 12/16/09, effective 1/16/10. Statutory Authority: RCW 66.04.010, 66.08.030, 66.24.410, 66.44.310, and 66.44.420. WSR 05-22-022, § 314-02-035, filed 10/24/05, effective 11/24/05. Statutory Authority: RCW 66.08.030, 66.24.010, 66.24.120. WSR 00-07-091, § 314-02-035, filed 3/15/00, effective 4/15/00.]

WAC 314-02-036 What is a spirits, beer, and wine nightclub license? (1) This license allows a nightclub as defined in RCW 66.04.010(28) to:

(a) Sell and serve spirituous liquor by the individual drink for on-premises consumption;

(b) Sell and serve beer by the open bottle, can, or by tap for on-premises consumption; and

(c) Sell and serve wine for on-premises consumption.

(2) To obtain and maintain a spirits, beer, and wine nightclub license the nightclub must have primary business hours between 9:00 p.m. and 2:00 a.m.

(3) There are no food requirements for a spirits, beer, and wine nightclub license. Food sales and service are incidental to the sale and service of alcohol.

(4) The annual fee for a spirits, beer, and wine nightclub license is two thousand dollars.

[Statutory Authority: RCW 66.08.030 and 66.24.600. WSR 10-01-091, § 314-02-036, filed 12/16/09, effective 1/16/10.]

WAC 314-02-037 What are the floor space requirements for a spirits, beer, and wine nightclub license? (1) The liquor control board has the responsibility to classify what licensed premises or what portions of a licensed premises are off limits to minors.

(a) Any areas in the licensed premises where alcohol is sold, served, or consumed is classified as off-limits to minors (RCW 66.44.310(2)).

(b) Minors may be allowed on the licensed premises but only in areas where alcohol is not served or consumed.

(2) **Barriers -** Licensees must place barriers separating restricted areas from areas where minors will be allowed.

(a) The barriers must clearly separate restricted areas and must be at least forty-two inches high.

(b) The barriers may be moveable.

(c) Liquor bars cannot be used as barriers (see definition of liquor bar in WAC 314-02-010(10)).

(d) Entrances to restricted areas may not be wider than ten feet. If a licensee has more than one entrance along one wall, the total entrance areas may not exceed ten feet.

(e) "Minor prohibited" signs, as required under WAC 314-11-060(1), must be posted at each entrance to a restricted area.

(3) If the business allows minors, the primary entrance must open directly into a nonrestricted area. Minors must be able to access restrooms without passing through a restricted area.

(4) **Floor plans -** When applying for a spirits, beer, and wine nightclub license, the applicant must provide to the board's licensing and regulation division two copies of a detailed drawing of the entire premises. If there will be different floor plans for different types of events that change the location and/or dimensions of the restricted area(s), the applicant must provide two copies of a detailed drawing for each floor plan. All restricted areas must be designated on the floor plan(s) and be approved by the board. The drawing must be labeled with the type of event. The drawing must:

(a) Have all rooms labeled according to their use; e.g., lounge, dance floor, stage area, foyer, restrooms, etc.; and

(b) Have all barriers labeled in a descriptive way; e.g., "full wall," "half wall," etc.

[Statutory Authority: RCW 66.08.030 and 66.24.600. WSR 10-01-091, § 314-02-037, filed 12/16/09, effective 1/16/10.]

WAC 314-02-038 Can a spirits, beer, and wine nightclub license exclude persons under twenty-one years of age from the premises? A spirits, beer, and wine nightclub licensee may exclude minors from the premises at all times.

(1) To exclude minors from the entire licensed premises at all times, the applicant must:

(a) Indicate during the liquor license application process that he/she does not wish to have minors on the entire premises at all times; or

(b) If already licensed as a spirits, beer, and wine nightclub license that allows minors, the licensee may request permission from the board's licensing and regulation division to exclude minors at all times. See WAC 314-02-130 for instructions on requesting this approval.

(2) Spirits, beer, and wine nightclub licensees who exclude minors from the premises may not employ minors. (See RCW 66.44.310 for more information on employing minors.)

[Statutory Authority: RCW 66.08.030 and 66.24.363. WSR 11-01-133, § 314-02-038, filed 12/21/10, effective 1/21/11. Statutory Authority: RCW 66.08.030 and 66.24.600. WSR 10-01-091, § 314-02-038, filed 12/16/09, effective 1/16/10.]

WAC 314-02-039 What type of restrictions may be placed on a spirits, beer, and wine nightclub license? (1) Local government may petition the board to request further restrictions be imposed on a spirits, beer, and wine nightclub license in the interest of public safety. Public safety does not include items such as noise ordinances and trash pickup.

(a) The local authority must request any additional restrictions within twenty days from the date of the local authority notice sent by the board.

A request for additional restrictions must be accompanied by a written explanation for the restriction and how the restriction relates to public safety.

(b) If the local authority requests further restrictions on the license, the board will notify the applicant of the local authorities' request.

(c) Any restrictions requested by the local authority and approved by the board may be enforced by the board.

(d) The board may impose the restriction of a "good neighbor agreement" requested by the local authority, but will not enforce agreements between a local authority and liquor licensee or applicant.

(2) The local authority, the applicant, or the licensee may request an administrative hearing per chapter 34.05 RCW if they disagree with the decision the board makes on additional restrictions to the license, based on the interest of public safety.

[Statutory Authority: RCW 66.08.030 and 66.24.600. WSR 10-01-091, § 314-02-039, filed 12/16/09, effective 1/16/10.]

WAC 314-02-041 What is a hotel license? (1) Per RCW 66.24.590, this license allows a hotel to:

(a) Serve spirits by the individual serving for consumption on the licensed premises;

(b) Serve beer, including strong beer, and wine for consumption on the licensed premises;

(c) Sell at retail, from locked honor bars, in individual units, spirits not to exceed fifty milliliters, beer in individual units not to exceed twelve ounces, and wine in individual bottles not to exceed three hundred eighty-five milliliters, to registered guests of the hotel for consumption in guest rooms;

(d) Provide, without additional charge, to overnight guests, spirits, beer, and wine by the individual serving for consumption on the licensed premises at a specified regular date, time, and place. Self-service by guests is prohibited;

(e) Sell beer, including strong beer, wine, or spirits, in the manufacturer's sealed container or by the individual drink to guests through room service, or through service to occupants of private residential units which are part of the buildings or complex of buildings, that include the hotel;

(f) Sell beer, including strong beer, and wine, in the manufacturer's sealed container at retail sales locations within the hotel premises;

(g) Place in guest rooms at check-in, complimentary beer, including strong beer, or wine in a manufacturer's sealed container; and

(h) Sell beer and cider as defined in RCW 66.24.210(6) to a purchaser in a sanitary container brought to the premises by the purchaser or furnished by the licensee and filled at the tap in the restaurant area by the licensee at the time of sale.

(2) The annual fee for a hotel license is two thousand dollars.

[Statutory Authority: RCW 66.08.030, 66.24.371, and 66.24.590. WSR 15-01-001, § 314-02-041, filed 12/3/14, effective 1/3/15. Statutory Authority: RCW 66.08.030 and chapter 66.24 RCW. WSR 11-23-045, § 314-02-041, filed 11/9/11, effective 12/10/11. Statutory Authority: RCW 66.08.030 and 66.24.363. WSR 11-01-133, § 314-02-041, filed 12/21/10, effective 1/21/11. Statutory Authority: RCW 66.08.030 and 66.24.590. WSR 08-17-067, § 314-02-041, filed 8/19/08, effective 9/19/08.]

WAC 314-02-0411 What are the food service requirements for a hotel license? (1) A hotel licensee must have the ability to serve at least eight complete meals to hotel guests or any other patron of the hotel who is offered alcohol service for on-premise consumption at a food outlet on the hotel premises. Food outlets include room service, banquets, bars/lounges, restaurants, or coffee shops. "Complete meal" is defined in WAC 314-02-035.

(2) Complete meals must be prepared on the hotel premises.

(3) A menu must be available to hotel guests and patrons offered alcohol service that lists, at a minimum, the required complete meals.

(4) The food items required to maintain the menu must be located on the licensed premises. These items must be edible.

(5)(a) Licensees must maintain complete meal service for a minimum of five hours a day between the hours of 11:00 a.m. and 2:00 a.m. on any day that liquor is served. The board may consider written requests for exceptions to this requirement due to a demonstrated hardship and may allow exceptions under terms and conditions the board determines are in the best interests of the public.

(b) Minimum food service must be available during hours of alcohol service when complete meal service is not offered. Minimum food service includes items such as hamburgers or fry orders. Snacks such as peanuts, popcorn, and chips do not qualify as minimum food service.

(6) Hours of complete meal service must be listed on the menu. If applicable, a statement must be posted or listed on the menu that minimum food service is available when alcohol is served and complete meal service is unavailable.

[Statutory Authority: RCW 66.08.030 and chapter 66.24 RCW. WSR 11-23-045, § 314-02-0411, filed 11/9/11, effective 12/10/11. Statutory Authority: RCW 66.08.030 and 66.24.363. WSR 11-01-133, § 314-02-0411, filed 12/21/10, effective 1/21/11. Statutory Authority: RCW 66.08.030 and 66.24.590. WSR 08-17-067, § 314-02-0411, filed 8/19/08, effective 9/19/08.]

WAC 314-02-0412 Are minors restricted from any areas of the hotel premises? (1) If an area of the hotel premises is used primarily for alcohol service on a continuing basis, the area must be designated by the licensee as restricted to access by minors.

(2) The board may restrict alcohol service in areas of the hotel premises where:

(a) The designated area is designed as an attraction for minors; or

(b) Consumption of alcohol in a designated area presents an increased risk to public safety.

[Statutory Authority: RCW 66.08.030 and 66.24.590. WSR 08-17-067, § 314-02-0412, filed 8/19/08, effective 9/19/08.]

WAC 314-02-0413 What are the requirements if the hotel licensee does not operate the business serving alcohol or food within the hotel premises? (1)(a) If any facilities within the hotel premises used for alcoholic beverage service and the preparation, cooking, and serving of food are operated under contract or joint venture agreement with a business separate from the hotel business, the operator may hold a license separate from the license held by the operator of the hotel.

(b) Food and beverage inventory used in separately licensed operations on the hotel premises may not be shared and shall be separately owned and stored by the separate licensees.

(c) The board may require a hotel licensee to submit a copy of the contract or joint venture agreement when a party other than the hotel operator provides food and alcoholic beverage service. Such contract or agreement must require the provider of food and alcoholic beverage services to meet the food service requirements of WAC 314-02-0411.

(d) The hotel licensee is responsible for the conduct of alcohol sales and service by a separately licensed business and violation incurred by the separately licensed business may result in an administrative violation for the hotel licensee.

(2)(a) If alcohol is consumed in an area of the hotel premises operated by a business separate from the hotel business but under a contract or joint venture agreement with the hotel licensee to conduct activities other than food service, the hotel licensee is responsible for violations of alcohol laws and regulations resulting from conduct of the separate business.

(b) The board may require a hotel licensee to submit a copy of the contract or joint venture agreement between the licensee and the separate business.

[Statutory Authority: RCW 66.08.030 and 66.24.590. WSR 08-17-067, § 314-02-0413, filed 8/19/08, effective 9/19/08.]

WAC 314-02-0414 Can a hotel licensee use its alcohol inventory for sales and service at events outside of the hotel premises? Per RCW 66.24.590, a licensee may:

(1) Remove from the hotel licensee's liquor stocks at the licensed premises, liquor to be sold and served at an event on a specified date at a specified location not currently licensed by the board. If the event is open to the public, it must be sponsored by a society or organization defined under RCW 66.24.375.

(2) If requested by the board, the licensee must notify the board or its designee of the date, time, and location of these events.

(3) Licensees may sell and serve liquor under this section on the premises of a domestic winery.

[Statutory Authority: RCW 66.08.030 and 66.24.590. WSR 08-17-067, § 314-02-0414, filed 8/19/08, effective 9/19/08.]

WAC 314-02-0415 What are the requirements for instructing employees on spirits, beer, or wine? (1) Per RCW 66.24.590, a licensee or its manager may furnish spirits, beer, or wine to the licensee's employees who are twenty-one years of age or older, free of charge, as a necessary part of instruction and training on spirits, beer, and wine.

(2) The licensee must use spirits, beer, and wine he or she obtains under the license for purposes of instruction.

(3) The instruction must be given at the hotel premises.

[Statutory Authority: RCW 66.08.030 and 66.24.590. WSR 08-17-067, § 314-02-0415, filed 8/19/08, effective 9/19/08.]

WAC 314-02-042 Spirits, beer and wine restaurant restricted—Qualifications. (1) Spirits, beer and wine restaurant restricted licensees shall govern their operations in selling liquor in accordance with the regulations set forth in Title 66 RCW. Such licensees may sell liquor in accordance with these regulations, only to members, invited guests, and holders of cards as authorized by chapter 314-40 WAC.

(2)(a) Applications for new spirits, beer and wine restaurant restricted licenses shall be accompanied by proof that:

(i) The business has been in operation for at least one year immediately prior to the date of its application. Such proof should include records of membership as well as an indication as to numbers and types of membership.

(ii) Membership or admission will not be denied to any person because of race, creed, color, national origin, sex or the presence of any sensory, mental or physical handicap.

(b) Spirits, beer and wine restaurant restricted applicants and licensees must meet the provisions of WAC 314-02-035.

(3) Under RCW 66.24.450, the board may issue an endorsement allowing the club to hold nonclub, member-sponsored events using club liquor.

(a) Each event must have a sponsoring member from the club.

(b) Each visitor and/or guest may only attend the event by invitation of the sponsoring member(s).

(c) Event may not be open to the general public.

(d) At least seventy-two hours prior to any nonclub event, the sponsoring member, or any club officer, must provide to the board: The date, time, and location of the event, the name of the sponsor of the event, and a brief description of the purpose of the event.

(e) A list of all invited guests and visitors must be available for inspection during the nonclub event.

(4) Under RCW 66.24.450, the board may issue an endorsement allowing the holder of a spirits, beer, and wine private club license to sell bottled wine for off-premises consumption.

(a) Spirits and beer may not be sold for off-premises consumption.

(b) Bottled wine may only be sold to members, visitors, and guests defined under WAC 314-40-005. Bottled wine may not be sold to the general public.

(5) See chapter 314-40 WAC for additional rules on clubs.

[Statutory Authority: RCW 66.08.030 and chapter 66.24 RCW. WSR 11-23-045, § 314-02-042, filed 11/9/11, effective 12/10/11. Statutory Authority: RCW 66.08.030 and 66.24.363. WSR 11-01-133, § 314-02-042, filed 12/21/10, effective 1/21/11.]

WAC 314-02-043 What is a VIP airport lounge license? (1) Per RCW 66.24.XXX, a VIP airport lounge liquor license allows a VIP airport lounge licensee to sell or provide spirits, wine, and beer for on-premises consumption as a retail licensed premises.

(a) A VIP airport lounge is a retail establishment in an international airport, beyond security checkpoints.

(b) The VIP airport lounge liquor licensee must be the entity in control of the day-to-day operations of the VIP airport lounge.

(c) Spirits, beer, and wine to be sold or provided complimentary by the individual serving for on-premises consumption to persons at least twenty-one years of age or older.

(d) Customers may not remove spirits, beer, and wine from the premises at any time.

(e) The VIP airport lounge licensee may only serve liquor from a service bar. A service bar is a work station primarily used to prepare and sell alcoholic beverages that are picked up by the customer. Customers are not permitted to

mix their own drinks, sit or consume food or alcohol at the service bar.

(f) All alcohol servers must have a valid MAST permit.

(2) The annual fee for this license is two thousand dollars.

[Statutory Authority: RCW 66.08.030 and chapter 66.24 RCW. WSR 11-23-045, § 314-02-043, filed 11/9/11, effective 12/10/11.]

WAC 314-02-044 Application process and guidelines for a VIP airport lounge liquor license. (1) RCW 66.24.010 states the board will only issue licenses and permits to applicants and locations that meet certain qualifications. Please see chapter 314-07 WAC for liquor license qualifications and application process.

(2) An applicant for a VIP airport lounge license must include a sketch of the VIP airport lounge area including the service bar area and where the alcohol inventory will be stored.

(3) All alcohol inventory must be stored on the VIP airport lounge licensed premises.

(4) All spirits must be purchased from the board at the assigned liquor store. Beer and wine must be purchased from a licensed distributor or retail outlet. A VIP lounge licensee may purchase wine directly from a licensed manufacturer if the licensee holds an endorsement to receive direct shipments from a manufacturer.

(5) Access to a VIP airport lounge is generally limited to:

(a) Ticketed airline passengers of any age who have first class, executive, or business class tickets;

(b) Qualified members or guests of loyalty incentive programs, members or guests of enhanced amenities programs;

(c) Passengers or airline employees issued a pass by the airline for access; and

(d) Airport, airline employees, government officials, and attendees of airport authority or airlines for business promotion with controlled access by the VIP airport lounge licensee.

(6) Between the hours of 2 a.m. and 6 a.m., licensees or employees may not:

(a) Provide, offer, or sell liquor;

(b) Deliver liquor (except that beer and/or wine distributors may deliver beer and/or wine to retail licensees between the hours of 2 a.m. and 6 a.m.);

(c) Allow liquor to be consumed on the premises; or

(d) Possess liquor, except that persons working on the premises may possess liquor between the hours of 2 a.m. and 6 a.m. while in the performance of their official duties.

(7) A local government subdivision may fix later opening hours or earlier closing hours than those specified in this rule, so long as the hours apply to all licensed premises in the local government subdivision's jurisdiction. See WAC 314-12-215(3) for exceptions when a premises is in a board recognized alcohol impact area.

[Statutory Authority: RCW 66.08.030 and chapter 66.24 RCW. WSR 11-23-045, § 314-02-044, filed 11/9/11, effective 12/10/11.]

WAC 314-02-045 What is a beer and/or wine restaurant license? (1) Per RCW 66.24.320 and 66.24.354, this license allows a restaurant to:

Privilege	Annual fee
(a) Serve beer by the bottle or can or by tap for on-premises consumption.	$200
(b) Serve wine for on-premises consumption (see RCW 66.24.320 regarding patrons removing recorked wine from the premises).	$200
(c) Sell beer and/or wine in the original, unopened containers for off-premises consumption.	$120
(d) Sell tap beer for off-premises consumption in a sanitary container holding less than four gallons of beer, and brought to the premises by the purchaser.	In conjunction with off-premises privilege outlined in (c) of this subsection.
(e) Sell cider as defined in RCW 66.24.210(6) for off-premises consumption to a purchaser in a sanitary container brought to the premises by the purchaser or provided by the licensee and filled at the tap in the restaurant at the time of purchase. The licensee must comply with federal regulations.	In conjunction with off-premises privilege outlined in (c) of this subsection.
(f) Sell beer in kegs or other containers holding at least four gallons of beer (see WAC 314-02-115 regarding the requirements for registering kegs).	In conjunction with off-premises privilege outlined in (c) of this subsection.

(2) All applicants for a beer and/or wine restaurant license must establish, to the satisfaction of the board, that the premises will operate as a bona fide restaurant, as defined in RCW 66.04.010(30).

(a) Minimum food service is required, as defined in WAC 314-02-010.

(b) To obtain and maintain a beer and/or wine restaurant license, the restaurant must be open to the public at least five hours a day, three days a week.

(3) If a beer and/or wine restaurant's dedicated dining area comprises less than fifteen percent of the total customer service area, the premises must maintain a tavern license (see WAC 314-02-070 regarding the tavern license).

[Statutory Authority: RCW 66.08.030, 66.24.371, and 66.24.590. WSR 15-01-001, § 314-02-045, filed 12/3/14, effective 1/3/15. Statutory Authority: RCW 66.08.030. WSR 13-06-024, § 314-02-045, filed 2/27/13, effective 3/30/13. Statutory Authority: RCW 66.08.030 and chapter 66.24 RCW. WSR 11-23-045, § 314-02-045, filed 11/9/11, effective 12/10/11. Statutory Authority: RCW 66.08.030 and 66.24.363. WSR 11-01-133, § 314-02-045, filed 12/21/10, effective 1/21/11. Statutory Authority: RCW 66.08.030 and 66.24.600. WSR 10-01-091, § 314-02-045, filed 12/16/09, effective 1/16/10. Statutory Authority: RCW 66.04.010, 66.08.030, 66.24.410, 66.44.310, and 66.44.420. WSR 05-22-022, § 314-02-045, filed 10/24/05, effective 11/24/05. Statutory Authority: RCW 66.08.030, 66.24.010, 66.24.120. WSR 00-07-091, § 314-02-045, filed 3/15/00, effective 4/15/00.]

WAC 314-02-051 What are the requirements/restrictions for a beer and wine restaurant license at a cinema with a dinner theater venue? (1) A beer and wine restaurant

licensee at a cinema with a dinner theater venue must meet the following requirements:

(a) Food service requirements under WAC 314-02-045; and

(b) Lighting requirements under WAC 314-11-055;

(2) Alcohol sales and service may not be provided from the concession area in the cinema lobby.

(3) Alcohol may be consumed only in the theater rooms approved by the board.

(4) Minor patrons and employees are prohibited in the individual theater rooms that allow alcohol service and consumption.

(5) A beer and wine restaurant licensee at a cinema with a dinner theater venue must provide a floor plan of the cinema and indicate which theater rooms within the cinema will be operated as dinner theaters. Those theater rooms not operated as dinner theaters with alcohol sales and service may be open to minors and minor employees.

Example: A cinema has eight theater rooms. The licensee wants to operate theater rooms five and six as dinner theaters with meals and alcohol sales and service. Minor patrons and employees are prohibited in theater rooms five and six, but would be allowed in the lobby area and in theater rooms one, two, three, four, seven, and eight.

Example: A cinema has eight theater rooms. The licensee wants to operate all eight theater rooms as dinner theaters with meals and alcohol sales and service. Minor patrons and employees are prohibited in the lobby area and all eight theater rooms in the cinema. No minors would be allowed on the entire premises at all times.

[Statutory Authority: RCW 66.08.030. WSR 10-10-127, § 314-02-051, filed 5/5/10, effective 6/5/10.]

WAC 314-02-055 Can a beer and/or wine restaurant exclude minors from the dining area? (1) To exclude minors from the dining area during a portion of the day or week or on a one-time-only basis, the applicant or licensee must request permission from the board (see WAC 314-02-130(1)).

(2) See WAC 314-11-060(1) regarding requirements for "minors prohibited" signage.

[Statutory Authority: RCW 66.04.010, 66.08.030, 66.24.410, 66.44.310, and 66.44.420. WSR 05-22-022, § 314-02-055, filed 10/24/05, effective 11/24/05. Statutory Authority: RCW 66.08.030, 66.24.010, 66.24.120. WSR 00-07-091, § 314-02-055, filed 3/15/00, effective 4/15/00.]

WAC 314-02-056 Sports/entertainment facility license—Purpose. (1) **What is the purpose of the rules governing the use of alcohol in sports/entertainment facilities?**

(a) In RCW 66.24.570, the legislature established a spirits, beer, and wine license for arenas, coliseums, stadiums, or other facilities where sporting, entertainment, and special events are presented.

(b) These rules provide a framework for the enforcement of liquor laws and regulations, particularly those prohibiting the sale of alcohol to persons under twenty-one years of age or persons who are apparently intoxicated.

(c) This framework recognizes the unique conditions associated with events attended by large crowds consisting of diverse age groups.

(2) **Will the liquor control board recognize the differences between types of sports/entertainment facilities?** Yes. A sports/entertainment facility must submit an operating plan, which must be approved by the board prior to the issuance of a license. All plans are required to meet the minimum standards outlined in WAC 314-02-058. The board will take into consideration the unique features of each facility when approving an operating plan, including the seating accommodations, eating facilities, and circulation patterns.

[Statutory Authority: RCW 66.08.030 and 66.24.363. WSR 11-01-133, § 314-02-056, filed 12/21/10, effective 1/21/11.]

WAC 314-02-057 Definitions. (1) **Premises -** Buildings, parking lots, and any open areas that are adjacent to and owned, leased, or managed by the licensee and under the licensee's control.

(2) **Event categories -** Types of events that the licensee expects to hold on the premises:

(a) **Professional sporting event -** A contest involving paid athletes and sanctioned by a professional sports organization that regulates the specific sport.

(i) A preapproved level of alcohol service will be applied to the professional sporting events of baseball, football, basketball, soccer, tennis, volleyball, horse racing, hockey, and track and field events (relay races, dashes, pole vaulting, etc.).

(ii) For all other professional sporting events, the board will determine the level of alcohol service on a case-by-case basis, as approved in the operating plan.

(b) **Amateur sporting event -** A contest or demonstration involving athletes who receive no monetary compensation that is sanctioned by a national or regional amateur athletic regulatory organization.

(c) **Entertainment event -** A concert, comedy act, or similar event intended for the entertainment of the audience.

(d) **Special event -** A convention, trade show, or other public/private event to large too be held in a separate banquet or meeting room within the facility.

(e) **Private event -** An event not open to the public such as a wedding, private party, or business meeting, where the facility or a portion of the facility where the event is held is not accessible to the general public during the time of the private event.

(3) **Hawking -** The practice of selling alcohol in seating areas by roving servers who carry the beverages with them, as outlined in WAC 314-02-058(4). Because of row seating arrangements, servers normally do not have direct access to customers. Therefore, service usually requires that drinks, money, and identification be passed down rows, involving other spectators.

(4) **Club seats -** A specifically designated and controlled seating area that is distinct from general seating with food and beverage service provided by servers directly to the customer.

[Statutory Authority: RCW 66.08.030 and 66.24.363. WSR 11-01-133, § 314-02-057, filed 12/21/10, effective 1/21/11.]

WAC 314-02-058 Sports/entertainment facility licenses—Operating plans. (1) **What rules govern the submission of operating plans?**

(a) To receive a license, a sports/entertainment facility must submit an operating plan for board approval.

(b) Once approved, the plan remains in effect until the licensee requests a change or the board determines that a change is necessary due to demonstrated problems or conditions not previously considered or adequately addressed in the original plan.

(c) The plan must be submitted in a format designated by the board.

(d) The plan must contain all of the following elements:

(i) How the sports/entertainment facility will prevent the sale and service of alcohol to persons under twenty-one years of age and those who appear to be intoxicated.

(ii) The ratio of alcohol service staff and security staff to the size of the audiences at events where alcohol is being served.

(iii) Training provided to staff who serve, regulate, or supervise the service of alcohol.

(iv) The facility's policy on the number of alcoholic beverages that will be served to an individual patron during one transaction.

(v) A list of event categories (see WAC 314-02-057(2)) to be held in the facility at which alcohol service is planned, along with a request for the level of alcohol service at each event.

(vi) The date must be included in the operating plan.

(vii) The pages must be numbered in the operating plan.

(viii) The operating plan must be signed by a principal of the licensed entity.

(e) Prior to the first of each month, the licensee must provide a schedule of events for the upcoming month to the facility's local liquor enforcement office. This schedule must show the date and time of each event during which alcohol service is planned. The licensee must notify the local enforcement office at least seventy-two hours in advance of any events where alcohol service is planned that were not included in the monthly schedule. Notice of private events is not required when the event is being held in conjunction with a professional or amateur sporting event, an entertainment event, or a special event as outlined in WAC 314-02-057(2).

(2) **May the liquor control board impose any other mandatory standards as a part of an operating plan?** Yes. To prevent persons who are under twenty-one years of age or who appear intoxicated from gaining access to alcohol, the board may impose the following standards as part of an operating plan:

(a) The board may require that an operating plan include additional mandatory requirements if it is judged by the board that the plan does not effectively prevent violations of liquor laws and regulations, particularly those that prevent persons under twenty-one years of age or who are apparently intoxicated from obtaining alcohol.

(b) To permit alcohol servers to establish the age of patrons and to prevent over-service, sports/entertainment facilities must meet minimum lighting requirements established by WAC 314-11-055 in any area where alcohol is served or consumed. For the purpose of establishing a permanent technical standard, an operating plan may include a lighting standard measured in foot candles, so long as the candle power of the lighting is, at all times, sufficient to permit alcohol servers to establish the validity of documents printed in eight point type.

(3) **Where will spirits, beer, and wine be allowed in a sports/entertainment facility?** The purpose of the following matrix is to outline where and when alcohol service will normally be permitted. Due to the unique nature of each facility, the board will determine the permitted alcohol service based on the facility's approved operating plan.

(a) If alcohol service is requested outside of the parameters listed below, a special request with justification for the alcohol service area must be submitted with the operating plan for consideration by the board.

Type of event as defined in WAC 314-02-057	Beer, wine, and spirits may be sold and served in approved restaurants, lounges, private suites, and club rooms	Beer, wine, and spirits may be sold and served in temporary lounges, beer gardens, or other approved service areas	Wine may be served and consumed in club seats during events	Beer and wine may be consumed throughout seating areas during events	Hawking - beer may be served throughout seating areas, subject to the provisions of WAC 314-02-058(4)
Professional sporting events of baseball, football, basketball, soccer, tennis, volleyball, horse racing, hockey, and track and field events	x	x	x	x	x

Type of event as defined in WAC 314-02-057	Beer, wine, and spirits may be sold and served in approved restaurants, lounges, private suites, and club rooms	Beer, wine, and spirits may be sold and served in temporary lounges, beer gardens, or other approved service areas	Wine may be served and consumed in club seats during events	Beer and wine may be consumed throughout seating areas during events	Hawking - beer may be served throughout seating areas, subject to the provisions of WAC 314-02-058(4)
All other professional sporting events (level of alcohol service will be determined on a case-by-case basis per the approved operating plan)	x	x	x	x	
Amateur sporting events	x	x			
Entertainment events	x	x			
Special events	x	x			

(b) For private events, beer, wine, and spirits may be served in the area where the event is held. This area may be a separate meeting or banquet room or the entire facility.

(c) In order to minimize youth access to alcohol, the board may prohibit or restrict the service of alcohol at events where the attendance is expected to be over thirty percent persons under twenty-one years of age. This restriction will not apply to the professional sporting events outlined in WAC 314-02-057 (2)(a).

(4) **Will hawking be allowed at sports/entertainment facilities?** Subject to the provisions of this rule, hawking may be permitted in general seating areas for the sale and consumption of beer, at the professional sporting events of baseball, football, basketball, soccer, tennis, volleyball, horse racing, hockey, and track and field events only, as defined by WAC 314-02-057 (2)(a).

(a) An operating plan must include procedures for hawkers to verify the age of purchasers and to prevent service to apparently intoxicated persons.

(b) During hawking, any patron may decline to handle alcoholic beverages, either on behalf of themselves and for any person under their supervision. When a patron objects to handling alcohol, hawkers must accommodate the objection. The facility operating plan will address how hawking will be managed, including how hawkers will respond to patron objections to handling alcohol.

(c) Each facility's hawking authorization will be reviewed by the board one year after the facility commences hawking under these rules and then every two years. This review, which will take no more than ninety days, will recommend the continuation, modification, or repeal of the hawking authorization. The decision to continue hawking will be based on:

(i) The facility's demonstrated record of preventing service of liquor to persons under twenty-one years of age and to persons who appear intoxicated; and

(ii) Public input submitted to the board. The licensee must post written notices to its patrons at fixed points of alcohol sales on the premises and in programs at events where hawking occurs for at least sixty days prior to the review period, stating that the facility's hawking authorization is up for review by the board, and directing comment to the board. The wording and method of notice must be approved by the board.

[Statutory Authority: RCW 66.08.030 and 66.24.363. WSR 11-01-133, § 314-02-058, filed 12/21/10, effective 1/21/11.]

WAC 314-02-059 How will the operating plans be enforced? (1) The board will inspect sports/entertainment facilities and issue violation notices for:

(a) Infractions of all liquor laws and rules, particularly with regard to persons who appear intoxicated or who are under twenty-one years of age; and

(b) Any significant deviation from the approved operating plan.

(2) Violations of liquor laws or rules that occur as a result of not following the approved operating plan will be considered aggravating circumstances, which permit the board to impose added penalties.

[Statutory Authority: RCW 66.08.030 and 66.24.363. WSR 11-01-133, § 314-02-059, filed 12/21/10, effective 1/21/11.]

WAC 314-02-060 What is a caterer's endorsement? (1) A spirits, beer, and wine restaurant and a beer and/or wine restaurant applicant or licensee may apply for a caterer's endorsement, in order to extend the on-premises license privilege to allow the sale and service of liquor at approved locations other than the licensed premises. See RCW 66.24.420(6) and 66.24.320(2) for more information about this endorsement.

(2) The annual fee for this endorsement is three hundred fifty dollars.

[Statutory Authority: RCW 66.08.030 and chapter 66.24 RCW. WSR 11-23-045, § 314-02-060, filed 11/9/11, effective 12/10/11. Statutory Authority: RCW 66.08.030 and 66.24.600. WSR 10-01-091, § 314-02-060, filed 12/16/09, effective 1/16/10. Statutory Authority: RCW 66.08.030,

66.24.010, 66.24.120. WSR 00-07-091, § 314-02-060, filed 3/15/00, effective 4/15/00.]

WAC 314-02-061 What is required for offsite storage of liquor under a caterer's endorsement? A spirits, beer, and wine restaurant licensee with a caterer's endorsement, or a beer and/or wine restaurant licensee with a caterer's endorsement, may store its alcohol at locations described in RCW 66.24.320 and 66.24.420 that are not on the licensed premises if the following conditions are met:

(1) The licensee must display the approval letter for storing liquor at each location;

(2) Liquor storage must be within the event location where catering services for events are provided;

(3) If the location is one for which the licensee has an on-going contract or agreement to provide liquor service at catered events, the contract or agreement must include the following:

(a) Names of the parties;

(b) Location and address where on-going liquor catering services are provided;

(c) A sketch and description of the facility that includes where the liquor will be stored, how the liquor will be secured to ensure public safety, and the provisions that restrict access to the liquor storage area to the licensee and the licensee's employees; and

(d) Signatures of the parties.

(4) For locations owned or leased by the licensee and for which the licensee provides liquor service at catered events, the licensee must submit copies of documents that evidence the ownership or leasehold interest.

[Statutory Authority: RCW 66.08.030. WSR 09-02-012, § 314-02-061, filed 12/29/08, effective 1/29/09.]

WAC 314-02-065 What is a snack bar license? (1) Per RCW 66.24.350, a snack bar license allows a licensee to serve beer by the opened bottle or can for on-premises consumption only.

(2) Snack bar licensees must have snack food, as defined in WAC 314-02-010(15), available whenever beer is sold or served.

(3) Snack bars must have designated seating for on-premises consumption of beer.

(4) The annual fee for this license is one hundred twenty-five dollars.

[Statutory Authority: RCW 66.08.030 and chapter 66.24 RCW. WSR 11-23-045, § 314-02-065, filed 11/9/11, effective 12/10/11. Statutory Authority: RCW 66.08.030 and 66.24.600. WSR 10-01-091, § 314-02-065, filed 12/16/09, effective 1/16/10. Statutory Authority: RCW 66.08.030, 66.24.010, 66.24.120. WSR 00-07-091, § 314-02-065, filed 3/15/00, effective 4/15/00.]

WAC 314-02-070 What is a tavern license? (1) Per RCW 66.24.330 and 66.24.354, this license allows a tavern to:

Privilege	Annual fee
(a) Serve beer by the bottle or can or by tap for on-premises consumption.	$200
(b) Serve wine for on-premises consumption.	$200
(c) Sell beer and/or wine in the original, unopened containers for off-premises consumption.	$120
(d) Sell tap beer for off-premises consumption in a sanitary container holding less than four gallons of beer, and brought to the premises by the purchaser.	In conjunction with off-premises privilege outlined in (c) of this subsection.
(e) Sell cider as defined in RCW 66.24.210(6) for off-premises consumption to a purchaser in a sanitary container brought to the premises by the purchaser or provided by the licensee and filled at the tap in the tavern at the time of purchase. The licensee must comply with federal regulations.	In conjunction with off-premises privilege outlined in (c) of this subsection.
(f) Sell beer in kegs or other containers holding at least four gallons of beer (see WAC 314-02-110 regarding the requirements for registering kegs).	In conjunction with off-premises privilege outlined in (c) of this subsection.

(2) A tavern licensee may not allow persons under twenty-one years of age on the premises at any time (see RCW 66.44.316 for information regarding employees and professional musicians under twenty-one years of age).

[Statutory Authority: RCW 66.08.030, 66.24.371, and 66.24.590. WSR 15-01-001, § 314-02-070, filed 12/3/14, effective 1/3/15. Statutory Authority: RCW 66.08.030 and chapter 66.24 RCW. WSR 11-23-045, § 314-02-070, filed 11/9/11, effective 12/10/11. Statutory Authority: RCW 66.08.030 and 66.24.600. WSR 10-01-091, § 314-02-070, filed 12/16/09, effective 1/16/10. Statutory Authority: RCW 66.08.030, 66.24.010, 66.24.120. WSR 00-07-091, § 314-02-070, filed 3/15/00, effective 4/15/00.]

WAC 314-02-075 What is a motel license? (1) Per RCW 66.24.540, a motel license allows a motel to:

(a) Sell liquor in locked honor bars in no more than one-half of its guest rooms, provided that:

(i) Rooms are rented to guests, at a minimum, on a daily rental basis; and

(ii) Each honor bar also contains snack food; and

(b) Provide beer and wine by the individual serving to overnight guests of the motel, without additional charge, for on-premises consumption at a specified regular date, time, and place (such as a hospitality room). Patrons may not self-serve during these functions.

(2) The motel must be licensed as a "transient accommodation" per chapter 70.62 RCW.

(3) The annual fee for this license is five hundred dollars.

[Statutory Authority: RCW 66.08.030, 66.24.010, 66.24.120. WSR 00-07-091, § 314-02-075, filed 3/15/00, effective 4/15/00.]

WAC 314-02-080 What are the requirements for a motel licensee or a hotel licensee to sell liquor in honor bars? For the purposes of this chapter, an "honor bar" is a cabinet, box, cooler, or refrigerator in a guest room that can be opened only with a key, combination, magnetic card, or

similar device. The following requirements apply to the use of an honor bar:

(1) The licensee must require proof of age before providing a guest access to an honor bar. The guest must sign a declaration, under penalty of perjury, verifying that:

(a) The guest is twenty-one years of age or older; and

(b) No one under twenty-one years of age will have access to the liquor in the honor bar.

(2) The honor bars must remain locked whenever the room is rented to a guest under twenty-one years of age.

(3) All liquor stored on the licensed premises must be either locked in an honor bar or locked in a secured liquor storage room.

(4) No person under twenty-one years of age may have access to the honor bars, liquor storage rooms, or keys, combinations, etc., to the locked honor bars or storage rooms.

(5) A honor bar or storage room may only be replenished during those hours when liquor may legally be sold (not between 2:00 a.m. and 6:00 a.m.), and only by employees who are twenty-one years of age or older. Beer and wine wholesalers may deliver, price, and stock product only in storage rooms.

(6) Liquor in honor bars may only be sold in individual containers in the following sizes:

(a) Spirits - not to exceed fifty milliliters;

(b) Beer - not to exceed twelve ounces; and

(c) Wine - not to exceed one hundred eighty-seven milliliters.

[Statutory Authority: RCW 66.08.030 and 66.24.590. WSR 08-17-067, § 314-02-080, filed 8/19/08, effective 9/19/08. Statutory Authority: RCW 66.08.030, 66.24.010, 66.24.120. WSR 00-07-091, § 314-02-080, filed 3/15/00, effective 4/15/00.]

WAC 314-02-082 What is a beer and wine theater license? (1) A beer and wine theater is a place of business where motion pictures or other primarily nonparticipatory entertainment or events are shown. The holder of a beer and wine theater license is allowed to sell beer, strong beer, and wine, at retail, for consumption on the licensed premises.

(2) The requirements for the beer and wine theater license are as follows:

(a) The theater has no more than four screens.

(b) All servers of beer and wine are required to attend a mandatory alcohol server training (MAST) program.

(c) The serving size for wine is five ounces. The serving size for beer is twelve ounces.

(d) If the theater premises will be frequented by minors, an alcohol control plan agreement must be signed and submitted to the board during the application process.

(3) The alcohol control plan agreement will be provided on a form by the board and includes the following requirements:

(a) To ensure that alcoholic beverages are not sold to persons under the age of twenty-one, staff will request identification from any patron who appears to be age thirty or under and who is attempting to purchase an alcoholic beverage.

(b) Alcoholic beverages must be served in containers that differ significantly from containers utilized for nonalcoholic beverages.

(c) All alcoholic beverages sold under this license must be sold by the individual drink.

(d) If staff observes a patron who is in the possession of or who is consuming an alcoholic beverage who appears to be of questionable age, staff will request identification from that patron. If the patron is unable to produce an acceptable form of identification verifying their age the alcohol will be confiscated.

(e) Staff will accept only those forms of identification that are acceptable per WAC 314-11-025 to verify a person's age for the purpose of selling, serving, or allowing a person to possess or consume alcohol.

(f) All employees involved in the sale, service and/or supervision of alcoholic beverages will be required to attend MAST to obtain the appropriate permit for their level of service.

(g) Sufficient lighting must be maintained at the point of sale so that identification can be confirmed and patrons observed for signs of intoxication.

(h) To ensure alcoholic beverages are served in a safe, responsible, and controlled manner, sales and service of alcoholic beverages will be limited to one serving per person per transaction.

(i) If a patron is accompanied by another patron who wants to pay for both people's drinks, they may do so, provided that both patrons are of legal age to purchase, and have proper identification, if requested, and are not displaying signs of intoxication.

(j) Alcohol may only be sold, served, and consumed in areas designated in the alcohol control plan agreement and approved by the board.

(k) Staff will refuse to sell an alcoholic beverage to any person who appears to be intoxicated. Alcoholic beverages will be removed from any person who appears to be intoxicated.

(l) This alcohol control plan agreement will be prominently posted on the licensed premises.

(4) Penalties are doubled for a violation involving minors or the failure to follow the signed alcohol control plan agreement.

(5) If a theater premises has a restaurant located outside of the actual theater screening areas, beer and wine may be served and consumed in the restaurant area.

(a) Beer may be sold by the pitcher as well as by individual serving for consumption in the restaurant area.

(b) Wine may be sold by the bottle as well as by the individual serving for consumption in the restaurant area.

[Statutory Authority: RCW 66.24.650 and 66.24.655. WSR 14-03-077, § 314-02-082, filed 1/15/14, effective 2/15/14.]

WAC 314-02-087 What is a spirits, beer, and wine theater license? (1) A spirits, beer, and wine theater is a place of business where motion pictures or other primarily nonparticipatory entertainment or events are shown. The holder of a beer and wine theater license is allowed to sell spirits, beer, strong beer, and wine, at retail, for consumption on the licensed premises.

(2) The requirements for the spirits, beer, and wine theater license are as follows:

(a) The theater has no more than one hundred twenty seats per screen.

(b) All servers of beer and wine are required to attend a mandatory alcohol server training (MAST) program.

(c) The serving size for spirits is one and one quarter ounce. The serving size for wine is five ounces. The serving size for beer is twelve ounces.

(d) There must be tabletop accommodations for in theater dining.

(e) If the theater premises will be frequented by minors an alcohol control plan agreement must be signed and submitted to the board during the application process.

(3) A spirits, beer, and wine theater licensee must serve at least eight complete meals. Establishments shall be maintained in a substantial manner as a place for preparing, cooking, and serving of complete meals.

(a) "Complete meal" means an entree and at least one side dish.

(b) "Entree" means the main course of a meal. Some examples of entrees are fish, steak, chicken, pork, pasta, pizza, hamburgers, seafood salad, Cobb salad, chef's salad, sandwiches, and breakfast items (as long as they include a side dish). Entrees do not include snack items, or menu items which consist solely of precooked frozen food that is reheated, or consist solely of carry-out items obtained from another business.

(c) Examples of side dishes are soups, vegetables, salads, potatoes, french fries, rice, fruit, and bread.

(d) The restaurant must maintain the kitchen equipment necessary to prepare the complete meals required under this section.

(e) The complete meals must be prepared on the restaurant premises.

(f) A chef or cook must be on duty while complete meals are offered.

(g) A menu must be available to customers.

(h) The food items required to maintain the menu must be on the restaurant premises. These items must be edible.

(4) The alcohol control plan agreement will be provided on a form by the board and includes the following requirements:

(a) Ensure that alcoholic beverages are not sold to persons under the age of twenty-one, staff will request identification from any patron who appears to be age thirty or under and who is attempting to purchase an alcoholic beverage.

(b) Alcoholic beverages must be served in containers that differ significantly from containers utilized for nonalcoholic beverages.

(c) All alcoholic beverages sold under this license must be sold by the individual drink.

(d) If staff observes a patron who is in the possession of or who is consuming an alcoholic beverage, who appears to be of questionable age, staff will request identification from that patron. If the patron is unable to produce an acceptable form of identification verifying their age, the alcohol will be confiscated.

(e) Staff will accept only those forms of identification that are acceptable per WAC 314-11-025 to verify a person's age for the purpose of selling, serving, or allowing a person to possess or consume alcohol.

(f) All employees involved in the sale, service, and/or supervision of alcoholic beverages will be required to attend MAST to obtain the appropriate permit for their level of service.

(g) Sufficient lighting must be maintained at the point of sale so that identification can be confirmed and patrons observed for signs of intoxication.

(h) To ensure alcoholic beverages are served in a safe, responsible, and controlled manner, sales and service of alcoholic beverages will be limited to one serving per person per transaction.

(i) If a patron is accompanied by another patron who wants to pay for both people's drinks, they may do so, provided that both patrons are of legal age to purchase, and have proper identification, if requested, and are not displaying signs of intoxication.

(j) Alcohol may only be sold, served, and consumed in areas designated in the alcohol control plan agreement and approved by the board.

(k) Staff will refuse to sell an alcoholic beverage to any person who appears to be intoxicated. Alcoholic beverages will be removed from any person who appears to be intoxicated.

(l) This alcohol control plan agreement will be prominently posted on the licensed premises.

(5) Penalties are doubled for a violation involving minors or the failure to follow the signed alcohol control plan agreement.

(6) If the theater premises has a restaurant located outside of the actual theater screening areas, spirits, beer, and wine may be served and consumed in the restaurant area.

(a) Spirits may be sold by the individual drink.

(b) Beer may be sold by the pitcher as well as by individual serving for consumption in the restaurant area.

(c) Wine may be sold by the bottle as well as by the individual serving for consumption in the restaurant area.

[Statutory Authority: RCW 66.24.650 and 66.24.655. WSR 14-03-077, § 314-02-087, filed 1/15/14, effective 2/15/14.]

WAC 314-02-090 What is a nonprofit arts organization license? (1) Per RCW 66.24.495, this license allows a bona fide nonprofit organization to sell beer, wine, and spirits by the individual serving in conjunction with artistic or cultural exhibitions or performances.

(2) The nonprofit organization must be organized and operated for the purpose of providing artistic or cultural exhibitions, presentations, or performances or cultural or art education programs for viewing by the general public. See RCW 66.24.495(2) for specific organizational requirements.

(3) Alcohol sales and consumption may only occur in the lobby area and/or restricted bar area of the premises prior to the commencement of an exhibition or performance and during intermission.

Alcohol is not allowed in the performance seating areas of the facility.

(4) The annual fee for this license is two hundred fifty dollars.

[Statutory Authority: RCW 66.08.030 and 66.24.600. WSR 10-01-091, § 314-02-090, filed 12/16/09, effective 1/16/10. Statutory Authority: RCW 66.08.030, 66.24.010, 66.24.120. WSR 00-07-091, § 314-02-090, filed 3/15/00, effective 4/15/00.]

WAC 314-02-100 What is a grocery store license? (1) Per RCW 66.24.360, a grocery store license allows a licensee to sell beer and/or wine for off-premises consumption.

(2) The annual fee for this license is one hundred fifty dollars.

(3) In order to obtain and maintain a grocery store license, the premises must be stocked with an inventory of at least three thousand dollars wholesale value of food for human consumption, not including soft drinks, beer, or wine. This minimum inventory must be:

(a) Stocked within the confines of the licensed premises; and

(b) Maintained at the premises at all times the business is licensed, with the exception of:

(i) The beginning and closing inventory for seasonal operations; or

(ii) When the inventory is being sold out immediately prior to discontinuing or selling the business.

(4) A grocery store licensee may sell beer in kegs or other containers holding at least four gallons and less than five and one-half gallons of beer. See WAC 314-02-115 regarding keg registration requirements.

(5) A grocery store licensee may sell beer and wine over the internet. See WAC 314-03-020 regarding internet sales and delivery.

(6) A grocery store applicant or licensee may apply for an international exporter endorsement for five hundred dollars a year, which allows the sale of beer and wine for export to locations outside the United States.

(7) A grocery store applicant or licensee may apply for a beer and wine tasting endorsement which allows beer and wine tastings on the grocery store premises. The annual fee for this endorsement is two hundred dollars.

[Statutory Authority: RCW 66.08.030 and chapter 66.24 RCW. WSR 11-23-045, § 314-02-100, filed 11/9/11, effective 12/10/11. Statutory Authority: RCW 66.08.030 and 66.24.363. WSR 11-01-133, § 314-02-100, filed 12/21/10, effective 1/21/11. Statutory Authority: RCW 66.08.030 and 66.24.600. WSR 10-01-091, § 314-02-100, filed 12/16/09, effective 1/16/10. Statutory Authority: RCW 66.08.030, 66.24.010, 66.24.120. WSR 00-07-091, § 314-02-100, filed 3/15/00, effective 4/15/00.]

WAC 314-02-102 What are the requirements for a grocery store licensee to conduct beer and wine tastings? (1) To be issued a beer and wine tasting endorsement, the licensee must meet the following criteria:

(a) The licensee operates a fully enclosed retail area encompassing at least ten thousand square feet. The board may issue the endorsement to a licensee with a retail area with less than ten thousand square feet if there is no licensee in the community that meets the ten thousand square foot requirement under the following conditions: There must be at least two employees on duty any time the licensee is conducting beer and wine tasting events. One employee must be dedicated to beer and wine tastings during these events;

(b) The licensee has not had more than one public safety administrative violation within the last two years. The two-year window is counted from two years prior to the date of the application for the beer and wine tasting endorsement. (See WAC 314-29-020 for a list of public safety violations.)

(2) In addition to the conditions in RCW 66.24.363, a beer and wine tasting must be conducted under the following:

(a) The licensee must provide a sketch of the tasting area. Fixed or moveable barriers are required around the tasting area to ensure persons under twenty-one years of age do not possess or consume alcohol;

(b) Signs advertising beer and wine tastings may not be placed in the windows or outside of the premises that can be viewed from the public right of way;

(c) Persons serving beer and wine during tasting events must hold a class 12 alcohol server permit.

(3) Licensees are required to send a list of scheduled beer and wine tastings to their regional enforcement office at the beginning of each month. The date and time for each beer and wine tasting must be included.

[Statutory Authority: RCW 66.24.363, 66.24.660 and 66.08.030. WSR 14-02-001, § 314-02-102, filed 12/18/13, effective 1/18/14. Statutory Authority: RCW 66.08.030 and 66.24.363. WSR 11-01-133, § 314-02-102, filed 12/21/10, effective 1/21/11.]

WAC 314-02-103 What is a wine retailer reseller endorsement? (1) A wine retailer reseller endorsement is issued to the holder of a grocery store liquor license to allow the sale of wine at retail to on-premises liquor licensees.

(2) No single sale to an on-premises liquor licensee may exceed twenty-four liters. Single sales to an on-premises licensee are limited to one per day.

(3) A grocery store licensee with a wine retailer reseller endorsement may accept delivery at its licensed premises or at one or more warehouse facilities registered with the board.

(4) The holder of a wine retailer reseller endorsement may also deliver wine to its own licensed premises from the registered warehouse; may deliver wine to on-premises licensees, or to other warehouse facilities registered with the board. A grocery store licensee wishing to obtain a wine retailer reseller endorsement that permits sales to another retailer must possess and submit a copy of their federal basic permit to purchase wine at wholesale for resale under the Federal Alcohol Administration Act. A federal basic permit is required for each location from which the grocery store licensee holding a wine retailer reseller endorsement plans to sell wine to another retailer.

(5) The annual fee for the wine retailer reseller endorsement is one hundred sixty-six dollars.

[Statutory Authority: RCW 66.08.030, 66.24.055, 66.24.160, 66.24.630, and 66.24.640. WSR 12-12-065, § 314-02-103, filed 6/5/12, effective 7/6/12.]

WAC 314-02-104 Central warehousing. (1) Each retail liquor licensee having a warehouse facility where they intend to receive wine and/or spirits must register their warehouse facility with the board and include the following information:

(a) Documentation that shows the licensee has a right to the warehouse property;

(b) If a warehouse facility is to be shared by more than one licensee, each licensee must demonstrate to the board that a recordkeeping system is utilized that will account for all wine and/or spirits entering and leaving the warehouse for each license holder. The system must also account for product loss;

(c) Licensees in a shared warehouse may consolidate their commitment for the amount of product they plan to

order, but their orders must be placed separately and paid for by each licensee; and

(d) Alternatively, if the warehouse does not have a recordkeeping system that provides the required information, wine and/or spirits for each licensee in a shared warehouse must be separated by a physical barrier. Where physical separation is utilized, a sketch of the interior of the warehouse facility must be submitted indicating the designated area the licensee will be storing product. (Example: If ABC Grocery and My Grocery, each licensed to a different ownership entity, both lease space in a warehouse facility, the wine and/or spirits must be in separate areas separated by a physical barrier.)

(2) Upon the request of the board, the licensee must provide any of the required records for review. Retail liquor licensees must keep the following records for three years:

(a) Purchase invoices and supporting documents for wine and/or spirits purchased;

(b) Invoices showing incoming and outgoing wine and/or spirits (product transfers);

(c) Documentation of the recordkeeping system in a shared warehouse as referenced in subsection (1)(b) of this section; and

(d) A copy of records for liquor stored in the shared warehouse.

(3) Each licensee must allow the board access to the warehouse for audit and review of records.

(4) If the wine and/or spirits for each licensee in a shared warehouse is not kept separate, and a violation is found, each licensee that has registered the warehouse with the board may be held accountable for the violation.

[Statutory Authority: RCW 66.08.030, 66.24.055, 66.24.160, 66.24.630, and 66.24.640. WSR 12-12-065, § 314-02-104, filed 6/5/12, effective 7/6/12.]

WAC 314-02-105 What is a beer and/or wine specialty store license? (1) Per RCW 66.24.371, a beer and/or wine specialty store license allows a licensee to sell beer and/or wine for off-premises consumption.

(2) The annual fee for this license is one hundred dollars.

(3) Qualifications for license - To obtain and maintain a beer and/or wine specialty store license, the premises must be stocked with an inventory of beer and/or wine in excess of three thousand dollars wholesale value. This inventory must be:

(a) Stocked within the confines of the licensed premises; and

(b) Maintained on the premises at all times the premises is licensed, with the exception of beginning and closing inventory for seasonal operations or when the inventory is being sold out immediately prior to discontinuing or selling the business.

(4) Qualifications to sample - A beer and/or wine specialty store licensee may allow customers to sample beer and wine for the purpose of sales promotion, if the primary business is the sale of beer and/or wine at retail, and the licensee meets the requirements outlined in either (a) or (b) of this subsection:

(a) A licensee's gross retail sales of alcohol exceeds fifty percent of all annual gross sales for the entire business; or

(b) The licensed premises is a beer and/or wine specialty store that conducts bona fide cooking classes for the purpose of pairing beer and/or wine with food, under the following conditions:

(i) The licensee must establish to the satisfaction of the board that the classes are bona fide cooking courses. The licensee must charge participants a fee for the course(s).

(ii) The sampling must be limited to a clearly defined area of the premises.

(iii) The licensee must receive prior approval from the board's licensing and regulation division before conducting sampling with cooking classes.

(iv) Once approved for sampling, the licensee must provide the board's enforcement and education division a list of all scheduled cooking classes during which beer and/or wine samples will be served. The licensee must notify the board's enforcement and education division at least forty-eight hours in advance if classes are added.

(5) Licensees who qualify for sampling under subsection (4) of this section may sample under the following conditions:

(a) Employees conducting sampling must hold a class 12 alcohol server permit;

(b) No more than a total of ten ounces of alcohol may be provided to a customer during any one visit to the premises;

(c) Each sample must be two ounces or less.

(6) A beer and/or wine specialty store licensee may sell beer in kegs or other containers holding at least four gallons of beer. See WAC 314-02-115 regarding keg registration requirements.

(7) A beer and/or wine specialty store licensee may receive an endorsement to permit the sale of beer and cider as defined in RCW 66.24.210(6) to a purchaser in a sanitary container brought to the premises by the purchaser, or provided by the licensee or manufacturer, and filled at the tap by the licensee at the time of sale under the following conditions:

(a) The beer and/or wine specialty store sales of alcohol must exceed fifty percent of their total sales;

(b) The board may waive the fifty percent beer and/or wine sale criteria if the beer and/or wine specialty store maintains a wholesale alcohol inventory that exceeds fifteen thousand dollars.

[Statutory Authority: RCW 66.08.030, 66.24.371, and 66.24.590. WSR 15-01-001, § 314-02-105, filed 12/3/14, effective 1/3/15. Statutory Authority: RCW 66.24.371 and 66.08.030. WSR 13-08-002, § 314-02-105, filed 3/20/13, effective 4/20/13. Statutory Authority: RCW 66.08.030 and chapter 66.24 RCW. WSR 11-23-045, § 314-02-105, filed 11/9/11, effective 12/10/11. Statutory Authority: RCW 66.08.030 and 66.24.363. WSR 11-01-133, § 314-02-105, filed 12/21/10, effective 1/21/11. Statutory Authority: RCW 66.08.030 and 66.24.600. WSR 10-01-091, § 314-02-105, filed 12/16/09, effective 1/16/10. Statutory Authority: RCW 66.08.030, 66.24.371. WSR 04-19-156, § 314-02-105, filed 9/22/04, effective 10/23/04; WSR 04-07-020, § 314-02-105, filed 3/8/04, effective 4/8/04. Statutory Authority: RCW 66.08.030, 66.24.010, 66.24.120. WSR 00-07-091, § 314-02-105, filed 3/15/00, effective 4/15/00.]

WAC 314-02-106 What is a spirits retailer license? (1) A spirits retailer licensee may not sell spirits under this license until June 1, 2012. A spirits retailer is a retail license. The holder of a spirits retailer license is allowed to:

(a) Sell spirits in original containers to consumers for off-premises consumption;

(b) Sell spirits in original containers to permit holders (see chapter 66.20 RCW);

(c) Sell spirits in original containers to on-premises liquor retailers, for resale at their licensed premises, although no single sale may exceed twenty-four liters, and single sales to an on-premises licensee are limited to one per day; and

(d) Export spirits in original containers.

(2) A spirits retailer licensee that intends to sell to another retailer must possess a basic permit under the Federal Alcohol Administration Act. This permit must provide for purchasing distilled spirits for resale at wholesale. A copy of the federal basic permit must be submitted to the board. A federal basic permit is required for each location from which the spirits retailer licensee plans to sell to another retailer.

(3) A sale by a spirits retailer licensee is a retail sale only if not for resale to an on-premises spirits retailer. On-premises retail licensees that purchase spirits from a spirits retail licensee must abide by RCW 66.24.630.

(4) A spirits retail licensee must pay to the board seventeen percent of all spirits sales. The first payment is due to the board October 1, 2012, for sales from June 1, 2012, to June 30, 2012 (see WAC 314-02-109 for quarterly reporting requirements).

Reporting of spirits sales and payment of fees must be submitted on forms provided by the board.

(5) A spirits retail licensee may apply for a spirits sampling endorsement to conduct spirits sampling if they meet the following criteria:

(a) Be a participant in the responsible vendor program;

(b) Advertising:

(i) For spirits retail licensees that also hold a grocery store license, signs advertising spirits samplings may not be placed in the windows or outside of the premises that can be viewed from the public right of way;

(ii) For spirits retail licensees that also hold a beer/wine specialty store license, advertising of spirits sampling may be advertised but not state that sampling is free of charge.

(c) Spirits samplings are to be conducted in the following manner:

(i) Spirits samplings service area and facilities must be located within the licensees' fully enclosed retail area and must be of a size and design that the licensee can observe and control persons in the area.

(ii) The licensee must provide a sketch of the sampling area. Fixed or moveable barriers are required around the sampling area to ensure that persons under twenty-one years of age and apparently intoxicated persons cannot possess or consume alcohol. The sketch is to be included with the application for the spirits sampling endorsement.

(iii) Each sample may be no more than one-half ounce of spirits, and no more than a total of one and one-half ounces of spirits samples per person during any one visit to the premises. Spirits samples must be unaltered.

(iv) The licensee must have food available for the sampling participants.

(v) Customers must remain in the service area while consuming samples.

(vi) All employees serving spirits during sampling events must hold a class 12 server permit.

(vii) There must be at least two employees on duty when conducting spirits sampling events.

(viii) Spirits sampling activities are subject to RCW 66.28.305 and 66.28.040.

(d) Licensees are required to send a list of scheduled spirits samplings to their regional enforcement office at the beginning of each month. The date and time for each sampling must be included.

(6) The annual fee for a spirits retail license is one hundred sixty-six dollars.

[Statutory Authority: RCW 66.24.363, 66.24.660 and 66.08.030. WSR 14-02-001, § 314-02-106, filed 12/18/13, effective 1/18/14. Statutory Authority: RCW 66.08.030, 66.24.055, 66.24.160, 66.24.630, and 66.24.640. WSR 12-12-065, § 314-02-106, filed 6/5/12, effective 7/6/12.]

WAC 314-02-107 What are the requirements for a spirits retail license? (1) The requirements for a spirits retail license are as follows:

(a) Submit a signed acknowledgment form indicating the square footage of the premises. The premises must be at least ten thousand square feet of fully enclosed retail space within a single structure, including store rooms and other interior areas. This does not include any area encumbered by a lease or rental agreement (floor plans one-eighth inch to one foot scale may be required by the board); and

(b) Submit a signed acknowledgment form indicating the licensee has a security plan which addresses:

(i) Inventory management;

(ii) Employee training and supervision; and

(iii) Physical security of spirits product with respect to preventing sales to underage or apparently intoxicated persons and theft of product.

(2) A grocery store licensee or a specialty shop licensee may add a spirits retail liquor license to their current license if they meet the requirements for the spirits retail license.

(3) The board may not deny a spirits retail license to qualified applicants where the premises is less than ten thousand square feet if:

(a) The application is for a former contract liquor store location;

(b) The application is for the holder of a former state liquor store operating rights sold at auction; or

(c) There is no spirits retail license holder in the trade area that the applicant proposes to serve; and

(i) The applicant meets the operational requirements in WAC 314-02-107 (1)(b); and

(ii) If a current liquor licensee, has not committed more than one public safety violation within the last three years.

[Statutory Authority: RCW 66.08.030, 66.24.055, 66.24.160, 66.24.630, and 66.24.640. WSR 12-12-065, § 314-02-107, filed 6/5/12, effective 7/6/12.]

WAC 314-02-1071 What is "trade area"? (1) "Trade area" as used in RCW 66.24.630 means an area where there is no spirits retail license within a twenty mile travel distance at the time of license application.

(2) The board will use the following criteria when determining to accept a spirits retail license application where the proposed premises location is less than ten thousand square feet of fully enclosed retail space:

(a) There is no spirits retail license holder or auction title holder within twenty travel miles at the time of license application; and

(b) The board will determine travel distance by a publicly available mapping tool which may be accessed on the

board's web site. The web address of this site at the time of rule adoption is http://wslcb.maps.arcgis.com/home/.

(3) Former contract liquor stores and title holders by those who purchased a state store at auction are exempt from the ten thousand square foot minimum required by law. Should either choose to locate within an established trade area and they are in compliance with board relocation criteria, they may be issued a license.

(4) The board may make an exception to the twenty mile travel distance for the following: A spirits retail license application is for a location where the significant mode of travel is other than by automobile.

[Statutory Authority: RCW 66.08.030. WSR 13-20-148, § 314-02-1071, filed 10/2/13, effective 11/2/13.]

WAC 314-02-108 Responsible vendor program. (1) **What is the purpose of this chapter?** The purpose of this section is to establish standards and procedures for a responsible vendor program for spirits retail and beer and wine retail licensees selling alcohol for off-premises consumption.

(2) **What is the responsible vendor program for spirits retail licensees?** This program is free, voluntary, and self-monitoring. Spirits retail licensees who hold a responsible vendor certificate and maintain all requirements are eligible for reduced sanctions on their first single violation within any period of twelve calendar months.

(3) **How does a spirits retail licensee become a responsible vendor?** Any spirits retail licensee who meets the program standards may participate. To apply for a responsible vendor certificate, the licensee must have no public safety violations within the last two years and must complete and submit a board-provided application form. Board staff will review the application for completeness, and will:

(a) Certify the completed application clearly indicates the licensee has all program standards in place and send a certificate to the licensee; or

(b) Return an incomplete application that does not clearly indicate the licensee has all program standards in place. Staff will notify the licensee of the reason(s) the application is being returned.

(4) **To qualify as a responsible vendor, a spirits retail licensee must:**

(a) Post their responsible vendor program certificate for public viewing at the main entrance of the premises;

(b) Train each employee supervising or selling alcohol in responsible liquor sales. Licensees may require employees to obtain a mandatory alcohol server training permit from a board certified provider or train employees themselves using the training criteria specified in subsection (5) of this section; and

(c) In an area visible to employees, post the house policies on alcohol sales and checking identification. The licensee must have each employee read and sign the house policies which must include at a minimum:

(i) A list of acceptable forms of identification which are accepted at the premises;

(ii) Directions for checking identification for customers; and

(iii) The consequences for selling spirits to a minor or apparently intoxicated person.

(d) In an area visible to patrons, post signs to deter illegal purchases of alcohol. Examples of information include, it is illegal to purchase alcohol under twenty-one years of age or while apparently intoxicated. Other information may include acceptable forms of identification at the premises;

(e) Have an on-going training plan for employees, to include annual training at a minimum. Examples of training include computer based training, video training, classroom instruction, and meetings. The training may be done individually or in a group. At a minimum, training must cover the topics listed in subsection (5) of this section; and

(f) Retain employee training records and signed house policies for three years and must be able to present employee training records upon request.

(5) **What are the program standards, program content, and other requirements for the responsible vendor program?** All training must include, at a minimum, the following:

(a) Guidelines for recognizing minors and apparently intoxicated persons;

(b) Forms of identification for purchasing alcohol;

(c) How to check identification and how to recognize false or altered identification;

(d) A requirement to check identification in accordance with house policies;

(e) Recommended actions for refusing sales of alcohol to minors or apparently intoxicated persons;

(f) A review of the consequences for selling to minors, and the importance of not selling alcohol to minors or apparently intoxicated persons;

(g) A review of house policies on alcohol sales. Each licensee must ensure that his/her employees receive training that covers the licensee's own house policies; and

(h) The standards and requirements for the mandatory alcohol server training stipulated in WAC 314-17-060 are deemed sufficient for employee's initial training for the responsible vendor training.

(6) **What are the sanctions when a licensee violates liquor laws or regulations?** For violations, as outlined in WAC 314-29-020 through 314-29-040, involving the sales of spirits, the prescribed penalty is doubled. If a licensee has a certified responsible vendor program having all program standards in place, the board will impose the standard penalty detailed in WAC 314-29-020 through 314-29-040 for that violation. Any subsequent violation involving spirits within any period of twelve calendar months will be double the standard penalties. Regardless of the type of alcohol sold; beer, wine, or spirits, WAC 314-29-020 through 314-29-040 are applicable.

[Statutory Authority: RCW 66.08.030. WSR 14-15-075, § 314-02-108, filed 7/16/14, effective 8/16/14. Statutory Authority: RCW 66.08.030, 66.24.630. WSR 12-11-008, § 314-02-108, filed 5/3/12, effective 6/3/12.]

WAC 314-02-1081 What is the responsible vendor program for beer and wine retail licensees selling beer and wine for off-premises consumption? (1) The program promotes retail licensees selling beer and wine for off-premises consumption taking positive steps to ensure alcohol is sold responsibly. The program is provided free and licensees may join the program voluntarily. Retail licensees selling beer and wine for off-premises consumption who hold a

responsible vendor certificate and maintain all requirements are eligible for reduced penalties on their first public safety violation within any period of twenty-four calendar months.

(2) **How does a beer and wine retail licensee become a responsible vendor?** Any beer and wine retail licensee selling beer and wine for off-premises consumption who meets the program standards may participate. To apply for a responsible vendor certificate, the licensee must have no public safety violations within the last two years and must complete and submit a board-provided application form. Board staff will review the application for completeness, and will:

(a) Certify the completed application clearly indicates the licensee has all program standards in place and send a certificate to the licensee; or

(b) Return an incomplete application that does not clearly indicate the licensee has all program standards in place. Staff will notify the licensee of the reason(s) the application is being returned.

(3) **To qualify as a responsible vendor, a beer and wine retail licensee selling beer and wine for off-premises consumption must:**

(a) Establish and enforce a house policy relating to the sale and service of alcohol products that includes at a minimum:

(i) Who needs responsible alcohol sales training and how often;

(ii) A list of acceptable forms of ID at the premises;

(iii) When and how to check ID;

(iv) When and how to refuse sales;

(v) When to notify the supervisor and/or law enforcement for problems; and

(vi) The consequences for failing to check ID and/or making illegal alcohol sales.

(b) Train employees prior to engaging in the sale of alcohol and provide refresher course annually at a minimum. The minimum training component must include:

(i) Information on the misuse and risks of underage use of alcohol;

(ii) Washington state liquor laws and regulations;

(iii) House policy (see house policy above for components);

(iv) How to identify the signs of intoxication; and

(v) How to get additional resources/training.

(c) Maintain a responsible alcohol management policy which may include:

(i) Delegate a supervisor level employee to oversee and enforce store policies;

(ii) Participate and cooperate with local community organizations and/or efforts promoting public safety;

(iii) Monitor employee conduct and reinforce training;

(iv) Program point of sale system to recognize age restricted products and prompt cashiers to check ID and stop the transaction until the date of birth is entered and the age is calculated;

(v) Provide "birth date eligible to purchase alcohol" daily;

(vi) Provide appropriate ID checking tools such as current ID checking guide (shows valid ID formats from all states and U.S. territories), and "black lights" to check the authenticity of an ID;

(vii) No advertising targeting youth;

(viii) Displaying alcohol products in such a way to enable unobstructed monitoring, away from youth-oriented products; and

(ix) Use of theft deterrent devices.

(d) In an area visible to patrons, post signs to deter illegal purchased of alcohol. Examples include; it is illegal to purchase alcohol under twenty-one years of age or while apparently intoxicated. Other information may include acceptable forms of identification at the premises;

(e) Post the responsible vendor program certificate for public view in a conspicuous area at the front of the premises; and

(f) Retain employee training records and signed house policies for three years and be able to present employee training records upon request.

(4) **What are the employee training standards and other requirements for the responsible vendor program?**

(a) The training courses shall have the standards and requirements as stipulated in (a) and (b) of this subsection at a minimum;

(b) Training must require employee to demonstrate reasonable mastery of the topics;

(c) Training may be presented in-class, online course or other methods not compromising the training requirement;

(d) The training course content must be up-to-date with the latest laws and rules and must be provided in its entirety as certified by the board;

(e) The standards and requirements for the mandatory alcohol server training stipulated in WAC 314-17-060 are deemed sufficient for employee's initial training for the responsible vendor training; and

(f) The training course provided by the board is deemed sufficient for employee's initial and follow-up training for the responsible vendor training.

(5) **How does a retailer maintain the certification?**

(a) The licensee must maintain all program requirements at all times and have no more than three public safety violations within a two-year period.

(b) When a public safety violation occurs, licensee must submit an action plan to the board's licensing staff illustrating ways to prevent further violations within ten days from the date of violation.

(c) Update training materials and inform employees within thirty days from the board's notification regarding new legislation and/or regulations.

(d) Present the employee training records upon request by the board's staff.

(6) **What must a licensee do when a second public safety violation occurs within a two-year period?**

(a) The licensee must submit an action plan to prevent further violations to the board's licensing staff within ten calendar days of violation.

(b) The board may decertify the responsible vendor certification if the licensee fails to submit an action plan and/or demonstrate poor commitment to the program including having three or more public safety violations within a two-year period.

(7) **How long does a licensee have to wait before rejoining the program?** Once decertified from the program, licensee may reapply for the program after two years. Any

public safety violation during this time may prohibit the licensee from joining the program.

(8) **What are the sanctions when a licensee violates liquor laws or regulations?** If a beer and wine retail licensee has a certified responsible vendor program having all program standards in place and has a public safety violation, the board will impose a deferral for a two-year period. If there are no further public safety violations within that two-year period, the violation is dismissed. If another violation occurs within that two-year period, the board will end the deferment and process both the first and the second violation based on the standard penalties described in WAC 314-29-020 through 314-29-040.

[Statutory Authority: RCW 66.08.030. WSR 14-15-075, § 314-02-1081, filed 7/16/14, effective 8/16/14.]

WAC 314-02-109 What are the quarterly reporting and payment requirements for a spirits retailer license? (1) A **spirits retailer** must submit quarterly reports and payments to the board.

The required reports must be:

(a) On a form furnished by the board;

(b) Filed every quarter, including quarters with no activity or payment due;

(c) Submitted, with payment due, to the board on or before the twenty-fifth day following the tax quarter (e.g., Quarter 1 (Jan., Feb., Mar.) report is due April 25th). When the twenty-fifth day of the month falls on a Saturday, Sunday, or a legal holiday, the filing must be postmarked by the U.S. Postal Service no later than the next postal business day; and

(d) Filed separately for each liquor license held.

(2) **What if a spirits retailer licensee fails to report or pay, or reports or pays late?** Failure of a spirits retailer licensee to submit its quarterly reports and payment to the board as required in subsection (1) of this section will be sufficient grounds for the board to suspend or revoke the liquor license.

A penalty of two percent per month will be assessed on any payments postmarked after the twenty-fifth day quarterly report is due. When the twenty-fifth day of the month falls on a Saturday, Sunday, or a legal holiday, the filing must be postmarked by the U.S. Postal Service no later than the next postal business day.

Absent a postmark, the date received at the Washington state liquor control board, or designee, will be used to determine if penalties are to be assessed.

[Statutory Authority: RCW 66.08.030. WSR 14-12-101, § 314-02-109, filed 6/4/14, effective 7/5/14. Statutory Authority: RCW 66.24.630, 66.24.055, 66.24.145 and 66.08.030. WSR 13-07-085, § 314-02-109, filed 3/20/13, effective 4/20/13. Statutory Authority: RCW 66.08.030, 66.24.055, 66.24.160, 66.24.630, and 66.24.640. WSR 12-12-065, § 314-02-109, filed 6/5/12, effective 7/6/12.]

WAC 314-02-110 What is a beer and/or wine gift delivery license? (1) Per RCW 66.24.550, a beer and/or wine gift delivery license allows a business that is primarily engaged in the retail sale of gifts or flowers to deliver beer and/or wine in bottles or original packages. The beer or wine must be delivered in conjunction with the gifts or flowers.

(2) The annual fee for this license is seventy-five dollars.

(3) An applicant must meet the following requirements to obtain and maintain a beer and/or wine gift delivery license:

(a) The business must be primarily engaged in the retail sale of gifts or flowers. In order to determine that the business meets this qualification, the board may inspect an applicant's or licensee's inventory, sales figures, and business records.

(b) A beer and/or wine gift delivery licensee may not hold any other class of liquor license.

[Statutory Authority: RCW 66.08.030, 66.24.010, 66.24.120. WSR 00-07-091, § 314-02-110, filed 3/15/00, effective 4/15/00.]

WAC 314-02-112 What is a caterer's license? (1) A caterer's license allows the licensee to sell spirits, beer, and wine by the individual serving for consumption on the premises at a catered event location.

(2) The catered event location must be owned, leased, or operated by:

(a) The holder of the caterer's license; or

(b) The sponsor of the event for which the catering services are being provided.

(3) The caterer licensee is responsible for all areas of a location where alcohol is sold, served, consumed, or stored.

(4) If the catered event is open and advertised to the public, the event must be sponsored by a nonprofit society or organization as defined in RCW 66.24.375.

(a) A registered nonprofit holding a public or civic event may invite a caterer to provide alcohol service at a location within the parameters of the event.

(b) If attendance at the catered event is limited to members or invited guests of the sponsoring individual, society, or organization, the requirement in subsection (2) of this section does not apply.

(5) A spirits, beer, and wine caterer licensee must have the ability to serve at least eight complete meals. A commissary kitchen, licensed by the city and/or county health department, shall be maintained in a substantial manner as a place for preparing and cooking complete meals. The caterer licensee must maintain the kitchen equipment necessary to prepare the complete meals required under this section. The complete meals must be prepared at the licensed commissary kitchen premises. For the purposes of this title:

(a) "Complete meal" means an entrée and at least one side dish.

(b) "Entrée" means the main course of a meal. Some examples of entrées are fish, steak, chicken, pork, pasta, pizza, hamburgers, seafood salad, Cobb salad, chef's salad, sandwiches, and breakfast items (as long as they include a side dish). Entrées do not include snack items, or menu items which consist solely of precooked frozen food that is reheated, or consist solely of carry-out items obtained from another business.

(c) Examples of side dishes are soups, vegetables, salads, potatoes, french fries, rice, fruit, and bread.

(6) A beer and wine caterer licensee must have the ability to provide minimum food service. A commissary kitchen shall be maintained in a substantial manner as a place for preparing and cooking minimum food service. The caterer licensee must maintain the kitchen equipment necessary to prepare minimum food service required under this section.

The minimum food service must be prepared at the licensed commissary kitchen premises. For purposes of this title:

"Minimum food service" means items such as sandwiches, salad, soup, hamburgers, pizza, and fry orders.

(7) The applicant must provide the liquor control board with a copy of their commissary kitchen license issued by the city or county health department.

(8) The licensee is required to send a list of scheduled catered events to their regional enforcement office on the first of each month. The licensee must provide the following information:

(a) Date of the catered events;

(b) Time of the catered events; and

(c) Place and location of catered events.

Any changes to the information provided to the board must be reported to the regional enforcement office seventy-two hours prior to the catered event.

(9) A caterer's license holder is not allowed to cater events at a liquor licensed premises.

(10) The holder of the caterer's license may store liquor on other premises operated by the licensee if the licensee owns or has a leasehold interest at the other premises. Documentation must be provided to the board showing the licensee owns or has a leasehold interest in the property.

(11) All employees that sell or serve alcohol must hold MAST permits.

(12) The annual fee for the caterer's license is as follows:

(a) The annual fee for beer is two hundred dollars;

(b) The annual fee for wine is two hundred dollars; and

(c) The annual fee for a combined spirits, beer, and wine is one thousand dollars.

[Statutory Authority: RCW 66.24.690. WSR 14-24-128, § 314-02-112, filed 12/3/14, effective 1/3/15.]

WAC 314-02-114 What is a senior center license? (1) A senior center license can only be issued to a nonprofit organization whose primary service is providing recreational and social activities for seniors on the licensed premises.

(2) The senior center license permits the sale of spirits by the individual glass, including mixed drinks and cocktails mixed on the premises only, beer and wine, at retail for consumption on the licensed premises.

(3) To qualify for the senior center license, the applicant must:

(a) Be a nonprofit organization under RCW 24.03.005;

(i) "Corporation" or "domestic corporation" means a corporation not for profit subject to the provisions of this chapter, except a foreign corporation.

(ii) "Foreign corporation" means a corporation not for profit organized under laws other than the laws of this state.

(iii) "Not for profit corporation" or "nonprofit corporation" means a corporation no part of the income of which is distributable to its members, directors or officers.

(b) Only serve alcohol between the hours of 6 a.m. and 2 a.m.; and

(c) Provide limited food service anytime alcohol is sold. Limited food service means foods such as:

(i) Appetizers;

(ii) Sandwiches;

(iii) Salads and soups;

(iv) Pizza;

(v) Hamburgers; and

(vi) Fry orders.

(4) Alcohol may be sold and served at the following types of events:

(a) Events hosted by the senior center; and

(b) Private events where the facility is rented by a private party for an event such as a wedding reception, family reunion, etc.

(5) If minors are allowed on the premises, floor plans must meet the requirements in WAC 314-02-025.

(6) All alcohol servers must have a valid mandatory alcohol server training permit.

(7) The annual fee for this license is seven hundred twenty dollars.

[Statutory Authority: RCW 66.24.680. WSR 14-20-048, § 314-02-114, filed 9/24/14, effective 10/25/14.]

WAC 314-02-115 What are the requirements for licensees that sell keg beer? Per RCW 66.28.200 and 66.28.210, any licensee who sells beer for off-premises consumption in kegs or other containers holding four or more gallons of beer must:

(1) Require the purchaser to provide at least one piece of identification (see RCW 66.16.040 for acceptable forms of identification); and

(2) The licensee or employee and purchaser must fill out a keg registration form, provided by the board, which contains:

(a) The name and address of the purchaser;

(b) The type and number of the identification presented by the purchaser;

(c) The address where the beer will be consumed and the date on which it will be consumed; and

(d) A sworn statement, signed by the purchaser under penalty of perjury, that the purchaser:

(i) Is at least twenty-one years of age;

(ii) Will not allow persons under twenty-one years of age to consume the beer purchased;

(iii) Will not remove or obliterate the keg registration form affixed to the keg or allow it to be removed or obliterated; and

(iv) The address listed in (c) of this subsection is the true and correct address at which the beer will be consumed or physically located.

(3) It is the licensee's or employee's responsibility to distribute the properly completed keg registration form as follows:

(a) One copy to the purchaser;

(b) One copy affixed to the keg or container holding four gallons or more of beer, prior to it leaving the licensed premises; and

(c) One copy must be retained on the licensed premises for one year, available for inspection and copying by any law enforcement officer.

(4) Possession of a keg or other container which holds four gallons or more of beer without a properly completed keg registration form affixed to it, other than on the licensee's premises, will be a violation of this title.

[Statutory Authority: RCW 66.08.030, 66.24.010, 66.24.120. WSR 00-07-091, § 314-02-115, filed 3/15/00, effective 4/15/00.]

WAC 314-02-120 How do licensees get keg registration forms? (1) The board will provide keg registration forms free of charge to licensees who hold (a) a beer and/or wine restaurant license in combination with an off-premises beer and/or wine endorsement; (b) a tavern license in combination with an off-premises beer and/or wine endorsement; or (c) a beer and/or wine specialty shop license with a keg endorsement.

(2) Licensees who hold a grocery store license with a keg endorsement, or a spirits, beer, and wine restaurant license with a keg endorsement, must purchase the keg registration forms. Keg registration books can be ordered online at the liquor control board web site or from the enforcement customer service line for four dollars per book of twenty-five forms.

[Statutory Authority: RCW 66.08.030 and 66.24.363. WSR 11-01-133, § 314-02-120, filed 12/21/10, effective 1/21/11. Statutory Authority: RCW 66.08.030. WSR 09-02-012, § 314-02-120, filed 12/29/08, effective 1/29/09. Statutory Authority: RCW 66.08.030, 66.24.010, 66.24.120. WSR 00-07-091, § 314-02-120, filed 3/15/00, effective 4/15/00.]

WAC 314-02-125 What types of activities on a licensed premises require notice to the board? Liquor licensees must notify their local enforcement office in writing at least five days prior to conducting the following activities unless the licensee has received an exception from their enforcement officer:

(1) Male/female dance reviews, subject to the provisions of WAC 314-11-050;

(2) Live boxing or wrestling;

(3) Contests or games where patrons are part of the entertainment;

(4) Hours of operation in between 2:00 a.m. and 6:00 a.m. for licensees that sell liquor for on-premises consumption; and

(5) Outside service for one-time events such as a holiday celebration where liquor service and consumption is planned to extend to an area of the premises that does not have board approval for liquor service. The licensee must have leasehold rights to the area where alcohol service and consumption is planned.

[Statutory Authority: RCW 66.08.030 and 66.24.363. WSR 11-01-133, § 314-02-125, filed 12/21/10, effective 1/21/11. Statutory Authority: RCW 66.08.030 and 66.24.600. WSR 10-01-091, § 314-02-125, filed 12/16/09, effective 1/16/10. Statutory Authority: RCW 66.08.030, 66.24.010, 66.24.120. WSR 00-07-091, § 314-02-125, filed 3/15/00, effective 4/15/00.]

WAC 314-02-130 What types of changes to a licensed premises require board approval? The following changes to a licensed premises require prior board approval, by submitting a form provided by the board's licensing and regulation division:

Type of alteration	Approval process and timeline
(1) • excluding persons under twenty-one years of age from a spirits, beer, and wine restaurant or a spirits, beer, and wine nightclub;	(a) The board's licensing and regulation division will make initial contact on the request for alteration within five business days. (b) The licensee may begin liquor service in conjunction with the alteration as soon as approval is received. (c) Board approval will be based on the alteration meeting the requirements outlined in this title.
• excluding persons under twenty-one years of age from the dining area of a beer and/or wine restaurant; • reclassifying a lounge as open to persons under twenty-one years of age; • extending the location of alcohol service, such as a beer garden or patio/deck service (areas must be enclosed with a barrier a minimum of forty-two inches in height); • initiating room service in a hotel or motel when the restaurant is not connected to the hotel or motel;	(b) The licensee may begin liquor service in conjunction with the alteration as soon as approval is received. (c) Board approval will be based on the alteration meeting the requirements outlined in this title.
(2) • any alteration that affects the size of a premises' customer service area.	(a) The board's licensing and regulation division will make an initial response on the licensee's request for alteration within five business days. (b) The licensee must contact their local liquor control agent when the alteration is completed. (c) The licensee may begin liquor service in conjunction with the alteration after the completed alteration is inspected by the liquor control agent. (d) Board approval will be based on the alteration meeting the requirements outlined in this title.

[Statutory Authority: RCW 66.08.030 and 66.24.363. WSR 11-01-133, § 314-02-130, filed 12/21/10, effective 1/21/11. Statutory Authority: RCW 66.08.030 and 66.24.600. WSR 10-01-091, § 314-02-130, filed 12/16/09, effective 1/16/10. Statutory Authority: RCW 66.08.030, 66.24.010, 66.24.120. WSR 00-07-091, § 314-02-130, filed 3/15/00, effective 4/15/00.]

Chapter 314-03 WAC
ALLOWED ACTIVITIES

WAC

314-03-020	Consumer orders, internet sales, and delivery for grocery stores and beer and wine specialty shops.
314-03-030	Consumer orders, internet sales, and delivery for spirits retail licensees.
314-03-050	Limited patron participation entertainment at a spirits, beer, and wine restaurant or a beer and/or wine restaurant.

WAC 314-03-020 Consumer orders, internet sales, and delivery for grocery stores and beer and wine specialty shops. A grocery store or beer and wine specialty shop licensee may accept orders for beer or wine from, and deliver beer or wine to, customers.

(1) **Resale.** Liquor shall not be for resale.

(2) **Stock location.** Liquor must come directly from a licensed retail location.

(3) **How to place an order.** Liquor may be ordered in person at a licensed location, by mail, telephone or internet, or by other similar methods.

(4) **Sales and payment.**

(a) Only a licensee or a licensee's direct employees may accept and process orders and payments. A contractor may not do so on behalf of a licensee, except for transmittal of payment through a third-party service. A third-party service may not solicit customer business on behalf of a licensee.

(b) All orders and payments shall be fully processed before liquor transfers ownership or, in the case of delivery, leaves a licensed premises.

(c) *Payment method.* Payment methods include, but are not limited to: Cash, credit or debit card, check or money order, electronic funds transfer, or an existing prepaid account. An existing prepaid account may not have a negative balance.

(d) *Internet.* To sell liquor via the internet, a new license applicant must request internet-sales privileges in his or her application. An existing licensee must notify the board prior to beginning internet sales. A corporate entity representing multiple stores may notify the board in a single letter on behalf of affiliated licensees, as long as the liquor license numbers of all licensee locations utilizing internet sales privileges are clearly identified.

(5) **Delivery location.** Delivery shall be made only to a residence or business that has an address recognized by the United States postal service; however, the board may grant an exception to this rule at its discretion. A residence includes a hotel room, a motel room, or other similar lodging that temporarily serves as a residence.

(6) **Hours of delivery.** Liquor may be delivered each day of the week between the hours of six a.m. and two a.m. Delivery must be fully completed by two a.m.

(7) **Age requirement.**

(a) Per chapter 66.44 RCW, any person under twenty-one years of age is prohibited from purchasing, delivering, or accepting delivery of liquor.

(b) A delivery person must verify the age of the person accepting delivery before handing over liquor.

(c) If no person twenty-one years of age or older is present to accept a liquor order at the time of delivery, the liquor shall be returned.

(8) **Intoxication.** Delivery of liquor is prohibited to any person who shows signs of intoxication.

(9) **Containers and packaging.**

(a) Individual units of liquor must be factory sealed in bottles, cans or other like packaging. Delivery of growlers, jugs or other similar, nonfactory-sealed containers is prohibited. Delivery of malt liquor in kegs or other containers capable of holding four gallons or more of liquid is allowed, provided that kegs or containers are factory sealed and that the keg sales requirements (see WAC 314-02-115) are met prior to delivery. For the purposes of this subsection, "factory sealed" means that a unit is in one hundred percent resalable condition, with all manufacturer's seals intact.

(b) The outermost surface of a liquor package, delivered by a third party, must have language stating that:

(i) The package contains liquor;

(ii) The recipient must be twenty-one years of age or older; and

(iii) Delivery to intoxicated persons is prohibited.

(10) **Required information.**

(a) Records and files shall be retained at a licensed premises. Each delivery sales record shall include the following:

(i) Name of the purchaser;

(ii) Name of the person who accepts delivery;

(iii) Street addresses of the purchaser and the delivery location; and

(iv) Times and dates of purchase and delivery.

(b) A private carrier must obtain the signature of the person who receives liquor upon delivery.

(c) A sales record does not have to include the name of the delivery person, but it is encouraged.

(11) **Web site requirements.** When selling over the internet, all web site pages associated with the sale of liquor must display a licensee's registered trade name.

(12) **Accountability.** A licensee shall be accountable for all deliveries of liquor made on its behalf.

(13) **Violations.** The board may impose administrative enforcement action upon a licensee, or suspend or revoke a licensee's delivery privileges, or any combination thereof, should a licensee violate any condition, requirement or restriction.

[Statutory Authority: RCW 66.08.030. WSR 10-04-018, § 314-03-020, filed 1/25/10, effective 2/25/10.]

WAC 314-03-030 Consumer orders, internet sales, and delivery for spirits retail licensees. A spirit retail licensee may accept orders for spirits from, and deliver spirits to, customers.

(1) **Resale.** Spirits shall not be for resale.

(2) **Stock location.** Spirits must come directly from a licensed retail location.

(3) **How to place an order.** Spirits may be ordered in person at a licensed location, by mail, telephone, or internet, or by other similar methods.

(4) **Sales and payment.**

(a) Only a spirits retail licensee or a licensee's direct employees may accept and process orders and payments. A contractor may not do so on behalf of a spirits retail licensee, except for transmittal of payment through a third-party service. A third-party service may not solicit customer business on behalf of a spirits retail licensee.

(b) All orders and payments shall be fully processed before spirits transfers ownership or, in the case of delivery, leaves a licensed premises.

(c) Payment method. Payment methods include, but are not limited to: Cash, credit or debit card, check or money order, electronic funds transfer, or an existing prepaid account. An existing prepaid account may not have a negative balance.

(d) Internet. To sell spirits via the internet, a new spirits retail license applicant must request internet-sales privileges in his or her application. An existing spirits retail licensee must notify the board prior to beginning internet sales. A corporate entity representing multiple stores may notify the board in a single letter on behalf of affiliated spirits retail licensees, as long as the liquor license numbers of all licensee locations utilizing internet sales privileges are clearly identified.

(5) **Delivery location.** Delivery shall be made only to a residence or business that has an address recognized by the United States postal service; however, the board may grant an exception to this rule at its discretion. A residence includes a hotel room, a motel room, or other similar lodging that temporarily serves as a residence.

(6) **Hours of delivery.** Spirits may be delivered each day of the week between the hours of 6:00 a.m. and 2:00 a.m. Delivery must be fully completed by 2:00 a.m.

(7) **Age requirement.**

(a) Under chapter 66.44 RCW, any person under twenty-one years of age is prohibited from purchasing, delivering, or accepting delivery of liquor.

(b) A delivery person must verify the age of the person accepting delivery before handing over liquor.

(c) If no person twenty-one years of age or older is present to accept a liquor order at the time of delivery, the liquor shall be returned.

(8) **Intoxication.** Delivery of liquor is prohibited to any person who shows signs of intoxication.

(9) **Containers and packaging.**

(a) Individual units of spirits must be factory sealed in bottles. For the purposes of this subsection, "factory sealed" means that a unit is in one hundred percent resalable condition, with all manufacturer's seals intact.

(b) The outermost surface of a liquor package, delivered by a third party, must have language stating that:

(i) The package contains liquor;

(ii) The recipient must be twenty-one years of age or older; and

(iii) Delivery to intoxicated persons is prohibited.

(10) **Required information.**

(a) Records and files shall be retained at the licensed premises. Each delivery sales record shall include the following:

(i) Name of the purchaser;

(ii) Name of the person who accepts delivery;

(iii) Street addresses of the purchaser and the delivery location; and

(iv) Time and date of purchase and delivery.

(b) A private carrier must obtain the signature of the person who receives liquor upon delivery.

(c) A sales record does not have to include the name of the delivery person, but it is encouraged.

(11) **Web site requirements.** When selling over the internet, all web site pages associated with the sale of liquor must display the spirits retail licensee's registered trade name.

(12) **Accountability.** A spirits retail licensee shall be accountable for all deliveries of liquor made on its behalf.

(13) **Violations.** The board may impose administrative enforcement action upon a licensee, or suspend or revoke a licensee's delivery privileges, or any combination thereof, should a licensee violate any condition, requirement, or restriction.

[Statutory Authority: RCW 66.08.030. WSR 12-23-003, § 314-03-030, filed 11/7/12, effective 12/8/12.]

WAC 314-03-050 Limited patron participation entertainment at a spirits, beer, and wine restaurant or a beer and/or wine restaurant. (1) A spirits, beer, and wine restaurant or a beer and/or wine restaurant may provide entertainment with limited physical participation by patrons in the dedicated dining area of their licensed premises. Examples of this form of permitted entertainment include text messaging to movie screens, watching movies, nonpatron skits, and comedy acts. Such limited patron participation is permitted under the following conditions:

The dedicated dining area meets the following criteria:

(a) Wait staff provides table service to patrons which includes interaction; and

(b) Lighting requirements outlined in WAC 314-11-085.

(2) Licensees must submit a request to the board's licensing and regulation division to provide limited patron participation entertainment in the dedicated dining area of their premises.

(a) The licensee may begin the activity as soon as the approval is received.

(b) Board approval will be based on the request meeting the requirements outlined in this section.

(3) Minors are allowed after 11:00 p.m. in the dining area of a premises that has received approval as referenced in this section.

[Statutory Authority: RCW 66.08.030. WSR 12-16-032, § 314-03-050, filed 7/25/12, effective 8/25/12.]

Chapter 314-05 WAC
SPECIAL OCCASION LICENSES

WAC

314-05-020	What is a special occasion license?
314-05-025	Application process for a special occasion license.
314-05-030	Guidelines for special occasion license events.

WAC 314-05-020 What is a special occasion license? (1) Per RCW 66.24.380, a special occasion license allows a nonprofit organization to sell, at a specified date, time, and place:

(a) Spirits, beer, and wine by the individual serving for on-premises consumption; and

(b) Spirits, beer and wine in original, unopened containers for off-premises consumption.

(2) Special occasion licensees are limited to twelve days per calendar year (see RCW 66.24.380(1) for an exception for agricultural fairs).

(3) The fee for this license is $60 per day, per event. Multiple alcohol service locations at an event are an additional sixty dollars per location.

(4) Per RCW 66.24.375, all proceeds from the sale of alcohol at a special occasion event must go directly back into the nonprofit organization, except for reasonable operating costs for actual services performed at compensation levels comparable to like services within the state.

(5) A charitable nonprofit organization or a local winery industry association is not disqualified from obtaining a special occasion license even if its board members are also officers, directors, owners, or employees of either a licensed domestic winery or a winery certificate of approval holder. The charitable nonprofit organization must be registered under section 501 (c)(3) of the Internal Revenue Code, and the local wine industry association must be registered under section 501 (c)(6) of the Internal Revenue Code.

[Statutory Authority: RCW 66.08.030 and 66.08.050. WSR 12-17-006, § 314-05-020, filed 8/1/12, effective 9/1/12. Statutory Authority: RCW 66.08.030. WSR 09-02-013, § 314-05-020, filed 12/29/08, effective 1/29/09. Statutory Authority: RCW 66.08.030, 66.24.375, 66.24.380, 66.28.010. WSR 04-22-078, § 314-05-020, filed 11/2/04, effective 12/3/04.]

WAC 314-05-025 Application process for a special occasion license. (1) Special occasion applications normally take forty-five days to process. The liquor control board may not be able to process your application in time for your event if you do not apply at least forty-five days before the event.

(2) Per RCW 66.24.010(8), when the board receives a special occasion application, it must send a notice to the local authority. The local authority has twenty days to respond with any input, and they may request an extension for good cause.

(3) The liquor control board may run a criminal history check on the organization's officers and/or managers.

(4) The liquor control board requires documentation to verify the organization is a bona-fide nonprofit, who the true party(ies) of interest are in the organization, and that the organization meets the guidelines outlined in WAC 314-05-020 and 314-05-025.

(5) See chapter 314-07 WAC regarding possible reasons for denial of a special occasion license. Denials are subject to the provisions of the Administrative Procedure Act, chapter 34.05 RCW.

[Statutory Authority: RCW 66.08.030. WSR 11-23-046, § 314-05-025, filed 11/9/11, effective 12/10/11. Statutory Authority: RCW 66.08.030, 66.24.375, 66.24.380, 66.28.010. WSR 04-22-078, § 314-05-025, filed 11/2/04, effective 12/3/04.]

WAC 314-05-030 Guidelines for special occasion license events. (1) The special occasion license must be posted at the event.

(2) Special occasion licensees may get alcohol for the event only from the following sources:

(a) Spirits, beer, and wine must be purchased at retail from a licensed retailer; from a spirits, beer, or wine distributor; from a distiller, a craft distiller, a domestic brewery, microbrewery, or winery acting as a distributor of its own product; or from a certificate of approval holder with a direct shipping to Washington retailer endorsement. Special occasion licensees are allowed to pay for beer or wine used for the special occasion event immediately following the end of the special occasion event; and

(b) Per RCW 66.28.040, in state breweries and wineries, out-of-state breweries and wineries holding a certificate of approval license, domestic distillers or an accredited representative of a distiller, manufacturer, importer, or distributor of spirituous liquor may donate beer, wine, and spirits to special occasion licensees that are nonprofit 501 (c)(3) charitable organizations or nonprofit 501 (c)(6) organizations.

(3) Special occasion licensees may not advertise or sell alcohol below cost. If donated product is sold by the special occasion licensee, it may not be advertised or sold below the manufacturers' cost.

(4) Per RCW 66.28.310, alcohol manufacturers, importers and distributors may provide advertising, pouring, or dispensing of beer or wine at a beer or wine tasting exhibition or judging event, but may not provide money, goods, or services to special occasion licensees.

(a) Wineries and distilleries may pour at any special occasion event.

(b) Wineries or breweries that are participating in a special occasion event may pay reasonable booth fees to the special occasion licensee. Booth fees must be uniform for all participating wineries and breweries.

(5) Per RCW 66.24.380, the sale, service, and consumption of alcohol must be confined to a designated location(s).

(6) If a special occasion license function is held at an establishment that has a liquor license:

(a) The special occasion function must be held in an area of the premises separate from areas open to the general public during the time the special occasion function is occurring,

and the licensed premises' liquor cannot be sold or served in the same area(s) as the special occasion license function.

(b) The liquor licensee cannot charge for the liquor purchased by the special occasion licensee for service at the special occasion event, but can charge for room usage, services, etc. The liquor licensee must sign the special occasion application giving permission for the special occasion licensee to bring and sell their alcohol at the liquor licensed premises.

(c) The special occasion license will not be issued for use at premises whose liquor license will be suspended on the date(s) of the scheduled event.

[Statutory Authority: RCW 66.08.030 and 66.08.050. WSR 12-17-006, § 314-05-030, filed 8/1/12, effective 9/1/12. Statutory Authority: RCW 66.08.030. WSR 11-23-046, § 314-05-030, filed 11/9/11, effective 12/10/11; WSR 09-02-013, § 314-05-030, filed 12/29/08, effective 1/29/09. Statutory Authority: RCW 66.08.030, 66.20.360 through [66.20].380, 66.20.390, 66.24.170, 66.24.206, 66.24.210, 66.24.240, 66.24.244, 66.24.270, 66.24.290, 66.28.170, 66.28.180, and 42.56.270. WSR 07-02-076, § 314-05-030, filed 12/29/06, effective 1/29/07. Statutory Authority: RCW 66.08.030, 66.24.375, 66.24.380, 66.28.010. WSR 04-22-078, § 314-05-030, filed 11/2/04, effective 12/3/04.]

Chapter 314-07 WAC
HOW TO APPLY FOR A LIQUOR LICENSE

WAC

314-07-005	What is the purpose of this chapter?
314-07-010	Definitions.
314-07-015	General information about liquor licenses.
314-07-020	Liquor license qualifications and application process.
314-07-035	What persons or entities have to qualify for a liquor license?
314-07-040	What criminal history might prevent a liquor license applicant from receiving or keeping a liquor license?
314-07-045	What liquor law or rule violation history might prevent an applicant from receiving a liquor license?
314-07-055	Temporary retail license.
314-07-060	Reasons for denial or cancellation of a temporary license.
314-07-065	Reasons the board may deny a liquor license application.
314-07-070	Process if the board denies a liquor license application.
314-07-080	Ownership changes.
314-07-085	Change of location.
314-07-090	Change of business name.
314-07-095	Discontinue liquor sales.
314-07-100	Death or incapacity of licensee.
314-07-110	Are liquor license fees refundable?
314-07-120	Board delegation of authority to approve liquor licenses.
314-07-121	Board delegation of authority to make initial threshold determinations.

WAC 314-07-005 What is the purpose of this chapter? RCW 66.24.010 states the board will only issue licenses and permits to applicants and locations that meet certain qualifications. The purpose of this chapter is to outline the qualifications and steps necessary to receive a liquor license or permit.

[Statutory Authority: RCW 66.08.030, 66.24.010, 66.24.015, and 66.24.025. WSR 05-07-012, § 314-07-005, filed 3/4/05, effective 4/4/05.]

WAC 314-07-010 Definitions. Following are definitions for the purpose of this title. Other definitions are in WAC 314-01-005 and RCW 66.08.010.

(1) "Applicant" or "liquor license applicant" means any person or business entity who is considered by the board as a true party of interest in a liquor license or permit application, as outlined in WAC 314-07-035.

(2) "Business name" or "trade name" means the name of a licensed business as used by the licensee on signs, advertising, etc.

(3) "Financier" means any person or entity who has made or will make an investment in the licensed business of more than ten thousand dollars. A "financier" can be someone who provides money as a gift, someone who loans money to the business and expects to be paid back the amount of the loan without interest, or someone who invests money into the business expecting a percentage of the profits, but accepts the risk that there may not be a full return on the investment. These persons or entities shall submit appropriate investigation level "financier" financial documents.

(4) "Licensee" or "liquor licensee" means any person or entity that holds a liquor license or permit, or any person or entity who is a true party of interest in a liquor license or permit, as outlined in WAC 314-07-035.

(5) "Public institution" means a public college or university. (See WAC 314-07-020 regarding the liquor control board notifying public institutions of liquor license applications.)

[Statutory Authority: RCW 66.08.030 and 66.24.010. WSR 10-10-126, § 314-07-010, filed 5/5/10, effective 6/5/10. Statutory Authority: RCW 66.08.030, 66.24.010, 66.24.015, and 66.24.025. WSR 05-07-012, § 314-07-010, filed 3/4/05, effective 4/4/05.]

WAC 314-07-015 General information about liquor licenses. (1) A person or entity must meet certain qualifications to receive a liquor license, which are continuing qualifications in order to maintain the license.

(2) A liquor license applicant may not exercise any of the privileges of a liquor license until the board approves the license application (see WAC 314-07-055 regarding temporary licenses).

(3) In approving a liquor license, the board reserves the right to impose special conditions as to the involvement in the operations of the licensed business of any former licensees, their former employees, or any person who does not qualify for a liquor license.

[Statutory Authority: RCW 66.08.030 and 66.24.010. WSR 10-10-126, § 314-07-015, filed 5/5/10, effective 6/5/10. Statutory Authority: RCW 66.08.030, 66.24.010, 66.24.015, and 66.24.025. WSR 05-07-012, § 314-07-015, filed 3/4/05, effective 4/4/05.]

WAC 314-07-020 Liquor license qualifications and application process. Each liquor license application is unique and investigated individually. The board may inquire and request documents regarding all matters in connection with the liquor license application. Following is a general outline of the liquor license application process.

(1) Per RCW 66.24.010, the board shall send a notice to the local authority regarding the liquor license application. The local authority has twenty days to respond with a recommendation to approve or an objection to the applicant, location, or both.

(a) The local authority may submit a written request to the board for an extension for good cause shown.

(b) If the application is within a board-recognized alcohol impact area, the board will give the local authority sixty days to comment on the liquor license application or assumption (see WAC 314-12-215(7) for more information).

(2) For an application for a new liquor license privilege, the board may require a public posting notice to be posted at the site for fourteen days.

(3) For an application for a new liquor license privilege, the board shall notify any schools, churches, or public colleges or universities within five hundred feet of the business (see RCW 66.24.010(9) for more information).

(4) The board will verify that the proposed business meets the minimum requirements for the type of license or privilege requested.

(5) The board may conduct an investigation of the applicants' criminal history and administrative violation history, per WAC 314-07-040 and 314-07-045.

(6) The board may conduct a financial investigation in order to verify the source of funds used for the acquisition and startup of the business, the applicants' right to the real and personal property, and to verify the true party(ies) of interest.

(7) The board may provide a briefing on liquor laws and rules.

(8) The board may conduct a final inspection of the proposed licensed business, in order to determine if the applicant has complied with all the requirements of the license or privilege requested.

(9) Per RCW 66.24.010 (2)(a), all applicants must have resided in the state of Washington for at least one month prior to issuance of a liquor license. For a corporation or a limited liability company, the entity meets this residency requirement if the entity was formed in Washington or has a certificate of authority to do business in Washington.

(10) Upon failure to respond to the board licensing and regulation division's requests for information within the timeline provided, the application will be administratively closed.

[Statutory Authority: RCW 66.08.030 and 66.24.010. WSR 10-10-126, § 314-07-020, filed 5/5/10, effective 6/5/10. Statutory Authority: RCW 66.08.030, 66.24.010, 66.24.015, and 66.24.025. WSR 05-07-012, § 314-07-020, filed 3/4/05, effective 4/4/05.]

WAC 314-07-035 What persons or entities have to qualify for a liquor license? Per RCW 66.24.010(1), a liquor license must be issued in the name(s) of the true party(ies) of interest.

(1) **True parties of interest -** For purposes of this title, "true party of interest" means:

True party of interest	Persons to be qualified
Sole proprietorship	Sole proprietor and spouse.
General partnership	All partners and spouses.
Limited partnership, limited liability partnership, or limited liability limited partnership	• All general partners and spouses; • All limited partners that have more than 10% interest in the partnership and their spouses.
Limited liability company	• All members with more than 10% interest in the LLC and spouses. (Note: In order for the liquor control board to identify the persons to be qualified, we will need to know all parties that have an interest in the limited liability company or have a pending interest.) • All managers and their spouses.
Privately held corporation	• All corporate officers (or persons with equivalent title). • All stockholders who hold more than 10% of the issued or outstanding stock. (Note: In order for the liquor control board to identify the persons to be qualified, we will need to know all parties who have been issued or will be issued corporate stock.)
Publicly held corporation	All corporate officers (or persons with equivalent title).
Multi-level ownership structures	The liquor control board will review each entity to determine which individuals are to qualify according to the guidelines in this rule.
Any entity	Any person who is in receipt of, or has the right to receive, more than ten percent of the gross or net sales from the licensed business during any full or partial calendar or fiscal year. For the purposes of this chapter: ■ "Gross sales" includes the entire gross receipts from all sales and services made in, upon, or from the licensed business. ■ "Net sales" means gross sales minus cost of goods sold.

(2) For purposes of this section, "true party of interest" does not mean:

(a) A person or entity receiving reasonable payment for rent on a fixed or percentage basis under a bona fide lease or rental obligation, unless the lessor or property manager exercises control over or participates in the management of the business.

(b) A person who receives a bonus as an employee, if: The employee is on a fixed wage or salary and the bonus is not more than twenty-five percent of the employee's prebonus annual compensation; or the bonus is based on a written incentive/bonus program that is not out of the ordinary for the services rendered.

(c) A person or entity contracting with the applicant(s) to sell the property, unless the contract holder exercises control over or participates in the management of the licensed business.

(d) A person or entity receiving payment of franchise fees on a fixed or percentage basis under a bona fide franchise agreement, unless the person or entity receiving pay-

ment of franchise fees exercises control over or participates in the management of the licensed business.

(3) **Financiers—**The board may conduct a financial investigation of financiers.

(4) **Persons who exercise control of business—**The board may conduct an investigation of any person or entity who exercises any control over the applicant's business operations.

[Statutory Authority: RCW 66.08.030 and 66.24.010. WSR 10-10-126, § 314-07-035, filed 5/5/10, effective 6/5/10. Statutory Authority: RCW 66.08.030, 66.24.010, 66.24.015, and 66.24.025. WSR 05-07-012, § 314-07-035, filed 3/4/05, effective 4/4/05.]

WAC 314-07-040 What criminal history might prevent a liquor license applicant from receiving or keeping a liquor license? (1) When the board processes a criminal history check on an applicant, it uses a point system to determine if the person qualifies for a license. The board will not normally issue a liquor license to an applicant who has accumulated eight or more points as indicated below:

Description	Time period during which points will be assigned	Points assigned
Felony conviction	Ten years	12 points
Gross misdemeanor conviction	Three years	5 points
Misdemeanor conviction	Three years	4 points
Currently under federal or state supervision for a felony conviction	n/a	8 points
Nondisclosure of any of the above	n/a	4 points each

(2) If a case is pending for an alleged offense that would earn eight or more points, the board will hold the application for the disposition of the case. If the disposition is not settled within ninety days, the board will administratively close the application.

[Statutory Authority: RCW 66.08.030, 66.24.010, 66.24.015, and 66.24.025. WSR 05-07-012, § 314-07-040, filed 3/4/05, effective 4/4/05.]

WAC 314-07-045 What liquor law or rule violation history might prevent an applicant from receiving a liquor license? The board will conduct an investigation of all applicants' liquor law or rule administrative violation history. The board will not normally issue a liquor license to a person, or to an entity with a true party of interest, who has the following violation history; or to any person who has demonstrated a pattern of disregard for laws or rules.

Violation Type (see WAC 314-29-020 through 314-29-035)	**Period of Consideration**
■ Three or more public safety violations, ■ Four or more conduct violations, or ■ Five or more regulatory violations.	■ Violations issued within two years of the date the application is received by the board's licensing and regulation division. ■ Violations issued within the last two years the true party(ies) of interest were licensed.

[Statutory Authority: RCW 66.08.030, 66.24.010, 66.24.015, and 66.24.025. WSR 05-07-012, § 314-07-045, filed 3/4/05, effective 4/4/05.]

WAC 314-07-055 Temporary retail license. Applicants may apply for a temporary retail liquor license in addition to an annual license for the same business. If granted, the temporary license allows the applicant to operate for a period of up to sixty days while the annual license application is being processed.

Type of Application	Qualification and process to receive a temporary retail license
(1) New business, existing licensed business, or new license type:	In order to receive a temporary license, the applicant(s) must:
• Applicant is applying for a license at a business location that does not hold a current, valid liquor license.	• Sign the acknowledgment form.
• Applicant is applying for the same license privilege at a location that has a valid license that has not expired.	• Clear a criminal history check, per WAC 314-07-040.
• Applicant is applying for a license or a business that has an existing license at the location, but the applicant is applying for a different license privilege(s).	• Complete a briefing on liquor laws and regulations, per WAC 314-07-020(7).

Type of Application	Qualification and process to receive a temporary retail license
	• The local authority and any churches, schools, or public colleges or universities within 500 feet of the proposed licensed business must have responded to the liquor control board's notice of liquor license application, or the time period must have passed. See WAC 314-07-020, subsections (1), (2), and (3) for more information. • When the annual liquor license is issued, the fee will be pro-rated back to the date of issuance of the temporary license.

(2) For the purposes of this section, "retail liquor license" shall include all classes of liquor licenses that allow the holder to sell liquor directly to the public.

(3) The privilege of having a temporary license issued upon an application for license does not apply to breweries or wineries.

(4) A temporary license under subsection (1) above may be issued for a distributor license applicant.

[Statutory Authority: RCW 66.08.030 and 66.24.010. WSR 10-10-126, § 314-07-055, filed 5/5/10, effective 6/5/10. Statutory Authority: RCW 66.08.030, 66.24.010, 66.24.015, and 66.24.025. WSR 05-07-012, § 314-07-055, filed 3/4/05, effective 4/4/05.]

WAC 314-07-060 Reasons for denial or cancellation of a temporary license. Following is a list of reasons a temporary permit may not be issued or can be revoked. Per RCW 66.24.010, the board has broad discretionary authority to approve or deny a liquor license or permit application. Refusal by the board to issue or extend a temporary license shall not entitle the applicant to request a hearing.

(1) An applicant who has received a temporary license and their application is later administratively closed, and they reapply for a liquor license at the same location.

(2) The local authority objects for any reason.

(3) The applicant affirmatively refuses to submit documents requested by the board to conduct the application investigation.

(4) The applicant accrues or is involved in a violation committed while operating under a temporary license.

(5) The investigator is unable to determine the true party of interest.

(6) The applicant fails to meet the basic requirements of the license.

(7) Denial of the permanent license is recommended to the board.

[Statutory Authority: RCW 66.08.030 and 66.24.010. WSR 10-10-126, § 314-07-060, filed 5/5/10, effective 6/5/10.]

WAC 314-07-065 Reasons the board may deny a liquor license application. Following is a list of reasons the board may deny a liquor license application. Per RCW 66.24.010, the board has broad discretionary authority to approve or deny a liquor license or permit application.

(1) Failure to meet qualifications or requirements for the specific liquor license or privilege, as outlined in this Title 314 WAC and Title 66 RCW.

(2) Failure to submit information or documentation requested by the board.

(3) Misrepresentation of fact by any applicant or financier.

(4) Failure to meet the criminal history standards outlined in WAC 314-07-040.

(5) Failure to meet the liquor law or rule violation history standards outlined in WAC 314-07-045.

(6) Source of funds used for the acquisition, startup and operation of the business is questionable or unverified.

(7) Objection from the local authority or from the public (see WAC 314-09-010 and RCW 66.24.010(8)).

(8) Objection from the following entities if they are within five hundred feet of the proposed business: A public school, a private school that meets the requirements of chapter 28A.195 RCW, a church, or a public college or university. See WAC 314-09-010 and RCW 66.24.010(9) for more information. Note: Per RCW 66.24.010(9), the board may not issue a new liquor license if the board receives objection from a public school within five hundred feet of the proposed licensed business.

(9) The board determines that the issuance of the liquor license will not be in the best interest of the welfare, health, or safety of the people of the state.

[Statutory Authority: RCW 66.08.030 and 66.24.010. WSR 10-10-126, § 314-07-065, filed 5/5/10, effective 6/5/10. Statutory Authority: RCW 66.08.030, 66.24.010, 66.24.015, and 66.24.025. WSR 05-07-012, § 314-07-065, filed 3/4/05, effective 4/4/05.]

WAC 314-07-070 Process if the board denies a liquor license application. If the board denies a liquor license application, the applicants may:

(1) Request an administrative hearing per chapter 34.05 RCW, the Administrative Procedure Act.

(2) Reapply for the license no sooner than one year from the original denial date.

[Statutory Authority: RCW 66.08.030, 66.24.010, 66.24.015, and 66.24.025. WSR 05-07-012, § 314-07-070, filed 3/4/05, effective 4/4/05.]

WAC 314-07-080 Ownership changes. (1) Licensees must receive prior board approval before making any of the following ownership changes (see WAC 314-07-035 for the definition of "true party of interest"):

Type of change	Type of application	Fee
Change in the qualifying persons in a: Sole proprietorship, general partnership, limited partnership, or limited liability partnership.	New application	Annual fee for current license privilege.

Type of change	Type of application	Fee
Change in the qualifying persons for a publicly or privately held corporation. The board will waive the fee for a corporate change when the proposed change consists solely of dropping an approved officer.	Application for change in corporate officer and/or stockholder	$75
Change in the qualifying persons in a limited liability company.	Application for change of limited liability company member and/or manager	$75

(2) The board may inquire into all matters in connection with any such sale of stock/units or proposed change in officers/members.

(3) The "proposed sale of more than ten percent of the stock/units" will be calculated as a cumulative total and must be reported to the board when the accumulation of stock/units transfers or newly issued stock/units totals more than ten percent of the outstanding and/or issued stock/units of the licensed corporation or limited liability company.

[Statutory Authority: RCW 66.08.030 and 66.24.010. WSR 10-10-126, § 314-07-080, filed 5/5/10, effective 6/5/10. Statutory Authority: RCW 66.08.030, 66.24.010, 66.24.015, and 66.24.025. WSR 05-07-012, § 314-07-080, filed 3/4/05, effective 4/4/05.]

WAC 314-07-085 Change of location. (1) Changing your liquor license to a new location requires an application, per the process outlined in WAC 314-07-015(2).

(2) Type of change of location application:

Submit a change of location application and pay a $75 fee if:	Submit a new liquor license application and pay the appropriate fee for the type of liquor license you are applying for if:
■ You are not changing the type of liquor license that you have at the current location; ■ There is no change in any of the true parties of interest; and ■ Your liquor license is current.	■ You are changing the type of liquor license from what you have at the current location; ■ There is a change in any of the true parties of interest; or ■ Your liquor license is not current.

[Statutory Authority: RCW 66.08.030 and 66.24.010. WSR 10-10-126, § 314-07-085, filed 5/5/10, effective 6/5/10. Statutory Authority: RCW 66.08.030, 66.24.010, 66.24.015, and 66.24.025. WSR 05-07-012, § 314-07-085, filed 3/4/05, effective 4/4/05.]

WAC 314-07-090 Change of business name. (1) If you wish to change the name of your business, you must apply for a change of trade name with the department of licensing, master license service.

(2) If you wish to change your corporation or limited liability company name, you must apply for a change of name through the secretary of state.

(3) See WAC 434-12 for guidelines for trade names.

[Statutory Authority: RCW 66.08.030, 66.24.010, 66.24.015, and 66.24.025. WSR 05-07-012, § 314-07-090, filed 3/4/05, effective 4/4/05.]

WAC 314-07-095 Discontinue liquor sales. You must notify the board's enforcement and education division if you plan to stop doing business for more than thirty days, or if you plan to permanently discontinue liquor sales.

[Statutory Authority: RCW 66.08.030, 66.24.010, 66.24.015, and 66.24.025. WSR 05-07-012, § 314-07-095, filed 3/4/05, effective 4/4/05.]

WAC 314-07-100 Death or incapacity of licensee. (1) The appointed guardian, executor, administrator, receiver, trustee, or assignee must notify the board's licensing and regulation division in the event of the death, incapacity, receivership, bankruptcy, or assignment for benefit of creditors of any licensee.

(2) The board may give the appointed guardian, executor, administrator, receiver, trustee, or assignee written approval to continue liquor sales on the licensed business premises for the duration of the existing license and to renew the license when it expires.

(3) When the matter is resolved by the court, the true party(ies) of interest must apply for a liquor license for the business.

[Statutory Authority: RCW 66.08.030, 66.24.010, 66.24.015, and 66.24.025. WSR 05-07-012, § 314-07-100, filed 3/4/05, effective 4/4/05.]

WAC 314-07-110 Are liquor license fees refundable? When a license is suspended or cancelled, or the licensed business is discontinued, the unused portion of the liquor license fee will not be refunded. There are two exceptions:

(1) Per RCW 66.24.420 (1)(b), a spirits, beer, and wine restaurant that is located in an unincorporated city or town may receive a refund of the unused portion of their license fees, calculated per calendar quarter.

(2) Per RCW 66.24.015, if a liquor license application is denied or is administratively closed by the board, the application fee will be refunded less a seventy-five dollar nonrefundable processing fee.

[Statutory Authority: RCW 66.08.030, 66.24.010, 66.24.015, and 66.24.025. WSR 05-07-012, § 314-07-110, filed 3/4/05, effective 4/4/05.]

WAC 314-07-120 Board delegation of authority to approve liquor licenses. Per RCW 66.24.010(2), the board may delegate to designated staff members, in writing, the authority to approve unopposed or uncontested license applications.

[Statutory Authority: RCW 66.08.030, 66.24.010, 66.24.015, and 66.24.025. WSR 05-07-012, § 314-07-120, filed 3/4/05, effective 4/4/05.]

WAC 314-07-121 Board delegation of authority to make initial threshold determinations. (1) The board may delegate to the licensing and regulation division director the authority to make initial threshold determinations on liquor license applications and renewals where:

(a) Objections have been submitted; or

(b) The applicant/licensee appears to be ineligible for a license due to failure to meet requirements under statute or rule. Failure to meet eligibility requirements includes data obtained through a criminal background check or criminal history record information (CHRI) report.

(2) Threshold determinations will be made in accordance with the provisions of RCW 66.24.010 as well as all other relevant sections of state law and Title 314 WAC. The licensing and regulation division director shall:

(a) Give substantial weight to objections from a local authority where objections are based on chronic illegal activity;

(b) Give due consideration to the location of a new liquor license application as it relates to the proximity to churches, schools, and public institutions as well as other considerations raised by the local authority.

(3) If the licensing and regulation director determines that the board will seek denial of a license application or nonrenewal of an existing license, an aggrieved applicant/licensee may request an adjudicative hearing before an administrative law judge (see chapter 314-09 WAC).

(4) If the licensing and regulation director determines that the board will seek to approve a license or renewal over the objection of the local authority, the local authority may request an adjudicative hearing before an administrative law judge (see chapter 314-09 WAC). The licensing and regulation director will determine whether an adjudicative hearing will be granted to the local authority.

An adjudicative hearing will be granted where the objection is based on alleged conduct related to public safety within the jurisdiction of the board under Title 66 RCW.

[Statutory Authority: RCW 66.08.030. WSR 09-21-048, § 314-07-121, filed 10/14/09, effective 11/14/09.]

Chapter 314-09 WAC

CONTESTED LIQUOR LICENSE APPLICATIONS AND RENEWALS

WAC

314-09-005 What is the purpose of chapter 314-09 WAC?
314-09-010 Objections to liquor license applications.
314-09-015 Objections to liquor license renewals.

WAC 314-09-005 What is the purpose of chapter 314-09 WAC? The purpose of chapter 314-09 WAC is to outline:

(1) The process for persons, entities, and governmental jurisdictions to object to the issuance or renewal of a liquor license or permit; and

(2) An applicant or licensee's options when his/her liquor license or permit is denied or action is taken to not renew his/her liquor license or permit.

[Statutory Authority: RCW 66.08.030, 66.24.010, 66.08.150. WSR 01-03-087, § 314-09-005, filed 1/17/01, effective 2/17/01.]

WAC 314-09-010 Objections to liquor license applications. (1) **How can persons, entities, and governmental jurisdictions object to the issuance of a liquor license or permit?** Per RCW 66.24.010 (8) and (9), the board will notify certain entities of the following types of annual or special occasion liquor license or permit applications. In addition to the following entities, any person or group may comment in writing to the board regarding an application.

Type of Application	Entities the board will notify
• Applications for an annual license or permit at a new location that would allow the sale and/or service of alcohol beverage to the public for on-premises consumption or to-go; and	• Governmental jurisdictions in which the premises is located, and
• Applications to change the class of an existing annual liquor license or permit that allows the sale and/or service of alcohol beverage to the public for on-premises consumption or to-go.	• Schools, churches, and public institutions within 500 feet of the premises to be licensed (as measured according to RCW 66.24.010(9)).
• Applications for any special occasion liquor license that allows the sale and/or service of alcohol beverage; and	• Governmental jurisdictions only.
• Changes of ownership at existing licensed premises.	

(2) **What will happen if a person or entity objects to a liquor license application?** When deciding whether to issue or deny a liquor license application or permit, the board will give due consideration to input from governmental jurisdictions in which the premises is located; private schools, churches, and public institutions within 500 feet of the premises (as measured according to RCW 66.24.010(9)); and other persons or groups. Note: Per RCW 66.24.010(9), the board shall not issue a new retail liquor license if a tax-supported public elementary or secondary school within 500 feet of the premises to be licensed objects to the application (500 feet as measured according to RCW 66.24.010(9)).

(a) If the board contemplates issuing a license over the objection of a governmental jurisdiction in which the premises is located, the government subdivision may request an adjudicative hearing under the provisions of the Administrative Procedure Act (chapter 34.05 RCW). If the board, in its discretion, grants the governmental jurisdiction(s) an adjudicative hearing, the licensee will be notified and given the opportunity to present evidence at the hearing.

(b) If the board denies a liquor license application based on the objection from a governmental jurisdiction; a private school, church, or public institution within 500 feet of the premises (as measured according to RCW 66.24.010(9)); and/or other persons or groups, the applicant(s) may either:

(i) Reapply for the license or permit no sooner than one year from the original denial date; or

(ii) Submit a written request on a form provided by the board for an adjudicative hearing under the provisions of the Administrative Procedure Act (chapter 34.05 RCW). The request must be received within twenty days of the date the intent to deny notification was mailed.

[Statutory Authority: RCW 66.08.030. WSR 09-21-048, § 314-09-010, filed 10/14/09, effective 11/14/09. Statutory Authority: RCW 66.08.030 and 66.24.010. WSR 05-07-011, § 314-09-010, filed 3/4/05, effective 4/4/05. Statutory Authority: RCW 66.08.030, 66.24.010, 66.08.150. WSR 01-03-087, § 314-09-010, filed 1/17/01, effective 2/17/01.]

WAC 314-09-015 Objections to liquor license renewals. (1) **How can local governmental jurisdictions object to the renewal of a liquor license?**

(a) The board will give governmental jurisdictions approximately ninety days written notice of premises that hold annual liquor licenses in that jurisdiction that are up for renewal.

(b) Per RCW 66.24.010(8), if a governmental jurisdiction wants to object to the renewal of a liquor license in its jurisdiction, it must submit a letter to the board detailing the reason(s) for the objection and a statement of all facts on which the objections are based.

(c) This letter must be received by the board at least thirty days before the liquor license expires. The objection must state specific reasons and facts that show issuance of the liquor license at the proposed location or to the applicant business will detrimentally impact the safety, health, or welfare of the community.

(d) If the objection is received within thirty days of the expiration date or the licensee has already renewed the license, the objection will be considered as a complaint and possible license revocation may be pursued by the enforcement division.

(e) Objections from the public will be referred to the appropriate governmental jurisdiction for action under subsection (2) of this section. Upon receipt of the objection, the board licensing and regulation division will acknowledge receipt of the objection(s) and forward to the appropriate governmental jurisdiction. Such jurisdiction may or may not, based on the public objection, request nonrenewal.

(2) **What will happen if a governmental jurisdiction objects to the renewal of a liquor license?** The board will give due consideration to a governmental jurisdiction's objection to a liquor license renewal of a premises in its jurisdiction. Based on the governmental jurisdiction's input and any information in the licensing file, the board will decide to either renew the liquor license, or to pursue nonrenewal.

(a) Board decides to renew the liquor license:	**(b) Board decides to pursue nonrenewal of the liquor license:**
(i) The board will notify the governmental jurisdiction(s) in writing of its intent to renew the license, stating the reason for this decision.	(i) The board will notify the licensee in writing of its intent to not renew the license, stating the reason for this decision.
(ii) The governmental jurisdiction(s) may contest the renewal and request an adjudicative hearing under the provisions of the Administrative Procedure Act (chapter 34.05 RCW) by submitting a written request on a form provided by the board. The request must be received within twenty days of the date the intent to renew notification was mailed.	(ii) The licensee may contest the nonrenewal action and request an adjudicative hearing under the provisions of the Administrative Procedure Act (chapter 34.05 RCW) by submitting a written request on a form provided by the board. The request must be received within twenty days of the date the intent to deny notification was mailed.
	(iii) If the licensee requests a hearing, the governmental jurisdiction will be notified.
	(iv) During the hearing and any subsequent appeal process, the licensee is issued a temporary operating permit for the liquor license until a final decision is made.

[Statutory Authority: RCW 66.08.030. WSR 09-21-048, § 314-09-015, filed 10/14/09, effective 11/14/09. Statutory Authority: RCW 66.08.030 and 66.24.010. WSR 05-07-011, § 314-09-015, filed 3/4/05, effective 4/4/05. Statutory Authority: RCW 66.08.030, 66.24.010, 66.08.150. WSR 01-03-087, § 314-09-015, filed 1/17/01, effective 2/17/01.]

Chapter 314-10 WAC
SALE AND DISTRIBUTION OF TOBACCO PRODUCTS

WAC

314-10-010 General—Liquor control board responsibilities.
314-10-030 Tobacco mechanical dispensing machines—Licensees without a liquor license—Records.
314-10-040 How old do employees have to be to sell and handle cigarettes or tobacco products?
314-10-060 Persons under 18 years old attempting to purchase/obtaining tobacco products.
314-10-080 Parents and guardians may not provide tobacco.
314-10-090 What tobacco products may be used for sampling promotions?
314-10-100 How may cigarette sampling activity be conducted?
314-10-110 Penalties, suspension notices, posting or advertising of—Other closing notices prohibited.

DISPOSITION OF SECTIONS FORMERLY CODIFIED IN THIS CHAPTER

314-10-020 General—Applicable to all tobacco license holders. [Statutory Authority: RCW 66.08.030. WSR 93-23-016, § 314-10-020, filed 11/5/93, effective 12/6/93.] Repealed by WSR 01-06-014, filed 2/26/01, effective 3/29/01. Statutory Authority: RCW 66.08.030, 66.28.100, 66.28.040, 66.28.090, 66.44.010, 66.44.070, 66.44.200, 66.44.270, 66.44.291, 66.44.292, 66.44.310, 66.44.316, 66.44.318, 66.44.340, 66.44.350, and chapter 66.44 RCW.

314-10-050 Sales to persons under 18 years of age. [Statutory Authority: RCW 66.08.030. WSR 93-23-016, § 314-10-050, filed 11/5/93, effective 12/6/93.] Repealed by WSR 08-20-109, filed 9/30/08, effective 10/31/08. Statutory Authority: RCW 66.08.030.

WAC 314-10-010 General—Liquor control board responsibilities. (1) The liquor control board shall regulate all sales and distribution of tobacco products pursuant to chapter 507, Laws of 1993. The liquor control board shall report all tobacco enforcement activity in a manner agreed by the department of health and the liquor control board on a quarterly basis or as set forth in the interagency agreement.

[Statutory Authority: RCW 66.08.030. WSR 93-23-016, § 314-10-010, filed 11/5/93, effective 12/6/93.]

WAC 314-10-030 Tobacco mechanical dispensing machines—Licensees without a liquor license—Records. (1) Tobacco licensees who do not hold a liquor license and use a mechanical dispensing machine (vending machine) must provide to the board a listing denoting the address and specific location of each tobacco vending machine.

(2) The tobacco licensee with a vending machine(s) must notify the board in writing of any new proposed location(s) for a tobacco vending machine ten working days in advance of the move.

(3) Vending machines which dispense or store tobacco products may only be located in establishments where minors are prohibited, or in industrial worksites where minors are not employed in such locations. The vending machines used to dispense or store tobacco products must be located at least ten feet from each entrance and/or exit. The board may waive upon written request the "ten feet" requirement when permanent fixtures or the design of the room make it impractical to place a machine ten feet from each entrance and/or exit.

(4) Vending machines with an exception waiver shall have an endorsement posted on the vending machine license to denote that the board has granted an exception to the ten-foot rule.

[Statutory Authority: RCW 66.08.030. WSR 95-04-044, § 314-10-030, filed 1/25/95, effective 2/25/95; WSR 93-23-016, § 314-10-030, filed 11/5/93, effective 12/6/93.]

WAC 314-10-040 How old do employees have to be to sell and handle cigarettes or tobacco products? (1) Any employee can sell and handle tobacco products when:

(a) The business has a cigarette retailer's license; or

(b) The business has registered with the department of revenue; and

(c) There is a supervising employee who is eighteen years of age or older on the retail premises.

(2) If someone under fourteen years of age is employed by a retailer, the retailer must comply with the requirements of the department of labor and industries under RCW 26.28.060 and WAC 296-125-018.

(3) Having an employee under eighteen years of age who handles and sells cigarettes and tobacco products according to subsections (1) and (2) of this section is not:

(a) Considered "possessing" cigarettes and tobacco products and is therefore not a violation of RCW 70.155.080(1); or

(b) Considered "giving" the employee cigarettes and tobacco products and is therefore not a violation of RCW 26.28.080.

[Statutory Authority: RCW 66.08.030. WSR 99-03-031, § 314-10-040, filed 1/13/99, effective 2/13/99; WSR 93-23-016, § 314-10-040, filed 11/5/93, effective 12/6/93.]

WAC 314-10-060 Persons under 18 years old attempting to purchase/obtaining tobacco products. (1) Any person whom a peace officer or enforcement officer has reasonable grounds to believe is under 18 years of age who purchases or attempts to purchase, or attempts to obtain or obtains tobacco products may be detained for a reasonable period of time and in such a reasonable manner as is necessary to determine the person's true identity and date of birth. A person under 18 years of age who is cited for attempting to purchase or purchasing tobacco products is subject to a fine as set by chapter 7.80 RCW or participation in a smoking cessation program or both.

(a) This provision does not apply to a person under the age of 18 who, with parental authorization, is participating in a controlled purchase as a part of a liquor control board, law enforcement, or local health department activity.

(2) Tobacco products possessed by persons under the age of eighteen years are considered contraband and may be

seized by an enforcement officer as defined in RCW 7.80.040.

[Statutory Authority: RCW 66.08.030. WSR 93-23-016, § 314-10-060, filed 11/5/93, effective 12/6/93.]

WAC 314-10-080 Parents and guardians may not provide tobacco. No person, including parents or legal guardians of persons under 18 years of age may authorize any minor to purchase or obtain tobacco products.

[Statutory Authority: RCW 66.08.030. WSR 93-23-016, § 314-10-080, filed 11/5/93, effective 12/6/93.]

WAC 314-10-090 What tobacco products may be used for sampling promotions? (1) No person may engage in providing samples of tobacco products other than cigarettes within Washington state.

(2) No person may engage in providing samples of cigarettes without a valid sampler's license. A firm contracting with a tobacco manufacturer to distribute samples of a manufacturer's product is deemed to be the person engaged in the business of sampling. The liquor control board will issue any sampler's licenses.

(3) The annual fee for a manufacturer's cigarette samplers license within the state is $500 and is designated a Class T1 license. The fee for independent businesses that provide samples of cigarettes is $50 and is designated a Class T2 license. All sampler's licenses expire on the 30th day of June each year and must be renewed annually.

In adopting the language of subsection (4) of this section, the board affirms that sampling does have a direct impact upon the availability of product to minors. Many sampling activities, because of the large volume of product offered, promote secondary distribution to bystanders, especially minors. Addiction to nicotine can occur quickly after the use of a relatively small amount of product. It is the board's intention to limit this amount thereby reducing the opportunity and potential for product to be redistributed to minors.

(4) A sample is the smallest portion representative of the product that is available for retail sales and distribution. T1 and T2 license holders may distribute samples of cigarettes pursuant to chapter 70.155 RCW and chapter 314-10 WAC as follows:

(a) Cigarettes: No more than one sample package may be furnished per eligible customer per day. Such sample shall not contain more than twenty cigarettes per sample package.

(b) T1 and T2 licensees that have sample packages available that contain fewer cigarettes than allowed by this section are encouraged to provide such alternative sizes.

[Statutory Authority: RCW 66.08.030. WSR 08-20-109, § 314-10-090, filed 9/30/08, effective 10/31/08. Statutory Authority: RCW 70.155.110. WSR 96-19-018, § 314-10-090, filed 9/6/96, effective 10/7/96. Statutory Authority: RCW 66.08.030. WSR 93-23-016, § 314-10-090, filed 11/5/93, effective 12/6/93.]

WAC 314-10-100 How may cigarette sampling activity be conducted? (1) The cigarette sampler's license entitles the licensee, and employees or agents of the licensee, to distribute samples at any lawful location in the state during the term of the license. The person engaged in sampling shall carry the Class T1 or T2 license or a copy of the license at all times and produce same at the request of an enforcement officer as defined in RCW 7.80.040.

(2) No person may distribute or offer to distribute samples in a public place. This prohibition does not apply to:

(a) An area to which persons under 18 years of age are denied admission,

(b) A store or concession to which a cigarette retailers license has been issued, or

(c) At or adjacent to a production, repair or outdoor construction site or facility.

(3) Notwithstanding subsection (2) of this section, no person may distribute or offer to distribute samples within or on a public street, sidewalk, or park that is within 500 feet of a playground, school, or other facility where that facility is being used primarily by persons under 18 years of age for recreational, educational or other purposes.

(4) Class T1 and T2 licensees shall provide the board, forty-five days prior to a sampling event, the locations, dates and times sampling activities will take place.

(5) All T1 and T2 licensees must provide to the liquor control board, in a format prescribed by the board, a listing of the location, date, hours and quantities of cigarettes distributed in the state for the previous six months.

(a) A report for the period covering January 1st through June 30th of each year is due by no later than July 31st of each year.

(b) A report for the period covering July 1st through December 31st is due by no later than January 30th of the immediately following year.

(c) The board may take administrative action against any cigarette sampler who fails to submit the required reports.

[Statutory Authority: RCW 66.08.030. WSR 08-20-109, § 314-10-100, filed 9/30/08, effective 10/31/08; WSR 93-23-016, § 314-10-100, filed 11/5/93, effective 12/6/93.]

WAC 314-10-110 Penalties, suspension notices, posting or advertising of—Other closing notices prohibited. (1) The liquor control board may suspend or revoke a retailer's or sampler's license for violation of the board's administrative rules governing tobacco. Further, the board may impose a monetary penalty in lieu of license suspension for violation of said rules not covered by statute.

(2) Licensees are required to maintain compliance with all tobacco laws and regulations during any period of suspension. Whenever the board shall suspend the license of any licensee, the board shall on the date the suspension becomes effective cause to be posted in a conspicuous place on or about the licensed premises a notice in a form to be prescribed by the board, stating that the license or licenses have been suspended by order of board because of violation of the Washington State laws or the regulations.

(3) During the period of suspension:

(a) No person shall remove, alter, cover, or in any way disturb the posted notice(s) of suspension;

(b) No person shall place, permit or allow to be placed in, at, or upon the licensed premises, any notice or statement of reasons or purpose indicating that the premises have been closed or that sale of tobacco products has been discontinued for any reason other than as stated in the notice of suspension; Provided Further, That the prohibition of this subsection shall

apply to any nearby or adjacent property, such as a parking lot area that is owned by or under the control of the licensee.

(c) Neither the licensee nor his/her or its employees shall advertise, either by newspaper, radio, television, handbill, brochure, flyer or by any means whatever, that the licensed premises are closed or discontinuing the sale of tobacco products for any reason(s) other than those stated in the board's suspension notices.

(4) A tobacco licensee may operate the business during the period of suspension provided there is no sale or distribution of tobacco products.

[Statutory Authority: RCW 66.08.030. WSR 93-23-016, § 314-10-110, filed 11/5/93, effective 12/6/93.]

Chapter 314-11 WAC
GENERAL REQUIREMENTS FOR LICENSEES

WAC

314-11-005	What is the purpose of chapter 314-11 WAC?
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314-11-050	What types of conduct are prohibited on a premises with a liquor license?
314-11-055	What are the lighting requirements for a licensed premises?
314-11-060	What are the mandatory signs a licensee must post on a licensed premises?
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314-11-070	During what hours can I sell or serve liquor?
314-11-072	Does my premises have to be open to the general public at all times?
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314-11-095	What records am I required to keep regarding my licensed premises?
314-11-097	Credit on nonliquor food items—Conditions—Recordkeeping.
314-11-100	Can the board or another government agency seize liquor?
314-11-105	What can the board do with lawfully seized liquor?
314-11-110	What can government agencies other than the board do with lawfully seized liquor?

WAC 314-11-005 What is the purpose of chapter 314-11 WAC? Chapter 314-11 WAC outlines general requirements for liquor licensees, including:

(1) Licensee areas of responsibility;

(2) Restrictions against alcohol service to persons under twenty-one years of age and apparently intoxicated persons;

(3) Persons under twenty-one years of age entering a restricted area;

(4) Conduct on licensed premises;

(5) Mandatory signs;

(6) Hours of operation;

(7) Keeping liquor on licensed premises; and

(8) Record keeping requirements.

[Statutory Authority: RCW 66.08.030, 66.28.100, 66.28.040, 66.28.090, 66.44.010, 66.44.070, 66.44.200, 66.44.270, 66.44.291, 66.44.292, 66.44.310, 66.44.316, 66.44.318, 66.44.340, 66.44.350, and chapter 66.44 RCW. WSR 01-06-014, § 314-11-005, filed 2/26/01, effective 3/29/01.]

WAC 314-11-015 What are my responsibilities as a liquor licensee? (1)(a) Liquor licensees are responsible for the operation of their licensed premises in compliance with the liquor laws and rules of the board (Title 66 RCW and Title 314 WAC). Any violations committed or permitted by employees will be treated by the board as violations committed or permitted by the licensee.

(b) The penalties for violations of liquor laws or rules are in: WAC 314-29-015 through 314-29-035, as now or hereafter amended, for licensees; and WAC 314-17-105 and 314-17-110, as now or hereafter amended, for employees who hold mandatory alcohol server training permits. These rules also outline aggravating and mitigating circumstances that may affect what penalty is applied if a licensee or employee violates a liquor law or rule.

(2) Licensees and their employees also have the responsibility to conduct the licensed premises in compliance with the following laws, as they now exist or may later be amended:

- Titles 9 and 9A RCW, the criminal code laws;
- Title 69 RCW, which outlines the laws regarding controlled substances; and
- Titles 70.155, 82.24 RCW, and RCW 26.28.080 which outline laws regarding tobacco.

(3) Licensees have the responsibility to control their conduct and the conduct of employees and patrons on the premises at all times. Except as otherwise provided by law, licensees or employees may not:

(a) Be disorderly or apparently intoxicated on the licensed premises;

(b) Permit any disorderly person to remain on the licensed premises;

(c) Engage in or allow behavior that provokes conduct which presents a threat to public safety;

(d) Consume liquor of any kind while working on the licensed premises; except that:

(i) Entertainers per WAC 314-02-010 may drink while performing under the following conditions:

(A) Alcohol service must be monitored by MAST servers;

(B) Drinks must be served in unlabeled containers;

(C) Entertainers may not advertise any alcohol brands or products;

(D) Entertainers may not promote drink specials; and

(E) If any member of the entertainment group is under twenty-one years of age, alcohol may not be consumed by any member of the group while performing.

(ii) Licensed beer manufacturers and their employees may sample beer of their own manufacture for manufacturing, evaluating or pricing product in areas where the public is not served, so long as the licensee or employee does not become apparently intoxicated;

(iii) Licensed wine manufacturers and their employees may:

(A) Sample wine for manufacturing, evaluating, or pricing product, so long as the licensee or employee does not become apparently intoxicated; and the licensee or employee who is sampling for these purposes is not also engaged in serving alcohol to the public; and

(B) Sample wine of their own manufacture for quality control or consumer education purposes, so long as the licensee or employee does not become apparently intoxicated.

(e) Engage in, or permit any employee or other person to engage in, conduct on the licensed premises which is prohibited by any portion of Titles 9, 9A, or 69 RCW;

(f) Engage in or permit any employee or other person to engage in the consumption of any type of marijuana, usable marijuana, or marijuana-infused products in a liquor licensed business, including outdoor service areas or any part of the property owned or controlled by the licensee;

(g) Permit any person consuming, or who has consumed within the licensed premises, any type of marijuana, usable marijuana, or marijuana-infused products to remain on any part of the licensed premises; or

(h) Sell or serve liquor by means of "drive-in" or by "curb service."

(4) Licensees have the responsibility to control the interaction between the licensee or employee and their patrons. At a minimum, licensees or employees may not:

(a) Solicit any patron to purchase any beverage for the licensee or employee, or allow a person to remain on the premises for such purpose;

(b) Spend time or dance with, or permit any person to spend time or dance with, any patron for direct or indirect compensation by a patron.

(c) See WAC 314-11-050 for further guidelines on prohibited conduct.

[Statutory Authority: RCW 66.08.030. WSR 14-02-002, § 314-11-015, filed 12/18/13, effective 1/18/14; WSR 11-22-035, § 314-11-015, filed 10/26/11, effective 11/26/11. Statutory Authority: RCW 66.08.030 and 66.28.320. WSR 10-01-090, § 314-11-015, filed 12/16/09, effective 1/16/10. Statutory Authority: RCW 66.08.030, 66.12.160, 66.44.010, 66.44.200, 66.44.240, 66.44.270, 66.24.291 [66.44.291], 66.44.310. WSR 04-15-162, § 314-11-015, filed 7/21/04, effective 8/21/04. Statutory Authority: RCW 66.08.030, 66.28.100, 66.28.040, 66.28.090, 66.44.010, 66.44.070, 66.44.200, 66.44.270, 66.44.291, 66.44.292, 66.44.310, 66.44.316, 66.44.318, 66.44.340, and 66.44.350. WSR 02-11-054, § 314-11-015, filed 5/9/02, effective 6/9/02. Statutory Authority: RCW 66.08.030, 66.28.100, 66.28.040, 66.28.090, 66.44.010, 66.44.070, 66.44.200, 66.44.270, 66.44.291, 66.44.292, 66.44.310, 66.44.316, 66.44.318, 66.44.340, 66.44.350, and chapter 66.44 RCW. WSR 01-06-014, § 314-11-015, filed 2/26/01, effective 3/29/01.]

WAC 314-11-020 What are the guidelines regarding sales to persons under twenty-one years of age and where persons under twenty-one are allowed on a licensed premises? (1) Per RCW 66.44.270, licensees or employees may not supply liquor to any person under twenty-one years of age, either for his/her own use or for the use of any other person.

(2) Per RCW 66.44.310, licensees or employees may not allow persons under twenty-one years of age to remain in any premises or area of a premises classified as off-limits to persons under twenty-one. (See RCW 66.44.310 (1)(b) regarding nonprofit, private club licensees.)

(3) Per RCW 66.20.180, at the request of any law enforcement officer, a holder of a card of identification must present his/her card of identification if the person is on a portion of a premises that is restricted to persons over twenty-one years of age, or if the person is purchasing liquor, attempting to purchase liquor, consuming liquor, or in the possession of liquor. If the person fails or refuses to present a card of identification it may be considered a violation of Title 66 RCW and:

(a) The person may not remain on the licensed premises after being asked to leave by a law enforcement officer; and

(b) The person may be detained by a law enforcement officer for a reasonable period of time and in such a reasonable manner as is necessary to determine the person's true identity and date of birth.

[Statutory Authority: RCW 66.08.030, 66.12.160, 66.44.010, 66.44.200, 66.44.240, 66.44.270, 66.24.291 [66.44.291], 66.44.310. WSR 04-15-162, § 314-11-020, filed 7/21/04, effective 8/21/04. Statutory Authority: RCW 66.08.030, 66.28.100, 66.28.040, 66.28.090, 66.44.010, 66.44.070, 66.44.200, 66.44.270, 66.44.291, 66.44.292, 66.44.310, 66.44.316, 66.44.318, 66.44.340, and 66.44.350. WSR 02-11-054, § 314-11-020, filed 5/9/02, effective 6/9/02. Statutory Authority: RCW 66.08.030, 66.28.100, 66.28.040, 66.28.090, 66.44.010, 66.44.070, 66.44.200, 66.44.270, 66.44.291, 66.44.292, 66.44.310, 66.44.316, 66.44.318, 66.44.340, 66.44.350, and chapter 66.44 RCW. WSR 01-06-014, § 314-11-020, filed 2/26/01, effective 3/29/01.]

WAC 314-11-025 What are the forms of acceptable identification? (1) Following are the forms of identification that are acceptable to verify a person's age for the purpose of selling, serving, or allowing a person to possess or consume alcohol:

(a) Driver's license, instruction permit, or identification card of any state, or province of Canada, from a U.S. territory or the District of Columbia, or "identicard" issued by the Washington state department of licensing per RCW 46.20.117;

(b) United States armed forces identification card issued to active duty, reserve, and retired personnel and the personnel's dependents, which may include an embedded, digital signature in lieu of a visible signature;

(c) Passport;

(d) Merchant Marine identification card issued by the United States Coast Guard; and

(e) Enrollment card issued by the governing authority of a federally recognized Indian tribe located in Washington, if the enrollment card incorporates security features comparable to those implemented by the department of licensing for Washington driver's licenses.

(2) If the identification document has an expiration date, a person may not use the document after the expiration date to verify his or her age.

[Statutory Authority: RCW 66.08.030 and 66.08.050. WSR 12-17-006, § 314-11-025, filed 8/1/12, effective 9/1/12. Statutory Authority: RCW 66.16.040. WSR 08-03-081, § 314-11-025, filed 1/16/08, effective 2/16/08. Statutory Authority: RCW 66.08.030, 66.28.100, 66.28.040, 66.28.090, 66.44.010, 66.44.070, 66.44.200, 66.44.270, 66.44.291, 66.44.292, 66.44.310, 66.44.316, 66.44.318, 66.44.340, 66.44.350, and chapter 66.44 RCW. WSR 01-06-014, § 314-11-025, filed 2/26/01, effective 3/29/01.]

WAC 314-11-030 What if a person's identification meets the legal requirements but I still have doubts about his or her age? (1) Per RCW 66.20.190 and 66.20.210, if a patron presents proper identification as outlined in WAC 314-11-025 but the licensee or employee still has doubts about the patron's age, the licensee or employee may require the patron to sign a certification card. Certification cards are provided by the board's enforcement and education division.

(2) The certification card must be completely filled out and filed alphabetically by the licensee or employee by the close of business on the day used. Certification cards are subject to examination by any law enforcement officer.

[RCW. 01-06-014, § 314-11-030, filed 2/26/01, effective 3/29/01.]]

[Statutory Authority: RCW 66.08.030, 66.28.100, 66.28.040, 66.28.090, 66.44.010, 66.44.070, 66.44.200, 66.44.270, 66.44.291, 66.44.292, 66.44.310, 66.44.316, 66.44.318, 66.44.340, and 66.44.350. WSR 02-11-054, § 314-11-030, filed 5/9/02, effective 6/9/02. Statutory Authority: RCW 66.08.030, 66.28.100, 66.28.040, 66.28.090, 66.44.010, 66.44.070, 66.44.200, 66.44.270, 66.44.291, 66.44.292, 66.44.310, 66.44.316, 66.44.318, 66.44.340, 66.44.350, and chapter 66.44 RCW. WSR 01-06-014, § 314-11-030, filed 2/26/01, effective 3/29/01.]

Reviser's note: RCW 34.05.395 requires the use of underlining and deletion marks to indicate amendments to existing rules, and deems ineffectual changes not filed by the agency in this manner. The bracketed material in the above section does not appear to conform to the statutory requirement.

WAC 314-11-035 What are the rules regarding sales to apparently intoxicated persons? Per RCW 66.44.200, licensees or employees may not supply liquor to any person apparently under the influence of liquor, or allow an apparently intoxicated person to possess or consume liquor on the licensed premises.

[Statutory Authority: RCW 66.08.030, 66.28.100, 66.28.040, 66.28.090, 66.44.010, 66.44.070, 66.44.200, 66.44.270, 66.44.291, 66.44.292, 66.44.310, 66.44.316, 66.44.318, 66.44.340, and 66.44.350. WSR 02-11-054, § 314-11-035, filed 5/9/02, effective 6/9/02. Statutory Authority: RCW 66.08.030, 66.28.100, 66.28.040, 66.28.090, 66.44.010, 66.44.070, 66.44.200, 66.44.270, 66.44.291, 66.44.292, 66.44.310, 66.44.316, 66.44.318, 66.44.340, 66.44.350, and chapter 66.44 RCW. WSR 01-06-014, § 314-11-035, filed 2/26/01, effective 3/29/01.]

WAC 314-11-040 What duties can an employee under twenty-one years of age perform on a licensed premises? A person must be twenty-one years of age or older to be employed in the sale, handling, or service of liquor, except as provided in this chapter.

(1) Per RCW 66.44.340 and RCW 66.44.350, persons between eighteen and twenty-one years of age may perform the following duties:

	Duties 18, 19, and 20 year old employees may perform, as long as there is a person twenty-one years of age or older on duty supervising the sale of liquor	**Duties 18, 19, and 20 years old employees may not perform**
(a) In a grocery store or beer/wine specialty shop:	■ Sell, stock, and handle beer and wine; and ■ Deliver beer and/or wine to a customer's car with the customer (for the purposes of this rule, there is no minimum age requirement for an employee of a grocery store or a beer/wine speciality shop to deliver beer and/or wine to a customer's car with the customer).	Supervise employees who sell, stock, or handle beer and/or wine.
(b) In a spirits retail business:	■ As long as there are at least two supervisors at least twenty-one years of age on duty, persons 18, 19, and 20 years old may sell, stock, and handle spirits. ■ Deliver spirits to a customer's car with the customer (for purposes of this rule, there is no minimum age requirement for an employee of a spirits retailer to deliver spirits to a customer's car with the customer).	Supervise employees who sell, stock, or handle spirits.
(c) In an establishment that sells liquor for on-premises consumption:	■ Take orders for, serve, and sell liquor in areas classified as open to persons under twenty-one years of age; and ■ Enter areas designated as off-limits to persons under twenty-one years of age to perform duties such as picking up liquor for service in other parts of the establishment; cleaning up, setting up, and arranging tables; delivering messages; serving food; and seating patrons; provided the employee does not remain in the area any longer than is necessary to perform the duties.	Functions of a bartender, including: ■ Mixing drinks; ■ Drawing beer or wine from a tap; ■ Pouring beer or wine anywhere except at the patrons table; and ■ Providing an employee spirits, beer by the pitcher or glass, or wine by the carafe or glass for delivery to a customer.
(d) In a spirits retail business:		Supervise employees who sell, stock, or handle spirits.

(2) Per RCW 66.44.316 and 66.44.318, the following persons that are eighteen, nineteen, or twenty years of age may remain on licensed premises or portions of premises that are restricted from persons under twenty-one years of age, but only during the course of his or her employment:

(a) Persons performing janitorial services during the hours when there is no sale, service, or consumption of liquor on the premises;

(b) Employees of amusement device companies for the purpose of installing, maintaining, repairing, or removing any amusement device;

(c) Security or law enforcement officers and firefighters during the course of their official duties and if they are not the direct employees of the licensee; and

(d) Professional musicians, per WAC 314-11-045.

[Statutory Authority: RCW 66.08.030 and 66.08.050. WSR 12-17-006, § 314-11-040, filed 8/1/12, effective 9/1/12. Statutory Authority: RCW 66.08.030, 66.28.100, 66.28.040, 66.28.090, 66.44.010, 66.44.070, 66.44.200, 66.44.270, 66.44.291, 66.44.292, 66.44.310, 66.44.316, 66.44.318, 66.44.340, and 66.44.350. WSR 02-11-054, § 314-11-040, filed 5/9/02, effective 6/9/02. Statutory Authority: RCW 66.08.030, 66.28.100, 66.28.040, 66.28.090, 66.44.010, 66.44.070, 66.44.200, 66.44.270, 66.44.291, 66.44.292, 66.44.310, 66.44.316, 66.44.318, 66.44.340, 66.44.350, and chapter 66.44 RCW. WSR 01-06-014, § 314-11-040, filed 2/26/01, effective 3/29/01.]

WAC 314-11-045 Can musicians under twenty-one years of age entertain on a licensed premises that is restricted to persons twenty-one or older? Per RCW 66.44.316 and 66.44.318, musicians, disc jockeys, and sound or lighting technicians paid by the licensee who are eighteen, nineteen, or twenty years of age may work in a licensed premises or a portion of a licensed premises that is restricted to persons twenty-one years of age or older, under the following conditions:

(1) The eighteen, nineteen, or twenty year-old musicians must remain on the stage or bandstand during their performance, except:

(a) Strolling musicians; and

(b) Disc jockeys and sound and lighting technicians may remain in locations as required to actively support the professional musician or disc jockey.

(2) The eighteen, nineteen, or twenty year-old musicians may not consume alcohol, and must have acceptable identification available for inspection at all times.

(3) The eighteen, nineteen, or twenty year-old musicians are permitted on the licensed premises no more than one hour prior to the start of their performance and not more than one hour after their performance, in order to properly set up and secure their equipment.

(4) During breaks, the eighteen, nineteen, or twenty year-old musicians may not remain in an area that is off-limits to persons under twenty-one years of age.

[Statutory Authority: RCW 66.08.030, 66.28.100, 66.28.040, 66.28.090, 66.44.010, 66.44.070, 66.44.200, 66.44.270, 66.44.291, 66.44.292, 66.44.310, 66.44.316, 66.44.318, 66.44.340, and 66.44.350. WSR 02-11-054, § 314-11-045, filed 5/9/02, effective 6/9/02. Statutory Authority: RCW 66.08.030, 66.28.100, 66.28.040, 66.28.090, 66.44.010, 66.44.070, 66.44.200, 66.44.270, 66.44.291, 66.44.292, 66.44.310, 66.44.316, 66.44.318, 66.44.340, 66.44.350, and chapter 66.44 RCW. WSR 01-06-014, § 314-11-045, filed 2/26/01, effective 3/29/01.]

WAC 314-11-050 What types of conduct are prohibited on a premises with a liquor license?

(1) **Licensees may not allow, permit, or encourage employees (including him or herself) to:**	(a) Be unclothed or in such attire, costume, or clothing as to expose to view any portion of the breast below the top of the areola or of any portion of the pubic hair, anus, cleft of the buttocks, vulva, or genitals.
(2) **Licensees may not allow, permit, or encourage any person (including him or herself) on the licensed premises to:**	(a) Perform acts of or acts which simulate, or use artificial devices or inanimate objects which depict; • Sexual intercourse, masturbation, sodomy, bestiality, oral copulation, flagellation, or any sexual acts which are prohibited by law; • The touching, caressing, or fondling of the breast, buttocks, anus or genitals; or • The displaying of the pubic hair, anus, vulva, or genitals. (b) Show any film, still picture, electronic reproduction, or other visual reproduction that depicts pornography, or a sexual act prohibited by law.
(3) **Notwithstanding the provisions of subsection (4) of this rule, licensees may not encourage any person on the licensed premises to:**	(a) Expose to public view any portion of his or her genitals or anus; (b) Touch, caress, or fondle the breasts, buttocks, anus, or genitals of any other person; or (c) Wear or use any device or covering that is exposed to view which simulates the breast, genitals, anus, pubic hair, or any portion thereof.
(4) **Licensees must ensure any entertainers on the licensed premises perform under the following guidelines:**	(a) Entertainers may only expose their breast and/or buttocks if the performer(s) is on a stage at least eighteen inches above the immediate floor level and removed at least six feet from the nearest patron. (b) Performers must be at least six feet away from the nearest patron. This restriction will not be applied to performances of traditional ethnic dancing, provided that all of the following conditions are met: (i) The dancers are compensated by the licensee; (ii) At all times, the licensee must maintain and have available for inspection by any liquor enforcement officer a list of all traditional ethnic dancers employed at the licensed premises. The list must be retained for a period of thirty days after termination of employment and must contain the following information for each dancer or entertainer: • True name and professional or stage name, if any; • Residence address and phone number; • Terms of the agreement of employment; and • Signature of both the licensee and the dancer or entertainer; (iii) The traditional or ethnic dance performances will be those performed for the enjoyment of the general audience of the licensee and not for individual patrons.

(5) The occurrence of any of the above acts or conduct, whether permitted by a licensee, employee, or any other person under the control or direction of the licensee or an employee, constitutes good and sufficient cause for cancellation of license privileges.

(6) Nothing in this rule is intended disallow local officials from adopting ordinances that are more restrictive than the requirements outlined in this rule.

(7) If any provision of this rule or the application thereof to any person or circumstances is held invalid, such invalidity shall not affect other provisions or application of the rule which can be given effect without the invalid provision or application, and to this end the provisions of this rule are severable.

[Statutory Authority: RCW 66.08.030, 66.28.100, 66.28.040, 66.28.090, 66.44.010, 66.44.070, 66.44.200, 66.44.270, 66.44.291, 66.44.292, 66.44.310, 66.44.316, 66.44.318, 66.44.340, 66.44.350, and chapter 66.44 RCW. WSR 01-06-014, § 314-11-050, filed 2/26/01, effective 3/29/01.]

WAC 314-11-055 What are the lighting requirements for a licensed premises? On all portions of the premises where alcohol is served or consumed, licensees must maintain sufficient lighting so that identification may be checked and patrons may be observed for the enforcement of liquor laws and rules.

[Statutory Authority: RCW 66.08.030, 66.28.100, 66.28.040, 66.28.090, 66.44.010, 66.44.070, 66.44.200, 66.44.270, 66.44.291, 66.44.292, 66.44.310, 66.44.316, 66.44.318, 66.44.340, 66.44.350, and chapter 66.44 RCW. WSR 01-06-014, § 314-11-055, filed 2/26/01, effective 3/29/01.]

WAC 314-11-060 What are the mandatory signs a licensee must post on a licensed premises? (1) **Notices regarding persons under twenty-one years of age** must be posted on the premises as follows:

Type of licensee	Sign must contain the following language:	Required location of sign
Tavern licensees and spirits, beer, and wine licensees who do not allow persons under twenty-one years of age.	"Persons under twenty-one years of age not permitted on these premises."	Conspicuous location at each entry to premises.
Restaurants that do not permit persons under twenty-one years of age on a portion of their premises.	"Persons under twenty-one years of age not permitted in this area."	Conspicuous location at each entry to a restricted area.

The board will provide the required notices, or licensees may design their own notices as long as they are legible and contain the required language.

(2) **Signs provided by the board warning of the possible danger of birth defects which may be caused as a result of the consumption of alcohol during pregnancy,** must be posted as follows:

Type of premises	Required location of sign
Premises that serve alcohol for on-premises consumption (does not apply to self-service "mini-bars" in hotel guest rooms).	Posted in plain view at the main entrance to the liquor licensed portion of the establishment, and in the women's public restrooms closest to the licensed area.
Airports, convention centers, sports facilities, and other licensed premises that have more than one authorized location for alcohol service and consumption.	Posted in a place that is clearly visible to the majority of patrons entering the liquor licensed portion of the premises.
Grocery store and beer/wine specialty shop licensees.	Posted at one or more of the following locations: ■ At each permanent display area of shelving and at coolers displaying alcohol beverages; and/or ■ At the cash register(s) where alcohol is sold; and/or ■ At the main entrance to the licensed premises.
Breweries and wineries.	Posted in plain view at: ■ The main entrance to areas where alcohol is sold for off-premises consumption, and ■ At the main entrance to all tasting areas.

(3) **The premises' current and valid master license with appropriate endorsements** must be conspicuously posted on the premises and available for inspection by liquor enforcement officers.

(4) **Tobacco signage** provided by the board must be posted (as outlined in WAC 314-10-020 and 314-10-030 as now or hereafter amended).

(5) **Firearms prohibited** signs provided by the board must be posted in each tavern and lounge (per RCW 9.41.300).

[Statutory Authority: RCW 66.08.030, 66.28.100, 66.28.040, 66.28.090, 66.44.010, 66.44.070, 66.44.200, 66.44.270, 66.44.291, 66.44.292, 66.44.310, 66.44.316, 66.44.318, 66.44.340, and 66.44.350. WSR 02-11-054, § 314-11-060, filed 5/9/02, effective 6/9/02. Statutory Authority: RCW 66.08.030, 66.28.100, 66.28.040, 66.28.090, 66.44.010, 66.44.070, 66.44.200, 66.44.270, 66.44.291, 66.44.292, 66.44.310, 66.44.316, 66.44.318, 66.44.340, 66.44.350, and chapter 66.44 RCW. WSR 01-06-014, § 314-11-060, filed 2/26/01, effective 3/29/01.]

WAC 314-11-065 What type of liquor is allowed on a licensed premises? (1) Licensees may only possess and allow persons to consume or possess the type of liquor permitted by the type of liquor license held on the premises; except:

(a) Under authority of a banquet permit (see chapter 314-18 WAC);

(b) Restaurant licensees may allow patrons to bring wine into the premises for consumption with a meal; and

(c) Beer and/or wine restaurant or tavern licensees may keep spirituous liquor on the premises for use in the manufacture of food products, provided that:

(i) All food products manufactured contain one percent or less of alcohol by weight (per RCW 66.12.16.160 [66.12.160]),

(ii) Customers are made aware that the food products contain liquor, and

(iii) The beer and/or wine restaurant or tavern licensee notifies the local liquor control board enforcement office in writing before they bring spirituous liquor on the premises.

(2) For on-premises liquor licenses, the licensee or employees may not permit the removal of liquor in an open container from the licensed premises, except:

(a) Liquor brought on a licensed premises under authority of a banquet permit may be resealed in its original container and removed at the end of the banquet permit function;

(b) Per RCW 66.24.320 and 66.24.400, wine that is sold with a meal may be recorked or resealed and removed from the premises;

(c) Liquor purchased by registered guests for consumption inside a hotel or motel room may be resealed in its original container and removed from the hotel or motel premises by the guest; and

(d) Liquor removed from a licensed premises that holds a caterer's endorsement, for the purpose of catering an approved event.

[Statutory Authority: RCW 66.08.030, 66.12.160, 66.44.010, 66.44.200, 66.44.240, 66.44.270, 66.24.291 [66.44.291], 66.44.310. WSR 04-15-162, § 314-11-065, filed 7/21/04, effective 8/21/04. Statutory Authority: RCW 66.08.030, 66.28.100, 66.28.040, 66.28.090, 66.44.010, 66.44.070, 66.44.200, 66.44.270, 66.44.291, 66.44.292, 66.44.310, 66.44.316, 66.44.318, 66.44.340, and 66.44.350. WSR 02-11-054, § 314-11-065, filed 5/9/02, effective 6/9/02. Statutory Authority: RCW 66.08.030, 66.28.100, 66.28.040, 66.28.090, 66.44.010, 66.44.070, 66.44.200, 66.44.270, 66.44.291, 66.44.292, 66.44.310, 66.44.316, 66.44.318, 66.44.340, 66.44.350, and chapter 66.44 RCW. WSR 01-06-014, § 314-11-065, filed 2/26/01, effective 3/29/01.]

WAC 314-11-070 During what hours can I sell or serve liquor? (1) Between the hours of 2 a.m. and 6 a.m., licensees or employees may not:

(a) Sell liquor,

(b) Offer liquor for sale,

(c) Deliver liquor (except that beer and/or wine distributors may deliver beer and/or wine to retail licensees between the hours of 2 a.m. and 6 a.m.),

(d) Permit the removal of liquor from the premises;

(e) Allow liquor to be consumed on the premises; or

(f) Possess liquor, except that persons working on the premises may possess liquor between the hours of 2 a.m. and 6 a.m. while in the performance of their official duties.

(2) A local government subdivision may fix later opening hours or earlier closing hours than those specified in this rule, so long as the hours apply to all licensed premises in the local government subdivision's jurisdiction. See WAC 314-12-215(3) for exceptions when a premises is in a board recognized alcohol impact area.

[Statutory Authority: RCW 66.08.030, 66.12.160, 66.44.010, 66.44.200, 66.44.240, 66.44.270, 66.24.291 [66.44.291], 66.44.310. WSR 04-15-162, § 314-11-070, filed 7/21/04, effective 8/21/04. Statutory Authority: RCW 66.08.030, 66.28.100, 66.28.040, 66.28.090, 66.44.010, 66.44.070, 66.44.200, 66.44.270, 66.44.291, 66.44.292, 66.44.310, 66.44.316, 66.44.318, 66.44.340, and 66.44.350. WSR 02-11-054, § 314-11-070, filed 5/9/02, effective 6/9/02. Statutory Authority: RCW 66.08.030, 66.28.100, 66.28.040, 66.28.090, 66.44.010, 66.44.070, 66.44.200, 66.44.270, 66.44.291, 66.44.292, 66.44.310, 66.44.316, 66.44.318, 66.44.340, 66.44.350, and chapter 66.44 RCW. WSR 01-06-014, § 314-11-070, filed 2/26/01, effective 3/29/01.]

WAC 314-11-072 Does my premises have to be open to the general public at all times? Unless otherwise approved by the board, a retail licensed premises must be open to the general public whenever liquor is sold, served, or consumed.

[Statutory Authority: RCW 66.08.030, 66.28.100, 66.28.040, 66.28.090, 66.44.010, 66.44.070, 66.44.200, 66.44.270, 66.44.291, 66.44.292, 66.44.310, 66.44.316, 66.44.318, 66.44.340, and 66.44.350. WSR 02-11-054, § 314-11-072, filed 5/9/02, effective 6/9/02.]

WAC 314-11-080 Can liquor be substituted? Liquor licensees or employees may not:

(a) Tamper, dilute, or fortify any bottle of spirituous liquor;

(b) Sell or serve any spirituous liquor, beer, or wine other than ordered; or

(c) Substitute a nonalcoholic beverage when an alcoholic beverage has been ordered (see WAC 314-11-035 regarding a licensee's responsibility to not serve liquor to an apparently intoxicated person).

[Statutory Authority: RCW 66.08.030, 66.28.100, 66.28.040, 66.28.090, 66.44.010, 66.44.070, 66.44.200, 66.44.270, 66.44.291, 66.44.292, 66.44.310, 66.44.316, 66.44.318, 66.44.340, 66.44.350, and chapter 66.44 RCW. WSR 01-06-014, § 314-11-080, filed 2/26/01, effective 3/29/01.]

WAC 314-11-085 Do I have to sell liquor at a certain price? (1) Liquor licensees must sell beer, wine, and spirits at or above the licensee's acquisition cost.

(2) An exception to this requirement is that on-premises retail licensees may give a customer a drink free of charge under limited circumstances, such as a customer's birthday or to compensate for unsatisfactory products or services. Free liquor may not be used in advertising or as part of a promotion.

[Statutory Authority: RCW 66.08.030 and 66.08.050. WSR 12-17-006, § 314-11-085, filed 8/1/12, effective 9/1/12. Statutory Authority: RCW 66.08.030, 66.28.100, 66.28.040, 66.28.090, 66.44.010, 66.44.070, 66.44.200, 66.44.270, 66.44.291, 66.44.292, 66.44.310, 66.44.316, 66.44.318, 66.44.340, 66.44.350, and chapter 66.44 RCW. WSR 01-06-014, § 314-11-085, filed 2/26/01, effective 3/29/01.]

WAC 314-11-090 Does the board have the right to inspect my premises? Per RCW 66.28.090, the following must be available to inspection at all times by the board and any law enforcement officer:

(1) The licensed premises and any premises connected physically or otherwise to the licensed business;

(2) Records as outlined in WAC 314-11-095; and

(3) Liquor on the licensed premises for the purpose of analyzing samples (the licensee will be given a receipt for any product removed from the premises for this purpose).

[Statutory Authority: RCW 66.08.030, 66.28.100, 66.28.040, 66.28.090, 66.44.010, 66.44.070, 66.44.200, 66.44.270, 66.44.291, 66.44.292, 66.44.310, 66.44.316, 66.44.318, 66.44.340, 66.44.350, and chapter 66.44 RCW. WSR 01-06-014, § 314-11-090, filed 2/26/01, effective 3/29/01.]

WAC 314-11-095 What records am I required to keep regarding my licensed premises? Licensees are responsible to keep records that clearly reflect all financial transactions and the financial condition of the business.

(1) All industry members and retailers shall keep and maintain the following records on their premises for a three-year period and the records must be made available for inspection if requested by an employee of the liquor control board, or by a person appointed in writing by the board for the purposes of administering or enforcing any provisions of Title 66 RCW or Title 314 WAC:

(a) Purchase invoices and supporting documents, to include the items and/or services purchased, from whom the items were purchased, and the date of purchase;

(b) Bank statements and canceled checks for any accounts relating to the licensed business;

(c) Accounting and tax records related to the licensed business and each true party of interest in the liquor license;

(d) Records of all financial transactions related to the licensed business, including contracts and/or agreements for

services performed or received that relate to the licensed business;

(e) Records of all items, services, and moneys' worth furnished to and received by a retailer and of all items, services, and moneys' worth provided to a retailer and purchased by a retailer at fair market value;

(f) Records of all industry member financial ownership or interests in a retailer and of all retailer financial ownership interests in an industry member; and

(g) Business entertainment records of industry members or their employees who provide either food, beverages, transportation, tickets or admission fees for or at athletic events or for other forms of entertainment to retail licensees and/or their employees.

(2) See additional rules for recordkeeping requirements specific to breweries and wineries: WAC 314-20-015(2), 314-20-050, 314-24-100, and 314-24-150 (as now or hereafter amended).

[Statutory Authority: RCW 66.08.030 and 66.28.320. WSR 10-01-090, § 314-11-095, filed 12/16/09, effective 1/16/10. Statutory Authority: RCW 66.08.030, 66.28.100, 66.28.040, 66.28.090, 66.44.010, 66.44.070, 66.44.200, 66.44.270, 66.44.291, 66.44.292, 66.44.310, 66.44.316, 66.44.318, 66.44.340, and 66.44.350. WSR 02-11-054, § 314-11-095, filed 5/9/02, effective 6/9/02. Statutory Authority: RCW 66.08.030, 66.28.100, 66.28.040, 66.28.090, 66.44.010, 66.44.070, 66.44.200, 66.44.270, 66.44.291, 66.44.292, 66.44.310, 66.44.316, 66.44.318, 66.44.340, 66.44.350, and chapter 66.44 RCW. WSR 01-06-014, § 314-11-095, filed 2/26/01, effective 3/29/01.]

WAC 314-11-097 Credit on nonliquor food items—Conditions—Recordkeeping. (1) Notwithstanding the provisions of WAC 314-12-140, persons licensed under RCW 66.24.200 as wine distributors and persons licensed under RCW 66.24.250 as beer distributors may sell at wholesale nonliquor food products on thirty days' credit terms to retailers. Complete and separate accounting records shall be maintained for a period of three years on all sales of nonliquor food products.

(2) Nonliquor food products include all food products for human consumption as defined in RCW 82.08.0293 as it exists on July 1, 1987, except that for the purposes of this section bottled water and carbonated beverages, whether liquid or frozen, shall be considered food products.

(3) For the purpose of this section, the period of credit is calculated as the time elapsing between the date of delivery of the product and the date of full legal discharge of the retailer, through the payment of cash or its equivalent, from all indebtedness arising from the transaction.

(4) If the board finds in any instance that any licensee has violated this section by extending or receiving credit in excess of the thirty days as provided for by this section, then all licensees involved shall be held equally responsible for such violation.

[Statutory Authority: RCW 66.08.030 and 66.08.050. WSR 12-17-006, § 314-11-097, filed 8/1/12, effective 9/1/12. Statutory Authority: RCW 66.08.030 and 66.28.320. WSR 10-01-090, § 314-11-097, filed 12/16/09, effective 1/16/10.]

WAC 314-11-100 Can the board or another government agency seize liquor? Under the provisions of RCW 66.08.030(20), liquor enforcement officers and other peace officers are authorized to seize, confiscate, destroy or otherwise dispose of any liquor that is manufactured, sold, or offered for sale within the state in violation of the provisions of Title 66 RCW and/or Title 314 WAC.

[Statutory Authority: RCW 66.08.030 and 66.08.050. WSR 12-17-006, § 314-11-100, filed 8/1/12, effective 9/1/12. Statutory Authority: RCW 66.08.030, 66.28.100, 66.28.040, 66.28.090, 66.44.010, 66.44.070, 66.44.200, 66.44.270, 66.44.291, 66.44.292, 66.44.310, 66.44.316, 66.44.318, 66.44.340, 66.44.350, and chapter 66.44 RCW. WSR 01-06-014, § 314-11-100, filed 2/26/01, effective 3/29/01.]

WAC 314-11-105 What can the board do with lawfully seized liquor? (1) Per RCW 66.08.030(20) and chapter 66.32 RCW, the board may destroy lawfully seized liquor under the following conditions:

(a) The board must maintain a record of the type, brand, and amount of liquor seized for at least one year.

(b) The lawfully seized liquor may be destroyed only after:

(i) The board's charges of a violation of Title 66 RCW or board regulations have been sustained after an administrative proceeding pursuant to chapter 314-29 WAC as now or hereafter amended, in which the liquor to be destroyed has been the subject of, or evidence in, the administrative proceeding; or

(ii) The board's charges of a violation of Title 66 RCW or board regulations have been admitted or are not contested by the person from whom the liquor was seized and the liquor seized was the subject of the charged violation; or

(iii) The liquor was seized pursuant to lawful arrest and liquor was held as evidence in a criminal proceeding where a final disposition has been reached; or

(iv) When no administrative or judicial proceedings are held, all parties who claim a right, title, or interest in the seized liquor have been given notice and opportunity for a hearing to determine his or her right, title, or interest in the subject liquor. Claims of right, title, or interest in seized liquor must be made to the board, in writing, within thirty days of the date of seizure.

(2) If the liquor lawfully seized is in its original, sealed container, the board may either:

(a) Sell the unopened beer, wine, or spirits to the distributor selling the product at a negotiated price. The bill of sale must be kept for three years; or

(b) Upon written request from a law enforcement agency, provide the liquor to the law enforcement agency for bona fide training.

[Statutory Authority: RCW 66.08.030 and 66.08.050. WSR 12-17-006, § 314-11-105, filed 8/1/12, effective 9/1/12. Statutory Authority: RCW 66.08.030, 66.28.100, 66.28.040, 66.28.090, 66.44.010, 66.44.070, 66.44.200, 66.44.270, 66.44.291, 66.44.292, 66.44.310, 66.44.316, 66.44.318, 66.44.340, 66.44.350, and chapter 66.44 RCW. WSR 01-06-014, § 314-11-105, filed 2/26/01, effective 3/29/01.]

WAC 314-11-110 What can government agencies other than the board do with lawfully seized liquor? Under the provisions of chapter 66.32 RCW, government agencies may, after obtaining the approval of the board and under the supervision of the board, dispose of lawfully seized liquor as follows:

(1) The government agency may sell opened containers of lawfully seized liquor back to the spirits, beer, and wine restaurant licensee from whom seized if the licensee is going

out of business and the liquor will be used for the personal use of the licensee.

(2) The government agency may sell unopened beer, wine, or spirits to the distributor selling the beer, wine, or spirits at a negotiated price. A copy of the inventory and bill of sale must be kept for three years.

(3) The government agency may sell unopened salable wine and/or beer to appropriately licensed retailers at a negotiated price under the following conditions:

(a) The product must meet the quality standards set forth by its manufacturer; and

(b) Copies of the inventory and bill of sale must be furnished the board.

(4) The government agency may ship the liquor out of the state of Washington.

[Statutory Authority: RCW 66.08.030 and 66.08.050. WSR 12-17-006, § 314-11-110, filed 8/1/12, effective 9/1/12. Statutory Authority: RCW 66.08.030, 66.28.100, 66.28.040, 66.28.090, 66.44.010, 66.44.070, 66.44.200, 66.44.270, 66.44.291, 66.44.292, 66.44.310, 66.44.316, 66.44.318, 66.44.340, 66.44.350, and chapter 66.44 RCW. WSR 01-06-014, § 314-11-110, filed 2/26/01, effective 3/29/01.]

Chapter 314-12 WAC
GENERAL—APPLICABLE TO ALL LICENSEES

WAC

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314-12-210 Chronic public inebriation and alcohol impact areas—Purpose.
314-12-215 Alcohol impact areas—Definition—Guidelines.
314-12-220 General review.
314-12-225 Severability.

DISPOSITION OF SECTIONS FORMERLY CODIFIED IN THIS CHAPTER

314-12-005 Under what conditions may the board delegate authority to approve liquor licenses as provided in RCW 66.24.010(2)? [Statutory Authority: RCW 66.08.030 and 66.24.010(2). WSR 98-14-004, § 314-12-005, filed 6/18/98, effective 7/19/98.] Repealed by WSR 05-07-012, filed 3/4/05, effective 4/4/05. Statutory Authority: RCW 66.08.030, 66.24.010, 66.24.015, and 66.24.025.

314-12-025 Applicants for temporary licenses—Fee—Who qualifies. [Statutory Authority: RCW 66.08.030, 15.88.030, 19.126.020, 66.04.010, 66.08.180, 66.16.100, 66.20.010, 66.20.300, 66.20.310, 66.24.150, 66.24.170, 66.24.185, 66.24.200, 66.24.206, 66.24.210, 66.24.230, 66.24.240, 66.24.244, 66.24.250, 66.24.375, 66.24.380, 66.24.395, 66.24.400, 66.24.420, 66.24.425, 66.24.440, 66.24.450, 66.24.455, 66.24.495, 66.24.540, 66.28.010, 66.28.040, 66.28.050, 66.28.170, 66.28.180, 66.28.190, 66.28.200, 66.28.310, 66.44.190, 66.44.310, 66.98.060 and 82.08.150. WSR 98-18-097, § 314-12-025, filed 9/2/98, effective 10/3/98. Statutory Authority: RCW 66.08.030, 66.24.010 and 66.24.025. WSR 96-03-004, § 314-12-025, filed 1/4/96, effective 2/4/96. Statutory Authority: RCW 66.08.030. WSR 93-10-070, § 314-12-025, filed 5/3/93, effective 6/3/93. Statutory Authority: RCW 66.08.030 and 1987 c 217. WSR 87-16-002 (Order 226, Resolution No. 235), § 314-12-025, filed 7/23/87.] Repealed by WSR 05-07-012, filed 3/4/05, effective 4/4/05. Statutory Authority: RCW 66.08.030, 66.24.010, 66.24.015, and 66.24.025.

314-12-060 Death or incapacity of licensee. [Rule 5, filed 6/13/63.] Repealed by WSR 05-07-012, filed 3/4/05, effective 4/4/05. Statutory Authority: RCW 66.08.030, 66.24.010, 66.24.015, and 66.24.025.

314-12-080 Limitation on reapplications. [Statutory Authority: RCW 66.08.030, 66.24.010 and 66.24.025. WSR 96-03-004, § 314-12-080, filed 1/4/96, effective 2/4/96. Statutory Authority: RCW 66.08.030. WSR 92-21-061, § 314-12-080, filed 10/19/92, effective 11/19/92; Rule 7, filed 6/13/63.] Repealed by WSR 05-07-012, filed 3/4/05, effective 4/4/05. Statutory Authority: RCW 66.08.030, 66.24.010, 66.24.015, and 66.24.025.

314-12-090 Managers required—Exceptions. [Statutory Authority: RCW 66.08.030, 66.08.130 and 66.08.140. WSR 88-23-032 (Order 269, Resolution No. 278), § 314-12-090, filed 11/8/88. Statutory Authority: RCW 66.08.030. WSR 86-12-021 (Order 186, Resolution No. 195), § 314-12-090, filed 5/28/86. Statutory Authority: RCW 66.08.030 and 66.98.070. WSR 81-22-026 (Order 85, Resolution No. 94), § 314-12-090, filed 10/28/81; Rule 8, filed 6/13/63.] Repealed by WSR 92-14-023, filed 6/22/92, effective 7/23/92. Statutory Authority: RCW 66.08.030.

314-12-100 Change of name. [Statutory Authority: RCW 66.08.030. WSR 88-04-028 (Order 236, Resolution No. 245), § 314-12-100, filed 1/27/88; Rule 9, filed 6/13/63.] Repealed by WSR 05-07-012, filed 3/4/05, effective 4/4/05. Statutory Authority: RCW 66.08.030, 66.24.010, 66.24.015, and 66.24.025.

314-12-110 Change of location. [Statutory Authority: RCW 66.08.030, 66.20.010 and 66.98.070. WSR 83-23-123 (Order 133, Resolution No. 142), § 314-12-110, filed 11/23/83; Rule 10, filed 6/13/63.] Repealed by WSR 05-07-012, filed 3/4/05, effective 4/4/05. Statutory Authority: RCW 66.08.030, 66.24.010, 66.24.015, and 66.24.025.

314-12-115 Expired card of identification is not valid for proof of age. [Statutory Authority: RCW 66.08.030. WSR 92-21-060, § 314-12-115, filed 10/19/92, effective 11/19/92.] Repealed by WSR 01-06-014, filed 2/26/01, effective 3/29/01. Statutory Authority: RCW 66.08.030, 66.28.100, 66.28.040, 66.28.090, 66.44.010, 66.44.070, 66.44.200, 66.44.270, 66.44.291, 66.44.292, 66.44.310, 66.44.316, 66.44.318, 66.44.340, 66.44.350, and chapter 66.44 RCW.

314-12-120 Licensed premises open for inspection—Sampling of liquor. [Rule 11, filed 6/13/63.] Repealed by WSR 01-06-014, filed 2/26/01, effective 3/29/01. Statutory Authority: RCW 66.08.030, 66.28.100, 66.28.040, 66.28.090, 66.44.010, 66.44.070, 66.44.200, 66.44.270, 66.44.291, 66.44.292, 66.44.310, 66.44.316, 66.44.318, 66.44.340, 66.44.350, and chapter 66.44 RCW.

314-12-125 Maintaining operation of licensed premises in accordance with law and rules of the board is responsibility of licensee—Failure to do so is cause for revocation of license. [Statutory Authority: RCW 66.08.030 and 66.98.070. WSR 83-18-070 (Order 126, Resolution No. 135), § 314-12-125, filed 9/7/83.] Repealed by WSR 01-06-014, filed 2/26/01, effective 3/29/01. Statutory Authority: RCW 66.08.030, 66.28.100, 66.28.040, 66.28.090, 66.44.010, 66.44.070, 66.44.200, 66.44.270, 66.44.291, 66.44.292, 66.44.310, 66.44.316, 66.44.318, 66.44.340, 66.44.350, and chapter 66.44 RCW.

314-12-130 No liquor deliveries on Sunday—Exceptions. [Statutory Authority: RCW 66.08.030, 15.88.030, 19.126.020, 66.04.010, 66.08.180, 66.16.100, 66.20.010, 66.20.300, 66.20.310, 66.24.150, 66.24.170, 66.24.185, 66.24.200, 66.24.206, 66.24.210, 66.24.230, 66.24.240, 66.24.244, 66.24.250, 66.24.375, 66.24.380, 66.24.395, 66.24.400, 66.24.420, 66.24.425, 66.24.440, 66.24.450, 66.24.455, 66.24.495, 66.24.540, 66.28.010, 66.28.040, 66.28.050, 66.28.170, 66.28.180, 66.28.190, 66.28.200, 66.28.310, 66.44.190, 66.44.310, 66.98.060 and 82.08.150. WSR 98-18-097, § 314-12-130, filed 9/2/98, effective 10/3/98. Statutory Authority: RCW 66.08.070. WSR 86-24-028 (Order 203, Resolution No. 212), § 314-12-130, filed 11/25/86; Rule 12, filed 6/13/63.] Repealed by WSR 01-06-014, filed 2/26/01, effective 3/29/01. Statutory Authority: RCW 66.08.030, 66.28.100, 66.28.040, 66.28.090, 66.44.010, 66.44.070, 66.44.200, 66.44.270, 66.44.291, 66.44.292, 66.44.310, 66.44.316, 66.44.318, 66.44.340, 66.44.350, and chapter 66.44 RCW.

314-12-135 Business entertainment—Records. [Statutory Authority: RCW 66.08.030, 15.88.030, 19.126.020, 66.04.010, 66.08.180, 66.16.100, 66.20.010, 66.20.300, 66.20.310,

66.24.150, 66.24.170, 66.24.185, 66.24.200, 66.24.206, 66.24.210, 66.24.230, 66.24.240, 66.24.244, 66.24.250, 66.24.375, 66.24.380, 66.24.395, 66.24.400, 66.24.420, 66.24.425, 66.24.440, 66.24.450, 66.24.455, 66.24.495, 66.24.540, 66.28.010, 66.28.040, 66.28.050, 66.28.170, 66.28.180, 66.28.190, 66.28.200, 66.28.310, 66.44.190, 66.44.310, 66.98.060 and 82.08.150. WSR 98-18-097, § 314-12-135, filed 9/2/98, effective 10/3/98. Statutory Authority: RCW 66.08.030 and 1990 c 125. WSR 90-14-003, § 314-12-135, filed 6/22/90, effective 7/23/90.] Repealed by WSR 10-01-090, filed 12/16/09, effective 1/16/10. Statutory Authority: RCW 66.08.030 and 66.28.320.

314-12-145 Credit on nonliquor food items—Conditions—Recordkeeping. [Statutory Authority: RCW 66.08.030, 15.88.030, 19.126.020, 66.04.010, 66.08.180, 66.16.100, 66.20.010, 66.20.300, 66.20.310, 66.24.150, 66.24.170, 66.24.185, 66.24.200, 66.24.206, 66.24.210, 66.24.230, 66.24.240, 66.24.244, 66.24.250, 66.24.375, 66.24.380, 66.24.395, 66.24.400, 66.24.420, 66.24.425, 66.24.440, 66.24.450, 66.24.455, 66.24.495, 66.24.540, 66.28.010, 66.28.040, 66.28.050, 66.28.170, 66.28.180, 66.28.190, 66.28.200, 66.28.310, 66.44.190, 66.44.310, 66.98.060 and 82.08.150. WSR 98-18-097, § 314-12-145, filed 9/2/98, effective 10/3/98. Statutory Authority: 1988 c 50. WSR 88-10-049 (Order 249, Resolution No. 258), § 314-12-145, filed 5/4/88. Statutory Authority: 1987 c 386 § 2. WSR 87-14-009 (Order 218, Resolution No. 227), § 314-12-145, filed 6/23/87.] Repealed by WSR 10-01-090, filed 12/16/09, effective 1/16/10. Statutory Authority: RCW 66.08.030 and 66.28.320.

314-12-160 Near beer. [Order 20, § 314-12-160, filed 12/12/72; Rule 15, filed 6/13/63.] Repealed by WSR 84-11-093 (Order 153, Resolution No. 153), filed 5/23/84. Statutory Authority: RCW 66.08.030 and 66.98.070.

314-12-170 What are the penalties if a retail liquor licensee violates the liquor laws or rules? [Statutory Authority: RCW 66.08.030, 66.24.010 and 66.24.120. WSR 99-03-032, § 314-12-170, filed 1/13/99, effective 2/13/99. Statutory Authority: RCW 66.08.030. WSR 95-05-006, § 314-12-170, filed 2/1/95, effective 3/4/95. Statutory Authority: RCW 66.08.030 and 66.98.070. WSR 88-17-023 (Order 258, Resolution No. 267), § 314-12-170, filed 8/10/88; WSR 84-17-117 (Order 148, Resolution No. 157), § 314-12-170, filed 8/22/84.] Repealed by WSR 03-09-015, filed 4/4/03, effective 5/5/03. Statutory Authority: RCW 66.08.030, 66.24.010, 66.24.120. Later promulgation, see chapter 314-29 WAC.

314-12-175 Educational activities. [Statutory Authority: RCW 66.08.030. WSR 89-18-005 (Order 281, Resolution No. 290), § 314-12-175, filed 8/24/89, effective 9/24/89.] Repealed by WSR 90-14-012, filed 6/25/90, effective 7/26/90. Statutory Authority: RCW 66.08.030 and 1990 c 125.

314-12-180 Suspension notices, posting or advertising of—Other—Closing notices prohibited. [Statutory Authority: RCW 66.08.010. WSR 92-21-059, § 314-12-180, filed 10/19/92, effective 11/19/92.] Repealed by WSR 03-09-015, filed 4/4/03, effective 5/5/03. Statutory Authority: RCW 66.08.030, 66.24.010, 66.24.120. Later promulgation, see chapter 314-29 WAC.

314-12-195 Mandatory signs to be posted warning of the possible dangers of consumption of alcohol during pregnancy. [Statutory Authority: RCW 66.08.030. WSR 94-18-078, § 314-12-195, filed 9/2/94, effective 10/5/94.] Repealed by WSR 01-06-014, filed 2/26/01, effective 3/29/01. Statutory Authority: RCW 66.08.030, 66.28.100, 66.28.040, 66.28.090, 66.44.010, 66.44.070, 66.44.200, 66.44.270, 66.44.291, 66.44.292, 66.44.310, 66.44.316, 66.44.318, 66.44.340, 66.44.350, and chapter 66.44 RCW.

314-12-300 Group One (1) violations against public safety. [Statutory Authority: RCW 66.08.030, 66.24.010 and 66.24.120. WSR 99-03-032, § 314-12-300, filed 1/13/99, effective 2/13/99.] Repealed by WSR 03-09-015, filed 4/4/03, effective 5/5/03. Statutory Authority: RCW 66.08.030, 66.24.010, 66.24.120. Later promulgation, see chapter 314-29 WAC.

314-12-310 Group Two (2) offenses—Conduct violations. [Statutory Authority: RCW 66.08.030, 66.24.010 and 66.24.120. WSR 99-03-032, § 314-12-310, filed 1/13/99, effective 2/13/99.] Repealed by WSR 03-09-015, filed 4/4/03, effective 5/5/03. Statutory Authority: RCW 66.08.030, 66.24.010, 66.24.120. Later promulgation, see chapter 314-29 WAC.

314-12-320 Group Three (3) offenses—Regulatory violations. [Statutory Authority: RCW 66.08.030, 66.24.010 and 66.24.120. WSR 99-03-032, § 314-12-320, filed 1/13/99, effective 2/13/99.] Repealed by WSR 03-09-015, filed 4/4/03, effective 5/5/03. Statutory Authority: RCW 66.08.030, 66.24.010, 66.24.120. Later promulgation, see chapter 314-29 WAC.

314-12-330 Can the board impose sanctions or penalties other than those indicated in WAC 314-12-170? [Statutory Authority: RCW 66.08.030, 66.24.010 and 66.24.120. WSR 99-03-032, § 314-12-330, filed 1/13/99, effective 2/13/99.] Repealed by WSR 03-09-015, filed 4/4/03, effective 5/5/03. Statutory Authority: RCW 66.08.030, 66.24.010, 66.24.120. Later promulgation, see chapter 314-29 WAC.

314-12-340 What are some examples of mitigating and aggravating circumstances? [Statutory Authority: RCW 66.08.030, 66.24.010 and 66.24.120. WSR 99-03-032, § 314-12-340, filed 1/13/99, effective 2/13/99.] Repealed by WSR 03-09-015, filed 4/4/03, effective 5/5/03. Statutory Authority: RCW 66.08.030, 66.24.010, 66.24.120. Later promulgation, see chapter 314-29 WAC.

WAC 314-12-010 License does not grant vested right. The issuance of any license by the board shall not be construed as granting a vested right in any of the privileges so conferred, and a misrepresentation of fact found to have been made by the applicant or a licensee shall be deemed a lack of good faith and shall constitute good and sufficient cause for the disapproval of an application or the revocation or suspension of said license by the board.

[Statutory Authority: RCW 66.08.030 and 66.98.070. WSR 82-04-031 (Order 98, Resolution No. 107), § 314-12-010, filed 1/27/82; Rule 1, filed 6/13/63.]

WAC 314-12-015 Receipt of liquor laws/rules summary. Upon issuance of a liquor license under chapter 66.24 RCW, every licensee shall be issued a guide on liquor laws, regulations, and other pertinent information. Every licensee or designee of a licensee shall be required to sign a form provided by the board acknowledging receipt of the guide. The issuance of the guide to the licensee and the receipt of the licensee's signed acknowledgement signifies that the licensee is aware of the basic liquor law requirements and is able to operate their liquor business in such a fashion as to protect the public health, welfare and safety.

[Statutory Authority: RCW 66.08.030. WSR 93-15-027, § 314-12-015, filed 7/12/93, effective 8/12/93; WSR 92-14-024, § 314-12-015, filed 6/22/92, effective 7/23/92.]

WAC 314-12-020 Applicants—Qualifications—Fingerprinting—Criminal history record information checks—Continuing conditions—Agreements—Reconsideration of denied applications. (1) Where a married person is an applicant for, or holder of a license, the spouse of such applicant, if the parties are maintaining a marital community, shall be required to have the same qualifications as the applicant.

(2) The board may require, as a condition precedent to the original issuance of any annual license, fingerprinting and criminal history record information checks on any person not previously licensed by the board. In addition to the applicant, fingerprinting and criminal history record information checks may be required of the applicant's spouse. In the case of a corporation, fingerprinting and criminal history record informa-

tion checks may be required of its present and any subsequent officers, manager, and stockholders who hold more than ten percent of the total issued and outstanding stock of the applicant corporation if such persons have not previously had their fingerprints recorded with the board. In the case of a partnership, fingerprinting and criminal history record information checks may be required of all general partners and their spouses. Such fingerprints as are required by the board shall be submitted on forms provided by the board to the Washington state identification section of the Washington state patrol and to the identification division of the Federal Bureau of Investigation in order that these agencies may search their records for prior arrests and convictions of the individuals fingerprinted. The applicant shall give full cooperation to the board and shall assist the board in all aspects of the fingerprinting and criminal history record information check. The applicant may be required to pay a minimal fee to the agency which performs the fingerprinting and criminal history process.

(3) The restrictions on license issuance specified in RCW 66.24.010(2) shall be construed to be continuing conditions for retaining an existing license and any licensed person who ceases to be eligible for issuance of a license under RCW 66.44.010(2) shall also cease to be eligible to hold any license already issued.

(4) The board, in considering an application for a license, may require, in addition to all other information requested concerning the proposed licensed premises (see WAC 314-12-035), that the applicant justify the issuance of the license sought based on an analysis of population trends compared to licenses in the area, any uniqueness of the proposed operation, any unusual circumstances present, plus any other information the applicant(s) may feel will justify the issuance of the license sought.

The board may, at its discretion and for good cause shown, reconsider an application denied for reasons other than objection upon receipt of new information within sixty days of the original denial date. Such reconsiderations are not considered part of the normal license application procedure and must be justified on an individual basis. Should the board determine to reconsider a denied application, notice of such reconsideration shall be given to those persons and/or entities entitled to receive notice of an original license application pursuant to RCW 66.24.010(8). Such notice shall be given at least twenty days prior to final determination on the reconsideration. Additionally, at the same time the notice is given, a press release will be issued informing the public of the impending reconsideration. The process for applications denied due to objection is outlined in chapter 314-09 WAC.

[Statutory Authority: RCW 66.08.030, 66.24.010, 66.24.015, and 66.24.025. WSR 05-07-012, § 314-12-020, filed 3/4/05, effective 4/4/05. Statutory Authority: RCW 66.08.030, 66.24.010, 66.08.150. WSR 01-03-087, § 314-12-020, filed 1/17/01, effective 2/17/01. Statutory Authority: RCW 66.08.030, 66.24.010 and 66.24.025. WSR 96-03-004, § 314-12-020, filed 1/4/96, effective 2/4/96. Statutory Authority: RCW 66.08.030. WSR 93-15-024, § 314-12-020, filed 7/12/93, effective 8/12/93. Statutory Authority: RCW 66.08.030 and 66.24.010 (2)(b). WSR 90-24-007, § 314-12-020, filed 11/27/90, effective 12/28/90. Statutory Authority: RCW 66.08.030 and 66.08.050(2). WSR 83-18-071 (Order 129, Resolution No. 138), § 314-12-020, filed 9/7/83; Order 58, § 314-12-020, filed 8/9/77, effective 9/12/77; Order 43, § 314-12-020, Rule 1.5, filed 11/20/75; Order 36, § 314-12-020, filed 7/2/75; Rule 1.5, filed 6/13/63.]

WAC 314-12-027 Financial interest and ownership. Pursuant to the exceptions in chapter 66.28 RCW:

(1) An industry member or affiliate may have a financial interest in another industry member or a retailer, and a retailer or affiliate may have financial interest in an industry member unless such interest has resulted or is more likely than not to result in:

(a) Undue influence over the retailer or the industry member; or

(b) An adverse impact on public health and safety.

(2) The structure of any such financial interest must be consistent with the following:

(a) An industry member in whose name a license or COA has been issued pursuant to this title may wholly own or hold a financial interest in a separate legal entity licensed pursuant to RCW 66.24.320 through 66.24.570, but the industry member must form a separate legal entity to apply for the retail liquor license.

Example: ABC Inc. is the liquor licensee for ABC Winery. ABC Inc. has two officers and stockholders; John Doe, President and 50% stockholder, and Mary Smith, Secretary and 50% stockholder. ABC Inc. wants to purchase stock in a retail restaurant. ABC Inc. is not required to form a separate legal entity if the amount of stock purchased is 10% or less. If the amount of stock purchased is more than 10%, ABC Inc. must form a separate legal entity to purchase the stock. John Doe and/or Mary Smith as a sole proprietor, could purchase any amount of stock in a retail restaurant;

(b) A retailer in whose name a license has been issued pursuant to this title may wholly own or hold a financial interest in manufacturer, importer, or distributor licensed under RCW 66.24.170, 66.24.206, 66.24.240, 66.24.244, 66.24.270(2), 66.24.200, or 66.24.250, but the retailer must form a separate legal entity to apply for the nonretail liquor license.

Example: Joe and Jane Smith own a grocery store and hold a grocery store liquor license under a sole proprietor legal entity. They want to purchase stock in a local winery. Joe and Jane Smith are not required to form a separate legal entity if the amount of stock purchased is 10% or less. If the amount of stock purchased is more than 10%, Joe and Jane Smith must form a separate legal entity (such as a corporation or limited liability company) to purchase the stock in the winery;

(c) A supplier in whose name a license or certificate of approval has been issued pursuant to this title may wholly own or hold a financial interest in a separate legal entity licensed as a distributor or importer under this title, but such supplier may not have a license as a distributor or importer issued in its own name.

Example: ABC Inc. is the liquor licensee for ABC Winery. ABC Inc. has two officers and stockholders; John Doe, President and 50% stockholder, and Mary Smith, Secretary and 50% stockholder. ABC Inc. wants to purchase stock in a distributor. ABC Inc. is not required to form a separate legal entity if the amount of stock purchased is 10% or less. If the amount of stock purchased is more than 10%, ABC Inc. must form a separate legal entity to purchase the stock. John Doe and/or Mary Smith as a sole-proprietor, could purchase any amount of stock in a distributor;

(d) A distributor or importer in whose name a license has been issued pursuant to this title may wholly own or hold a financial interest in a separate legal entity licensed or holding a certificate of approval as a supplier under this title, but such distributor or importer may not have a license or certificate of approval as a supplier issued in its own name.

Example: B&W Distributing, LLC is the liquor licensee for BW Distributing. B&W Distributing, LLC wants to purchase stock in ABC Winery. B&W Distributing, LLC is not required to form a separate legal entity if the amount of stock purchased is 10% or less. If the amount of stock purchased is more than 10%, B&W Distributing, LLC must form a separate legal entity to purchase the stock in the winery.

(3) Any person may request a determination by the board as to whether a proposed or existing financial interest has resulted or is more likely than not to result in undue influence or has resulted or is more likely than not to result in an adverse impact on public health and safety by filing a complaint or request for determination with the board.

(a) The board may conduct an investigation as it deems appropriate in the circumstances.

(b) If the investigation reveals the financial interest has resulted or is more likely than not to result in undue influence or an adverse impact on public health or safety, the board may issue an administrative violation notice or a notice of intent to deny the license to the industry member, the retailer, or both.

The recipient of the administrative violation notice or notice of intent to deny the license may request an administrative hearing under chapter 34.05 RCW.

[Statutory Authority: RCW 66.08.030 and 66.28.320. WSR 10-01-090, § 314-12-027, filed 12/16/09, effective 1/16/10.]

WAC 314-12-030 License to reflect true party in interest—Display of licenses. (1) Pursuant to the requirements of RCW 66.24.010(1), any license issued shall be issued in the name(s) of the true party or parties in interest.

(2) All licenses (except certificates of approval and agent's licenses) shall be prominently displayed on the licensed premises.

(3) For purposes of this section, "true party" shall apply to any person or entity having a substantial interest in the business conducted on the premises to be licensed.

(4) For purposes of this section, "substantial interest" shall mean any of the following:

(a) Receipt of, or the right to receive, ten percent or more of the gross sales from the licensed business during any calendar or fiscal year of the licensed business. Gross sales, as used in this section, shall include the entire gross receipts of every kind and nature from the sales and services made in, upon, or from the premises, whether on a credit or cash basis, whether operated by the licensee or manager, except:

Any rebates or refunds to customers;

The licensee's cost of meals and beverage provided to employees;

The amount of sales tax receipts or admission taxes;

(b) An investment in the licensed business of ten thousand dollars or more; or

(c) Ownership of stock constituting more than ten percent of the issued or outstanding stock of the licensed business.

(5) For purposes of this section, "substantial interest" shall not mean:

(a) A bonus paid to an employee, if the employee is on a fixed wage or salary and the bonus is not more than twenty-five percent of the employee's prebonus annual compensation, or the bonus is based on a written incentive/bonus program and is not out of the ordinary for the services rendered;

(b) Repayment of a loan or payment on a contract to purchase property unless the loan or contract holder exercises control over or participates in the management of the licensed business;

(c) Reasonable payment for rent on a fixed or percentage basis under a bona fide lease or rental obligation unless the lessor or property manager exercises control over or participates in the management of the business;

(d) Payment of franchise fees on a fixed or percentage basis under a bona fide franchise agreement;

(e) Payment of dividends to corporate stockholders.

[Statutory Authority: RCW 66.08.030. WSR 93-18-094, § 314-12-030, filed 9/1/93, effective 10/2/93; WSR 93-10-092, § 314-12-030, filed 5/4/93, effective 6/4/93; WSR 86-07-012 (Order 176, Resolution No. 185), § 314-12-030, filed 3/11/86; Order 58, § 314-12-030, filed 8/9/77, effective 9/12/77; Rule 2, filed 6/13/63.]

WAC 314-12-033 Limited partnerships. In the licensing of limited partnerships, the following will apply:

(1) The limited partnership business to be licensed shall be controlled by a general partner or partners who shall qualify as "copartners" under RCW 66.24.010.

(2) A limited partner shall be considered within the meaning of the term "copartner" as used in RCW 66.24.010(2) when the limited partner has more than [a] ten percent [ownership] interest in the business to be licensed or may exert control over the operation of the business either individually or collectively with other limited partners.

(3) As a required part of an application for the licensing of a limited partnership, all general partners shall submit affidavits specifying the nature of the interests of any and all limited partners in the business and certifying that no limited partner has any control, either individually or collectively with other limited partners, over the operation of the business to be licensed and further certifying that [no] limited partner has any financial interest which would be disqualifying under RCW 66.28.010. Similar affidavits may be required, in the discretion of the board, from any limited partner about whom there exists any question concerning ownership interest in, or control of, the business to be licensed or about whom there exists any question concerning possibly disqualifying financial interests under RCW 66.28.010.

[Statutory Authority: RCW 66.08.030 and 66.24.010 (2)(b). WSR 90-24-009, § 314-12-033, filed 11/27/90, effective 12/28/90. Statutory Authority: RCW 66.08.030 and 66.98.070. WSR 82-13-105 (Order 105, Resolution No. 114), § 314-12-033, filed 6/23/82.]

Reviser's note: RCW 34.05.395 requires the use of underlining and deletion marks to indicate amendments to existing rules, and deems ineffectual changes not filed by the agency in this manner. The bracketed material in the above section does not appear to conform to the statutory requirement.

WAC 314-12-035 Furnishing of information and/or documentation to the board. (1) In order to facilitate the administration and/or enforcement of RCW 66.24.010, licensees, applicants for licenses, or the agents or representa-

tives thereof shall, upon request by the board, furnish to the board copies of all documents affecting the ownership and/or proposed operation of the premises licensed or sought to be licensed. These documents may be required with the original license application, with any additional application, and at such other times as may be requested by the board. Licensees, applicants for licenses, or the agents or representatives thereof, shall furnish along with these documents a signed written summary of any oral agreements which affect the ownership and/or proposed operation of the premises licensed, or sought to be licensed. Failure or refusal to furnish said requested documentation will be good and sufficient cause for denial of any application in support of which the documentation was requested, and will be good and sufficient cause for revocation of any license held by a licensee who fails or refuses to furnish the said requested documentation.

(2) Written information and/or documentation requested by the board from any person for the purpose of administering and/or enforcing RCW 66.24.010, any person furnishing written information and/or documentation requested by the board may be required to submit an affidavit on a form prescribed by the board, which shall be signed by the person submitting the information, given under oath subject to the penalties of perjury, and certifying that all information and/or documentation being furnished is true, accurate and complete.

[Statutory Authority: RCW 66.08.030, 66.24.010 and 66.24.025. WSR 96-03-004, § 314-12-035, filed 1/4/96, effective 2/4/96. Statutory Authority: RCW 66.08.030. WSR 91-22-114, § 314-12-035, filed 11/6/91, effective 12/7/91. Statutory Authority: RCW 66.08.030 and 66.98.070. WSR 82-04-032 (Order 99, Resolution No. 108), § 314-12-035, filed 1/27/82.]

WAC 314-12-040 Prorating and refunding of fees—Discontinuance of business. (1) Unless otherwise provided by law, there will be no prorating of any license fee.

(2) Upon denial or withdrawal of an application for license, adoption or change of trade name, or change of location, the fee tendered therewith shall be returned: Provided, However, such return shall not apply to the nonrefundable seventy-five dollar fee submitted with an application for a new annual retail license.

(3) When a license is suspended or cancelled, or the licensed business is discontinued, no refund of the license fee shall be made.

(4) Upon discontinuance of business for twenty-one days or more by a licensee, he shall forthwith deliver up his license to the board, or representative of the board. A licensee who is not operating as a seasonal business and who has voluntarily discontinued sale of liquor in excess of forty-five days will not be eligible for renewal of license for a subsequent year unless sale of liquor under the license is resumed on a permanent basis prior to the beginning of the next subsequent licensing period.

[Statutory Authority: RCW 66.08.030. WSR 88-16-025 (Order 257, Resolution No. 266), § 314-12-040, filed 7/27/88. Statutory Authority: RCW 66.08.030 and 66.98.070. WSR 82-10-020 (Order 103, Resolution No. 112), § 314-12-040, filed 4/28/82; Rule 3, filed 6/13/63.]

WAC 314-12-050 Loss or destruction of licenses, permits, etc.—Fee. Upon the loss or destruction of any license or permit to purchase liquor thereunder, application for a duplicate must be made to the board. Fee: $5.00.

[Statutory Authority: RCW 66.08.030. WSR 85-24-040 (Order 168, Resolution No. 177), § 314-12-050, filed 11/27/85; Rule 4, filed 6/13/63.]

WAC 314-12-070 Applications for currently licensed locations. (1) No application for any license shall be made except in conformance with RCW 66.24.010, and subject to the following conditions:

(a) Except as authorized by WAC 314-12-025, the license applicant shall not take possession of the premises, nor exercise any of the privileges of a licensee, nor shall such application be effective until the board shall have approved the same;

(b) In approving any license, the board reserves the right to impose special conditions as to the future connection of the former licensee or any of his employees with the licensed business as in its judgment the circumstances may justify;

(c) A change of trade name may be made coincident with the issuance of the license without any additional fee.

(2) The sale of a partnership interest or any change in the partners, either by withdrawal or addition or otherwise, shall be considered a change of ownership and subject to the applicable regulations.

(3) If the licensee is a corporation, whether as sole licensee or in conjunction with other entities, a change in ownership of any stock shall be deemed a corporate change. The licensed corporation shall report to and obtain written approval from the board, for any proposed change in principal officers and/or the proposed sale of more than ten percent of the corporation's outstanding and/or issued stock before any such changes are made. The board may inquire into all matters in connection with any such sale of stock or proposed change in officers. The board will waive the fee for a corporate change when the proposed change consists solely of dropping an approved officer.

(4) For purposes of this regulation:

(a) "Principal officer" shall mean the president, vice-president, secretary, and treasurer, or the equivalent in title, for a publicly traded corporation, and president, vice-president, secretary, treasurer, or the equivalent in title, and all other officers who hold more than ten percent of the corporate stock, for a privately held corporation.

(b) The "proposed sale of more than ten percent of the stock" will be calculated as a cumulative total and must be reported to the board when the accumulation of stock transfers or newly issued stock totals more than ten percent of the outstanding and/or issued stock of the licensed corporation.

[Statutory Authority: RCW 66.08.030, 66.24.010 and 66.24.025. WSR 96-03-004, § 314-12-070, filed 1/4/96, effective 2/4/96. Statutory Authority: RCW 66.08.030 and 66.24.010. WSR 90-24-008, § 314-12-070, filed 11/27/90, effective 12/28/90. Statutory Authority: RCW 66.08.030 and 1987 c 217. WSR 87-16-002 (Order 226, Resolution No. 235), § 314-12-070, filed 7/23/87. Statutory Authority: RCW 66.08.030 and 66.98.070. WSR 81-22-026 (Order 85, Resolution No. 94), § 314-12-070, filed 10/28/81; Order 55, § 314-12-070, filed 5/31/77, effective 7/1/77; Rule 6, filed 6/13/63.]

WAC 314-12-140 Prohibited practices—Contracts—Gifts—Rebates, etc. (1) No industry member or retailer shall enter into any agreement which causes undue influence over another retailer or industry member. This regulation shall not be construed as prohibiting the placing and accepting of orders for the purchase and delivery of liquor which are made in accordance with the usual and common

business practice and which are otherwise in compliance with the regulations.

(2) No industry member shall advance and no retailer, any employee thereof, or applicant for a retail liquor license shall receive money or money's worth under any written or unwritten agreement or any other business practice or arrangement such as:

(a) Gifts;

(b) Discounts;

(c) Loans of money;

(d) Premiums;

(e) Rebates;

(f) Free liquor of any kind; or

(g) Treats or services of any nature whatsoever except such services as are authorized in this regulation.

(3) Pursuant to RCW 66.28.010 an industry member or licensed agent may perform the following services for a retailer:

(a) Build, rotate, and restock displays, utilizing filled cases, filled bottles or filled cans of its own brands only, from stock or inventory owned by the retailer.

(b) Rotate, rearrange or replenish bottles or cans of its own brands on shelves or in the refrigerators but is prohibited from rearranging or moving displays of its products in such a manner as to cover up, hide or reduce the space of display of the products of any other industry member.

(c) Industry members or any employees thereof may move or handle in any manner any products of any other manufacturer, importer or distributor on the premises of any retail licensee when a two-day notice is given to other interested industry members or their agents and such activity occurs during normal business hours or upon hours that are mutually agreed.

(d) Provide price cards and may also price goods of its own brands in accordance with the usual and common business practice and which are otherwise in compliance with the regulations.

(e) Provide point of sale advertising material and brand signs.

(f) Provide sales analysis of beer and wine products based on statistical sales data voluntarily provided by the retailer involved for the purpose of proposing a schematic display for beer and wine products. Any statistical sales data provided by retailers for this purpose shall be at no charge.

(g) Such services may be rendered only upon the specific approval of the retail licensee. Displays and advertising material installed or supplied for use on a retailer's premises must be in conformity with the board's advertising rules as set forth in chapter 314-52 WAC.

(4) No industry member or employee thereof shall, directly or indirectly, give, furnish, rent or lend to, or receive from, any retailer, any equipment, fixtures, supplies or property of any kind, nor shall any retail licensee, directly or indirectly, receive, lease or borrow from, or give or offer to, any industry member any equipment, fixtures, supplies or property of any kind. Sales authorized in this regulation shall be made on a cash on delivery basis only.

(5) No industry member or employee thereof shall sell to any retail licensee or solicit from any such licensee any order for any liquor tied in with, or contingent upon, the retailer's purchase of some other beverage, alcoholic or otherwise, or any other merchandise, property or service.

(6) In selling equipment, fixtures, supplies or commodities other than liquor, no industry member shall grant to any retailer, nor shall such retailer accept, more favorable prices than those extended to nonlicensed retailers. The price thereof shall be not less than the industry member's cost of acquisition. In no event shall credit be extended to any retailer.

(7) Any industry member who sells what is commonly referred to as heavy equipment and fixtures, such as counters, back bars, stools, chairs, tables, sinks, refrigerators or cooling boxes and similar articles, shall immediately after making any such sales have on file and available for inspection, records including a copy of the invoice covering each such sale, which invoice shall contain the following information:

(a) A complete description of the articles sold;

(b) The purchase price of each unit sold together with the total amount of the sale;

(c) Transportation costs and services rendered in connection with the installation of such articles; and

(d) The date of such sale and affirm that full cash payment for such articles was received from the retailer as provided in subsection (4) of this section.

(8) If the board finds in any instance that any licensee has violated this regulation, then all licenses involved shall be held equally responsible for such violation.

Note: WAC 314-12-140 is not intended to be a relaxation in any respect of section 90 of the Liquor Act (RCW 66.28.010). As a word of caution to persons desiring to avail themselves of the opportunity to sell to retail licensees fixtures, equipment and supplies subject to the conditions and restrictions provided in section 90 of the act and the foregoing regulation, notice is hereby given that, if at any time such privilege is abused or experience proves that as a matter of policy it should be further curtailed or eliminated completely, the board will be free to impose added restrictions or to limit all manufacturers and distributors solely to the sale of liquor when dealing with retail licensees. WAC 314-12-140 shall not be considered as granting any vested right to any person, and persons who engage in the business of selling to retail licensees property or merchandise of any nature voluntarily assume the risk of being divested of that privilege and they will undertake such business subject to this understanding. The board also cautions that certain trade practices are prohibited by rulings issued under the Federal Alcohol Administration Act by the United States Bureau of Alcohol, Tobacco and Firearms, and WAC 314-12-140 is not intended to conflict with such rulings or other requirements of federal law or regulations.

[Statutory Authority: RCW 66.08.030 and 66.28.320. WSR 10-01-090, § 314-12-140, filed 12/16/09, effective 1/16/10. Statutory Authority: RCW 66.08.030, 66.08.010, 66.16.040. WSR 01-06-015, § 314-12-140, filed 2/26/01, effective 3/29/01. Statutory Authority: RCW 66.08.030, 15.88.030, 19.126.020, 66.04.010, 66.08.180, 66.16.100, 66.20.010, 66.20.300, 66.20.310, 66.24.150, 66.24.170, 66.24.185, 66.24.200, 66.24.206, 66.24.210, 66.24.230, 66.24.240, 66.24.244, 66.24.250, 66.24.375, 66.24.380, 66.24.395, 66.24.400, 66.24.420, 66.24.425, 66.24.440, 66.24.450, 66.24.455, 66.24.495, 66.24.540, 66.28.010, 66.28.040, 66.28.050, 66.28.170, 66.28.180, 66.28.190, 66.28.200, 66.28.310, 66.44.190, 66.44.310, 66.98.060 and 82.08.150. WSR 98-18-097, § 314-12-140, filed 9/2/98, effective 10/3/98. Statutory Authority: RCW 66.08.030. WSR 95-17-005, § 314-12-140, filed 8/3/95, effective 9/3/95; WSR 93-10-070, § 314-12-140, filed 5/3/93, effective 6/3/93. Statutory Authority: RCW 66.08.030(2). WSR 92-02-014, § 314-12-140, filed 12/23/91, effective 1/23/92. Statutory Authority: RCW 66.28.010. WSR 87-04-018 (Order 211, Resolution No. 220), § 314-12-140, filed 1/27/87. Statutory Authority: RCW 66.28.010 and 66.08.030 (2)(l). WSR 86-09-019 (Order 181, Resolution No. 190), § 314-12-140, filed 4/9/86. Statutory Authority: RCW 66.08.030.

WSR 86-04-003 (Order 167, Resolution No. 176), § 314-12-140, filed 1/23/86. Statutory Authority: RCW 66.08.030 and 66.98.070. WSR 84-22-060 (Order 150, Resolution No. 159), § 314-12-140, filed 11/7/84; Order 46, § 314-12-140, Rule 13, filed 6/9/76; Rule 13, filed 6/13/63.]

WAC 314-12-141 Courses of instruction. Industry members conducting courses of instruction as authorized by RCW 66.28.150 may provide alcohol at no charge to licensees of the board, their employees, and invited guests who have a legitimate business interest in the manufacturing, importing, distributing and retailing of liquor.

[Statutory Authority: RCW 66.08.030 and 66.28.320. WSR 10-01-090, § 314-12-141, filed 12/16/09, effective 1/16/10. Statutory Authority: RCW 66.08.030, 15.88.030, 19.126.020, 66.04.010, 66.08.180, 66.16.100, 66.20.010, 66.20.300, 66.20.310, 66.24.150, 66.24.170, 66.24.185, 66.24.200, 66.24.206, 66.24.210, 66.24.230, 66.24.240, 66.24.244, 66.24.250, 66.24.375, 66.24.380, 66.24.395, 66.24.400, 66.24.420, 66.24.425, 66.24.440, 66.24.450, 66.24.455, 66.24.495, 66.24.540, 66.28.010, 66.28.040, 66.28.050, 66.28.170, 66.28.180, 66.28.190, 66.28.200, 66.28.310, 66.44.190, 66.44.310, 66.98.060 and 82.08.150. WSR 98-18-097, § 314-12-141, filed 9/2/98, effective 10/3/98. Statutory Authority: RCW 66.08.030. WSR 91-19-071, § 314-12-141, filed 9/16/91, effective 10/17/91.]

WAC 314-12-150 Definitions—"Pasteurized beer," "gallon." (1) "Pasteurized beer" shall mean beer which has been subjected to such process or processes in manufacture and packaging that in all cases all yeast cells or other microorganisms are killed, inactivated, or removed, thereby preventing any further fermentation or microbiological decomposition of the packaged beer which might otherwise take place.

(2) In addition to the usual and customary meaning above, "pasteurized beer" shall include bottle conditioned beer which has been fermented partially or completely in the container and which may contain residual active yeast.

(3) A "gallon," when used in computing any tax, shall mean the United States standard gallon of 231 cubic inches.

[Statutory Authority: 1987 c 46. WSR 87-14-010 (Order 219, Resolution No. 228), § 314-12-150, filed 6/23/87, effective 7/26/87; Resolution No. 4, filed 5/5/65, effective 6/7/65; Rule 14, filed 6/13/63.]

WAC 314-12-200 Converting a public house license (RCW 66.24.580) to a domestic brewery, microbrewery or domestic winery license. (1) **Can a person who holds a public house license (class Q) convert to a domestic brewery, microbrewery or domestic winery license (class B1 or W1)?**

Yes, if the licensee has held a public house license for at least six months.

(2) **If a person holds several different retail liquor licenses, are those licenses affected by the conversion?**

Yes. All other retail liquor licenses must either be converted to a domestic brewery, microbrewery or domestic winery license at the same time or the licensee must discontinue business or divest themselves of all interest in those nonbrewery/winery licenses.

For instance, if a licensee holds three public house licenses, two grocery licenses and a tavern license and only wants to convert the three public house licenses to brewery or winery license, they must discontinue business or divest themselves of all interest in the other three businesses or they must convert them to a brewery or winery license as well.

Additionally, if the licensee has held any public house licenses for less than six months, they must discontinue business or divest themselves of all interest in that business as well.

(3) **If a person currently holds a restaurant license (class H) in conjunction with their public house license, will the restaurant license be affected?**

No. If the restaurant remains on the same or contiguous property as the brewery or winery, the restaurant license will be unaffected.

(4) **Is there a waiting period between the closure of the public house business and the opening of the brewery or winery?**

No. The licensee does not have to close the existing business before the domestic brewery, microbrewery or domestic winery license can be issued.

[Statutory Authority: RCW 66.08.030 and 66.24.580. WSR 98-15-068, § 314-12-200, filed 7/13/98, effective 8/13/98.]

WAC 314-12-210 Chronic public inebriation and alcohol impact areas—Purpose. (1) **What is the purpose of the rules concerning chronic public inebriation and alcohol impact areas?**

(a) The enabling statutes for the board are contained in chapter 66.08 RCW. These statutes authorize the board to exercise the police powers of the state for the protection of the welfare, health, peace, and safety of the people of Washington.

(b) The board's mandate to protect the welfare, health, peace, and safety of the people is to ensure that a liquor licensee conducts his or her business in a lawful manner and that the presence of a licensee's liquor sales does not unreasonably disturb the welfare, health, peace or safety of the surrounding community.

(c) The purpose of the rules concerning chronic public inebriation and alcohol impact areas is to establish a framework under which the board, in partnership with local government and community organizations, may act to mitigate negative impacts on a community's welfare, health, peace or safety that result from the presence of chronic public inebriation.

(d) For the purpose of these rules, chronic public inebriation exists when the effects of the public consumption of liquor or public intoxication occur in concentrations that endanger the welfare, health, peace or safety of a neighborhood or community.

(2) **What do the rules concerning chronic public inebriation and alcohol impact areas seek to do?** WAC 314-12-210 and 314-12-215 seek to:

(a) Establish an expanded local review process for liquor license applications, license assumptions, and renewals of active liquor licenses for businesses located within a recognized alcohol impact area;

(b) Establish standards under which the board may refuse to issue a liquor license; may refuse to permit a license assumption or renewal of a liquor license; may place conditions or restrictions upon the issuance, assumption or renewal of a license; or may place conditions or restrictions on an existing license located within the geographical boundaries of a recognized alcohol impact area; and

(c) Allow the board in specific circumstances to restrict the off-premises sale of certain liquor products or liquor product containers inside a recognized alcohol impact area.

[Statutory Authority: RCW 66.08.030. WSR 10-19-065, § 314-12-210, filed 9/15/10, effective 10/16/10. Statutory Authority: RCW 66.08.030 and 66.24.010. WSR 99-13-042, § 314-12-210, filed 6/8/99, effective 7/9/99.]

WAC 314-12-215 Alcohol impact areas—Definition—Guidelines. (1) **What is an alcohol impact area, and how is it different?**

(a) An alcohol impact area is a geographic area located within a city, town or county, and that is adversely affected by chronic public inebriation or illegal activity associated with liquor sales or consumption.

(b) The board may place special conditions or restrictions upon off-premises sales privileges, liquor products, applicants, license assumptions or licensees that sell liquor for off-premises consumption (see subsection (3) of this section).

(c) The board applies a unique investigative and review process when evaluating liquor license applications, license assumptions or renewals for businesses located in an alcohol impact area.

(2) **How is an alcohol impact area formed?** A local authority (that is, a city, town or county) must first designate an alcohol impact area by ordinance and make good faith efforts for at least six months to mitigate the effects of chronic public inebriation with such ordinance before petitioning the board to recognize an alcohol impact area. The board must recognize an alcohol impact area before any unique review process, condition or restriction described in this rule may be applied. A local authority must meet certain conditions to achieve recognition.

(a) The geographic area of an alcohol impact area must not include the entire territory of a local authority. However, when a local authority designates a street as a boundary, the board encourages that the local authority include both sides of the street for greater effectiveness.

(b) Local authority ordinance must explain the rationale of the proposed boundaries, and describe the boundaries in such a way that:

(i) The board can determine which liquor licensees are in the proposed alcohol impact area; and

(ii) The boundaries are understandable to the public at large.

(c) A local authority must:

(i) Submit findings of fact that demonstrate a need for an alcohol impact area and how chronic public inebriation or illegal activity associated with liquor sales or consumption within a proposed alcohol impact area:

(A) Contributes to the deterioration of the general quality of life within an alcohol impact area; or

(B) Threatens the welfare, health, peace or safety of an alcohol impact area's visitors or occupants;

(ii) Submit findings of fact that demonstrate a pervasive pattern of public intoxication or public consumption of liquor as documented in crime statistics, police reports, emergency medical response data, detoxification reports, sanitation reports, public health records, other similar records, community group petitions, public testimony or testimony by current or former chronic public inebriants;

(iii) Submit documentation that demonstrates a local authority's past good faith efforts to control the problem through voluntary measures (see subsection (4) of this section);

(iv) Explain why past voluntary measures failed to sufficiently resolve the problem; and

(v) Request additional conditions or restrictions and explain how the conditions or restrictions will reduce chronic public inebriation or illegal activity associated with off-premises sales or liquor consumption (see subsection (3) of this section).

(3) **What conditions or restrictions may the board recognize for an alcohol impact area?**

(a) Restrictions may include, but are not limited to:

(i) Business hours of operation for off-premises liquor sales;

(ii) Off-premises sale of certain liquor products within an alcohol impact area; or

(iii) Container sizes available for off-premises sale.

(b) Product restrictions (for example, prohibition of certain liquor products or container sizes) must originate from a local authority's law enforcement agency or public health authority, whereas restrictions affecting business operations (for example, hours of operation) may originate from a local authority's law enforcement agency, public authority or governing body.

(c) Product restrictions must be reasonably linked to problems associated with chronic public inebriation or illegal activity. Reasonable links include, but are not limited to: Police, fire or emergency medical response statistics; photographic evidence; law enforcement, citizen or medical-provider testimonial; testimony by current or former chronic public inebriants; litter pickup; or other statistically documented evidence that a reasonable person may rely upon to determine whether a product is associated with chronic public inebriation or illegal activity.

(d) Restricted beer and wine products must have minimum alcohol content of five and seven-tenths percent by volume and twelve percent by volume, respectively.

(e) Upon board approval and upon an individual product by individual product basis, a local authority may restrict a product that is already restricted in another board-recognized alcohol impact area provided that a product is significantly materially similar (for example, comparable alcohol percent content, container size or liquor category such as alcoholic energy drinks) to products already restricted in its own alcohol impact area. Upon board approval and upon an individual product by individual product basis, a local authority may also restrict a product that is significantly materially similar to products already restricted in its own alcohol impact area. In both cases, a local authority must demonstrate to the board, in writing, the material similarities and need for product inclusion, but the board will not require a local authority to submit extensive documented evidence as described in (c) of this subsection.

(f) A local authority may propose the removal of a condition, restriction or product from its alcohol impact area's restricted product list provided that a local authority demonstrates its reason (such as, a product is no longer produced or bottled) to the board in writing.

(4) **What types of voluntary efforts must a local authority attempt before the board will recognize an alcohol impact area?**

(a) A local authority must notify all off-premises sales licensees in a proposed alcohol impact area that:

(i) Behavior associated with liquor sales and associated illegal activity is impacting chronic public inebriation; and

(ii) Existing voluntary options are available to them to remedy the problem.

(b) A local authority's efforts must include additional voluntary actions. Examples include, but are not limited to:

(i) Collaborative actions with neighborhood citizens, community groups or business organizations to promote business practices that reduce chronic public inebriation;

(ii) Voluntary agreements with off-premises sales licensees to promote public welfare, health, peace or safety;

(iii) Licensees voluntarily discontinuing to sell a product;

(iv) Distribution of educational materials to chronic public inebriants or licensees;

(v) Detoxification services;

(vi) Business incentives to discourage the sale of problem products; or

(vii) Change in land use ordinances.

(c) A local authority must implement these voluntary agreements for at least six months before a local authority may present documentation to the board that voluntary efforts failed to adequately mitigate the effects of chronic public inebriation and need augmentation.

(5) **What will the board do once it recognizes an alcohol impact area?**

(a) The board will notify, in a timely manner, the appropriate liquor distributors of the product restrictions.

(b) No state liquor store or agency located within an alcohol impact area may sell that alcohol impact area's restricted products.

(c) The board will notify, in a timely manner, all off-premises sales licensees in a proposed or existing alcohol impact area whenever the board recognizes, or recognizes changes to, an alcohol impact area (see subsection (7) of this section).

(6) **What is the review process for liquor license applications, license assumptions, and renewals inside an alcohol impact area?**

(a) When the board receives an application for a new liquor license or a license assumption that includes an off-premises sales privilege, the board will establish an extended time period of sixty calendar days for a local authority to comment upon the application.

(i) A local authority may, and is encouraged to, submit comment before the end of a comment period. A local authority may request an extension of a comment period when unusual circumstances, which must be explained in the request, require additional time for comment.

(ii) A local authority will notify a licensee or applicant when a local authority requests the board to extend a sixty-day comment period.

(b) For renewals, the board will notify a local authority at least ninety calendar days before a current license expires. The same requirements in (a)(i) and (ii) of this subsection apply to the ninety-day comment period for problem renewals. For the purposes of this section, a problem renewal means a licensee, a licensed business or a licensed location with a documented history of noncompliance or illegal activity.

(7) **When and for how long will an alcohol impact area be in effect, and may an alcohol impact area be changed?**

(a) An alcohol impact area takes effect on the day that the board passes a resolution to recognize an alcohol impact area. However, product prohibitions take effect no less than thirty calendar days after the board passes such resolution in order to give retailers and distributors sufficient time to remove products from their inventories.

(b) An alcohol impact area remains in effect until:

(i) A local authority repeals the enabling ordinance that defines an alcohol impact area;

(ii) A local authority requests that the board revoke its recognition of an alcohol impact area;

(iii) The board repeals its recognition of an alcohol impact area of its own initiative and following a public hearing; or

(iv) A local authority fails to comply with subsection (8) of this section.

(c) A local authority may petition the board to modify an alcohol impact area's geographic boundaries, repeal or modify an existing condition or restriction, or create a new condition or restriction. The board may agree to do so provided that a local authority shows good cause and submits supporting documentation (see subsections (2) and (3) of this section).

(d) Prohibition of a new product added to an existing prohibited products list takes effect no less than thirty calendar days following the board's recognition of a modified prohibited products list.

(8) **Reporting requirements and five-year assessments.**

(a) A local authority shall submit annual reports to the board that clearly demonstrate the intended effectiveness of an alcohol impact area's conditions or restrictions. Reports are due no later than sixty calendar days following each anniversary of the board's recognition of an alcohol impact area.

(b) The board will conduct an assessment of an alcohol impact area once every five years following the fifth, tenth, fifteenth, et cetera, anniversary of the board's recognition of an alcohol impact area. The five-year assessment process is as follows:

(i) Within ten calendar days of receiving a local authority's fifth, tenth, fifteenth, et cetera, annual report, the board shall notify affected parties of the upcoming assessment, whereupon an affected party has twenty calendar days to comment upon, or petition the board to discontinue its recognition of, an alcohol impact area (see (d) of this subsection). Affected parties may include, but are not limited to: Licensees, citizens or neighboring local authorities.

(ii) An affected party may submit a written request for one twenty calendar-day extension of the comment/petition period, which the board may grant provided that an affected party provides sufficient reason why he or she is unable to meet the initial twenty-day deadline.

(iii) The board will complete an assessment within sixty calendar days following the close of the final comment/petition period.

(c) An assessment shall include an analysis of:

(i) Comments or petitions submitted by affected parties; and

(ii) Each annual report submitted during a five-year period.

An assessment shall also include modifications that a local authority must make to an alcohol impact area as required by the board, or the board's reasons for revoking recognition of an alcohol impact area.

(d) To successfully petition the board to discontinue its recognition of an alcohol impact area, an affected party must:

(i) Submit findings of fact that demonstrate how chronic public inebriation, or illegal activity associated with liquor sales or consumption, within a proposed alcohol impact area does not or no longer:

(A) Contributes to the deterioration of the general quality of life within an alcohol impact area; or

(B) Threatens the welfare, health, peace or safety of an alcohol impact area's visitors or occupants;

(ii) Submit findings of fact that demonstrate the absence of a pervasive pattern of public intoxication or public consumption of liquor as documented in crime statistics, police reports, emergency medical response data, detoxification reports, sanitation reports, public health records or similar records; and

(iii) Demonstrate how the absence of conditions or restrictions will reduce chronic public inebriation or illegal activity associated with off-premises sales or liquor consumption (see subsection (3) of this section).

(e) An affected party may submit a written request for one twenty-day extension of the comment period, which the board may grant provided that an affected party provides sufficient reason why he or she is unable to meet the twenty-day deadline.

[Statutory Authority: RCW 66.08.030. WSR 10-19-065, § 314-12-215, filed 9/15/10, effective 10/16/10. Statutory Authority: RCW 66.08.030 and 66.24.010. WSR 99-13-042, § 314-12-215, filed 6/8/99, effective 7/9/99.]

WAC 314-12-220 General review. The board will initiate a study of the effectiveness of WAC 314-12-210 and 314-12-215 one year following recognition of the first AIA under these rules. The study, which shall take no more than ninety days, will recommend the continuation, modification, or repeal of these rules.

[Statutory Authority: RCW 66.08.030 and 66.24.010. WSR 99-13-042, § 314-12-220, filed 6/8/99, effective 7/9/99.]

WAC 314-12-225 Severability. If any provision of WAC 314-12-210 through 314-12-220 or the application thereof to any person or circumstance shall be held invalid, such invalidity shall not affect the provisions or the application of these rules which can be given effect without the invalid provision or application, and, to this end, the provisions of these rules are declared to be severable.

[Statutory Authority: RCW 66.08.030 and 66.24.010. WSR 99-13-042, § 314-12-225, filed 6/8/99, effective 7/9/99.]

Chapter 314-13 WAC

RETAIL LICENSEES PURCHASING BEER, WINE, AND SPIRITS

WAC

314-13-005 What is the purpose of chapter 314-13 WAC?

314-13-010 Who can retail licensees purchase beer, wine, and spirits from?

314-13-015 What method of payment can a retailer use to purchase spirits, beer, or wine from an industry member?

314-13-020 What if a check, EFT transaction, or credit/debit card transaction is reported as having nonsufficient funds (NSF)?

DISPOSITION OF SECTIONS FORMERLY CODIFIED IN THIS CHAPTER

314-13-025 How do retail licensees purchase spirituous liquor at a discount from the board? [Statutory Authority: RCW 66.08.030 and 66.28.320. WSR 10-01-090, § 314-13-025, filed 12/16/09, effective 1/16/10. Statutory Authority: RCW 66.08.030, 66.08.010, 66.16.040. WSR 01-06-015, § 314-13-025, filed 2/26/01, effective 3/29/01.] Repealed by WSR 12-17-006, filed 8/1/12, effective 9/1/12. Statutory Authority: RCW 66.08.030 and 66.08.050.

314-13-030 What method of payment can a retailer use to purchase spirituous liquor from the board? [Statutory Authority: RCW 66.16.041 and 66.08.030. WSR 10-16-154, § 314-13-030, filed 8/4/10, effective 9/4/10. Statutory Authority: RCW 66.08.030, 66.08.010, 66.16.040. WSR 01-06-015, § 314-13-030, filed 2/26/01, effective 3/29/01.] Repealed by WSR 12-17-006, filed 8/1/12, effective 9/1/12. Statutory Authority: RCW 66.08.030 and 66.08.050.

314-13-040 Do retail licensees have to sell liquor at a certain price? [Statutory Authority: RCW 66.08.030, 66.08.010, 66.16.040. WSR 01-06-015, § 314-13-040, filed 2/26/01, effective 3/29/01.] Repealed by WSR 12-17-006, filed 8/1/12, effective 9/1/12. Statutory Authority: RCW 66.08.030 and 66.08.050.

WAC 314-13-005 What is the purpose of chapter 314-13 WAC? The purpose of chapter 314-13 WAC is to outline the procedures for retail licensees to purchase beer, wine, and/or spirituous liquor for resale.

[Statutory Authority: RCW 66.08.030, 66.08.010, 66.16.040. WSR 01-06-015, § 314-13-005, filed 2/26/01, effective 3/29/01.]

WAC 314-13-010 Who can retail licensees purchase beer, wine, and spirits from?

	Definition	Who licensees can purchase from
Beer	RCW 66.04.010(3)	• A licensed Washington distributor (including a licensed Washington brewery that distributes its own product) • A licensed certificate of approval holder with a direct shipping to Washington retailer endorsement
Wine	RCW 66.04.010(46)	• A licensed Washington distributor (including a licensed Washington winery that distributes its own product) • A licensed certificate of approval holder with a direct shipping to Washington retailer endorsement • A Washington licensed grocery store with a wine retailer reseller endorsement (up to 24 liters per single sale per day)
Spirits	RCW 66.04.010(41)	• A Washington spirits distributor • A Washington licensed distiller or craft distiller • A licensed spirits certificate of approval holder with a direct shipping to retailer endorsement • A spirits retail licensee may sell to an on-premises licensee (up to 24 liters per single sale per day)

[Statutory Authority: RCW 66.08.030 and 66.08.050. WSR 12-17-006, § 314-13-010, filed 8/1/12, effective 9/1/12. Statutory Authority: RCW 66.08.030, 66.20.360 through [66.20].380, 66.20.390, 66.24.170, 66.24.206, 66.24.210, 66.24.240, 66.24.244, 66.24.270, 66.24.290, 66.28.170, 66.28.180, and 42.56.270. WSR 07-02-076, § 314-13-010, filed 12/29/06, effective 1/29/07. Statutory Authority: RCW 66.08.030, 66.08.010, 66.16.040. WSR 01-06-015, § 314-13-010, filed 2/26/01, effective 3/29/01.]

WAC 314-13-015 What method of payment can a retailer use to purchase spirits, beer, or wine from an industry member? Per RCW 66.28.270, a retail licensee must pay cash for spirits, beer, and wine prior to or at the time of delivery by an industry member. The board will recognize the following forms of payment as cash payment for the purposes of this title, under the conditions outlined in this rule and in WAC 314-13-020.

(1) **Checks,** under the provisions of WAC 314-13-020.

(2) **Credit/debit cards,** under the following provisions:

(a) The credit or debit card transaction agreement must be voluntary on the part of both the retailer and the industry member, and there must be no discrimination for nonparticipation in credit or debit card transactions.

(b) A sale must be initiated by an irrevocable invoice or sale order before or at the time of delivery.

(c) Both parties must bear their respective banking costs or other costs associated with the credit or debit card service.

(d) Both parties must maintain records of transactions and have the records readily available for board review.

(e) The credit or debit card charge must be initiated by the industry member no later than the first business day following delivery.

(3) **Electronic funds transfer (EFT),** under the following provisions:

(a) The EFT agreement must be voluntary on the part of both the retailer and the industry member, and there must be no discrimination for nonparticipation in EFT.

(b) Prior to any EFT transaction, the retail licensee must enter into a written agreement with the industry member specifying the terms and conditions for EFT as payment for alcohol or nonalcohol beverages.

(c) A sale must be initiated by an irrevocable invoice or sale order before or at the time of delivery.

(d) Both parties must bear their respective banking costs or other costs associated with EFT service.

(e) Both parties must maintain records of transactions and have the records readily available for board review.

(f) The electronic funds transfer must be initiated by the retailer or industry member no later than the first business day following delivery and must be paid as promptly as is reasonably practical, and in no event later than five business days following delivery. Any attempt by a retailer to delay payment on EFT transactions for any period of time beyond the minimum as is reasonably practical will be considered an unlawful attempt to purchase products on credit.

(4) **Prepaid accounts.** Both parties must keep accurate accounting records of prepaid accounts to ensure a cash deposit is not overextended, which is considered an extension of credit.

[Statutory Authority: RCW 66.08.030 and 66.08.050. WSR 12-17-006, § 314-13-015, filed 8/1/12, effective 9/1/12. Statutory Authority: RCW 66.08.030 and 66.28.320. WSR 10-01-090, § 314-13-015, filed 12/16/09, effective 1/16/10. Statutory Authority: RCW 66.08.030, 66.08.010, 66.16.040. WSR 01-06-015, § 314-13-015, filed 2/26/01, effective 3/29/01.]

WAC 314-13-020 What if a check, EFT transaction, or credit/debit card transaction is reported as having nonsufficient funds (NSF)? Any transaction reported as having nonsufficient funds (NSF) will be considered an extension of credit, in violation of RCW 66.28.300. If a transaction is reported as NSF:

(1) The retailer must pay the full amount of the transaction to the industry member by 3 p.m. on the first business day following receipt of the NSF report.

(2) Until the NSF transaction is paid:

(a) The industry member or spirits retailer licensee who received the NSF transaction will not deliver any spirits, beer, or wine to the retailer; and

(b) It is the responsibility of the retailer to not receive any spirits, beer, or wine from any industry member or spirits retailer licensee.

[Statutory Authority: RCW 66.08.030 and 66.08.050. WSR 12-17-006, § 314-13-020, filed 8/1/12, effective 9/1/12. Statutory Authority: RCW 66.08.030 and 66.28.320. WSR 10-01-090, § 314-13-020, filed 12/16/09, effective 1/16/10. Statutory Authority: RCW 66.08.030, 66.08.010, 66.16.040. WSR 01-06-015, § 314-13-020, filed 2/26/01, effective 3/29/01.]

Chapter 314-16 WAC
RETAIL LICENSEES

WAC

314-16-020 Dispensing apparatus and containers—Furnishing of certain devices.
314-16-040 Drink menu.
314-16-110 Liquor purchases by spirits, beer, and wine licensees.
314-16-150 No sale of liquor to minors, intoxicated persons, etc.
314-16-160 Purchases—Reports.
314-16-230 Authorization for sale of beer and/or wine in unopened bottles for off-premises consumption under special occasion license.

DISPOSITION OF SECTIONS FORMERLY CODIFIED IN THIS CHAPTER

314-16-010 Booths. [Order 4, § 314-16-010, filed 7/9/69, effective 8/11/69; Order 1, § 314-16-010, filed 5/16/68; Rule 16, filed 6/13/63.] Repealed by WSR 94-10-035, filed 4/29/94, effective 5/30/94. Statutory Authority: RCW 66.08.030.

314-16-025 "Minor prohibited" posting required in classified premises. [Statutory Authority: RCW 66.08.030, 15.88.030, 19.126.020, 66.04.010, 66.08.180, 66.16.100, 66.20.010, 66.20.300, 66.20.310, 66.24.150, 66.24.170, 66.24.185, 66.24.200, 66.24.206, 66.24.210, 66.24.230, 66.24.240, 66.24.244, 66.24.250, 66.24.375, 66.24.380, 66.24.395, 66.24.400, 66.24.420, 66.24.425, 66.24.440, 66.24.450, 66.24.455, 66.24.495, 66.24.540, 66.28.010, 66.28.040, 66.28.050, 66.28.170, 66.28.180, 66.28.190, 66.28.200, 66.28.310, 66.44.190, 66.44.310, 66.98.060 and 82.08.150. WSR 98-18-097, § 314-16-025, filed 9/2/98, effective 10/3/98. Statutory Authority: RCW 66.08.030. WSR 86-09-074 (Order 182, Resolution No. 191), § 314-16-025, filed 4/22/86.] Repealed by WSR 01-06-014, filed 2/26/01, effective 3/29/01. Statutory Authority: RCW 66.08.030, 66.28.100, 66.28.040, 66.28.090, 66.44.010, 66.44.070, 66.44.200, 66.44.270, 66.44.291, 66.44.292, 66.44.310, 66.44.316, 66.44.318, 66.44.340, 66.44.350, and chapter 66.44 RCW.

314-16-030 Sanitation, equipment and lighting. [Rule 18, filed 6/13/63.] Repealed by WSR 01-06-014, filed 2/26/01, effective 3/29/01. Statutory Authority: RCW 66.08.030, 66.28.100, 66.28.040, 66.28.090, 66.44.010, 66.44.070, 66.44.200, 66.44.270, 66.44.291, 66.44.292, 66.44.310, 66.44.316, 66.44.318, 66.44.340, 66.44.350, and chapter 66.44 RCW.

314-16-050 Hours of operation. [Statutory Authority: RCW 66.08.030, 15.88.030, 19.126.020, 66.04.010, 66.08.180, 66.16.100, 66.20.010, 66.20.300, 66.20.310, 66.24.150, 66.24.170, 66.24.185, 66.24.200, 66.24.206, 66.24.210, 66.24.230, 66.24.240, 66.24.244, 66.24.250, 66.24.375, 66.24.380, 66.24.395, 66.24.400, 66.24.420, 66.24.425, 66.24.440, 66.24.450, 66.24.455, 66.24.495, 66.24.540, 66.28.010, 66.28.040, 66.28.050, 66.28.170, 66.28.180, 66.28.190, 66.28.200, 66.28.310, 66.44.190, 66.44.310, 66.98.060 and 82.08.150. WSR 98-18-097, § 314-16-050, filed 9/2/98, effective 10/3/98. Statutory Authority: RCW 66.08.030. WSR 94-08-031, § 314-16-050, filed 3/30/94, effective 4/30/94; Order 53, § 314-16-050, filed 2/15/77 and 2/16/77, effective 3/18/77; Order 45, § 314-16-050, Rule 20, filed 6/1/76; Order 16, § 314-16-050, filed 8/5/71, effective 9/7/71; Order 11, § 314-16-050, filed 11/13/70, effective 12/14/70; Resolution No. 7, filed 7/19/67, effective 8/19/67; Rule 20, filed 6/13/63.] Repealed by WSR 01-06-014, filed 2/26/01, effective 3/29/01. Statutory Authority: RCW 66.08.030, 66.28.100, 66.28.040, 66.28.090, 66.44.010, 66.44.070, 66.44.200, 66.44.270, 66.44.291, 66.44.292, 66.44.310, 66.44.316, 66.44.318, 66.44.340, 66.44.350, and chapter 66.44 RCW.

314-16-055 Entertainment—Hours permitted. [Statutory Authority: RCW 66.08.030. WSR 92-21-058, § 314-16-055, filed 10/19/92, effective 11/19/92.] Repealed by WSR 00-07-117, filed 3/21/00, effective 4/21/00. Statutory Authority: RCW 66.08.030, 66.24.010, 66.24.120.

314-16-060 Curb service prohibited. [Statutory Authority: RCW 66.08.050. WSR 95-17-040, § 314-16-060, filed 8/10/95, effective 9/10/95. Statutory Authority: RCW 66.08.030 and 66.98.070. WSR 81-21-024 (Order 87, Resolution No. 96), § 314-16-060, filed 10/14/81; WSR 80-15-111 (Order 75, Resolution No. 84), § 314-16-060, filed 10/22/80; Order 53, § 314-16-060, filed 2/15/77, effective 3/18/77; Order 4, § 314-16-060, filed 7/9/69, effective 8/11/69; Rule 21, filed 6/13/63.] Repealed by WSR 01-06-014, filed 2/26/01, effective 3/29/01. Statutory Authority: RCW 66.08.030, 66.28.100, 66.28.040, 66.28.090, 66.44.010, 66.44.070, 66.44.200, 66.44.270, 66.44.291, 66.44.292, 66.44.310, 66.44.316, 66.44.318, 66.44.340, 66.44.350, and chapter 66.44 RCW.

314-16-070 Minors—Employment. [Statutory Authority: RCW 66.08.030, 15.88.030, 19.126.020, 66.04.010, 66.08.180, 66.16.100, 66.20.010, 66.20.300, 66.20.310, 66.24.150, 66.24.170, 66.24.185, 66.24.200, 66.24.206, 66.24.210, 66.24.230, 66.24.240, 66.24.244, 66.24.250, 66.24.375, 66.24.380, 66.24.395, 66.24.400, 66.24.420, 66.24.425, 66.24.440, 66.24.450, 66.24.455, 66.24.495, 66.24.540, 66.28.010, 66.28.040, 66.28.050, 66.28.170, 66.28.180, 66.28.190, 66.28.200, 66.28.310, 66.44.190, 66.44.310, 66.98.060 and 82.08.150. WSR 98-18-097, § 314-16-070, filed 9/2/98, effective 10/3/98. Statutory Authority: RCW 66.08.030 and 66.98.070. WSR 88-20-086 (Order 263, Resolution No. 272), § 314-16-070, filed 10/5/88. Statutory Authority: RCW 66.08.030. WSR 88-01-015 (Order 234, Resolution No. 243), § 314-16-070, filed 12/8/87; Order 43, § 314-16-070, Rule 22, filed 11/20/75; Order 4, § 314-16-070, filed 7/9/69, effective 8/11/69; Rule 22, filed 6/13/63.] Repealed by WSR 01-06-014, filed 2/26/01, effective 3/29/01. Statutory Authority: RCW 66.08.030, 66.28.100, 66.28.040, 66.28.090, 66.44.010, 66.44.070, 66.44.200, 66.44.270, 66.44.291, 66.44.292, 66.44.310, 66.44.316, 66.44.318, 66.44.340, 66.44.350, and chapter 66.44 RCW.

314-16-075 Musicians, disc jockeys, sound or lighting technicians, persons performing janitorial services, employees of amusement device companies, security officers, firefighters and law enforcement officers employment. [Statutory Authority: RCW 66.08.030, 15.88.030, 19.126.020, 66.04.010, 66.08.180, 66.16.100, 66.20.010, 66.20.300, 66.20.310, 66.24.150, 66.24.170, 66.24.185, 66.24.200, 66.24.206, 66.24.210, 66.24.230, 66.24.240, 66.24.244, 66.24.250, 66.24.375, 66.24.380, 66.24.395, 66.24.400, 66.24.420, 66.24.425, 66.24.440, 66.24.450, 66.24.455, 66.24.495, 66.24.540, 66.28.010, 66.28.040, 66.28.050, 66.28.170, 66.28.180, 66.28.190, 66.28.200, 66.28.310, 66.44.190, 66.44.310, 66.98.060 and 82.08.150. WSR 98-18-097, § 314-16-075, filed 9/2/98, effective 10/3/98. Statutory Authority: RCW 66.08.030. WSR 89-08-014 (Order 277, Resolution No. 286), § 314-16-075, filed 3/27/89. Statutory Authority: RCW 66.44.316, 66.44.310, 66.44.350 and 66.08.030. WSR 86-18-018 (Order 197, Resolution No. 206), § 314-16-075, filed 8/26/86; Order 9, § 314-16-075, filed 2/17/70.] Repealed by WSR 01-06-014, filed 2/26/01, effective 3/29/01. Statutory Authority: RCW 66.08.030, 66.28.100, 66.28.040, 66.28.090, 66.44.010, 66.44.070, 66.44.200, 66.44.270, 66.44.291, 66.44.292, 66.44.310, 66.44.316, 66.44.318, 66.44.340, 66.44.350, and chapter 66.44 RCW.

314-16-080 Food and beverage service workers—Permit. [Rule 23, filed 6/13/63.] Repealed by WSR 95-15-014, filed 7/7/95, effective 8/7/95. Statutory Authority: RCW 66.08.030.

314-16-090 Bottles and containers—Reuse. [Statutory Authority: RCW 66.08.030, 15.88.030, 19.126.020, 66.04.010, 66.08.180, 66.16.100, 66.20.010, 66.20.300, 66.20.310, 66.24.150, 66.24.170, 66.24.185, 66.24.200, 66.24.206,

66.24.210, 66.24.230, 66.24.240, 66.24.244, 66.24.250, 66.24.375, 66.24.380, 66.24.395, 66.24.400, 66.24.420, 66.24.425, 66.24.440, 66.24.450, 66.24.455, 66.24.495, 66.24.540, 66.28.010, 66.28.040, 66.28.050, 66.28.170, 66.28.180, 66.28.190, 66.28.200, 66.28.310, 66.44.190, 66.44.310, 66.98.060 and 82.08.150. WSR 98-18-097, § 314-16-090, filed 9/2/98, effective 10/3/98. Statutory Authority: RCW 66.08.030. WSR 93-15-025, § 314-16-090, filed 7/12/93, effective 8/12/93; Order 19, § 314-16-090, filed 8/10/72; Rule 24, filed 6/13/63.] Repealed by WSR 01-06-014, filed 2/26/01, effective 3/29/01. Statutory Authority: RCW 66.08.030, 66.28.100, 66.28.040, 66.28.090, 66.44.010, 66.44.070, 66.44.200, 66.44.270, 66.44.291, 66.44.292, 66.44.310, 66.44.316, 66.44.318, 66.44.340, 66.44.350, and chapter 66.44 RCW.

314-16-100 Treating. [Order 53, § 314-16-100, filed 2/15/77, effective 3/18/77; Order 19, § 314-16-100, filed 8/10/72; Rule 25, filed 6/13/63.] Repealed by WSR 86-07-014 (Order 178, Resolution No. 187), filed 3/11/86. Statutory Authority: RCW 66.08.030.

314-16-111 Split case handling fee for Class H liquor purchases. [Statutory Authority: RCW 66.08.030. WSR 94-13-128, § 314-16-111, filed 6/20/94, effective 9/1/94.] Repealed by WSR 95-16-007, filed 7/20/95, effective 8/20/95. Statutory Authority: RCW 66.08.030.

314-16-115 Hotels with spirits, beer and wine restaurants and spirits, beer and wine clubs with overnight sleeping accommodations—Sales by the bottle to registered guests—Conditions. [Statutory Authority: RCW 66.08.030, 15.88.030, 19.126.020, 66.04.010, 66.08.180, 66.16.100, 66.20.010, 66.20.300, 66.20.310, 66.24.150, 66.24.170, 66.24.185, 66.24.200, 66.24.206, 66.24.210, 66.24.230, 66.24.240, 66.24.244, 66.24.250, 66.24.375, 66.24.380, 66.24.395, 66.24.400, 66.24.420, 66.24.425, 66.24.440, 66.24.450, 66.24.455, 66.24.495, 66.24.540, 66.28.010, 66.28.040, 66.28.050, 66.28.170, 66.28.180, 66.28.190, 66.28.200, 66.28.310, 66.44.190, 66.44.310, 66.98.060 and 82.08.150. WSR 98-18-097, § 314-16-115, filed 9/2/98, effective 10/3/98. Statutory Authority: RCW 66.08.030. WSR 87-22-017 (Order 232, Resolution No. 241), § 314-16-115, filed 10/27/87. Statutory Authority: RCW 66.08.030, 66.98.070, 66.24.400 and 1986 c 208. WSR 86-12-022 (Order 188, Resolution No. 197), § 314-16-115, filed 5/28/86.] Repealed by WSR 00-07-117, filed 3/21/00, effective 4/21/00. Statutory Authority: RCW 66.08.030, 66.24.010, 66.24.120.

314-16-120 Conduct on licensed premises. [Statutory Authority: RCW 66.08.030 and 66.98.070. WSR 89-03-045 (Order 273, Resolution No. 282), § 314-16-120, filed 1/13/89; WSR 88-20-085 (Order 262, Resolution No. 271), § 314-16-120, filed 10/5/88; WSR 85-15-021 (Order 161, Resolution No. 170), § 314-16-120, filed 7/9/85; WSR 83-06-026 (Order 120, Resolution No. 129), § 314-16-120, filed 2/23/83; Order 53, § 314-16-120, filed 2/15/77, effective 3/18/77; Rule 27, filed 6/13/63.] Repealed by WSR 01-06-014, filed 2/26/01, effective 3/29/01. Statutory Authority: RCW 66.08.030, 66.28.100, 66.28.040, 66.28.090, 66.44.010, 66.44.070, 66.44.200, 66.44.270, 66.44.291, 66.44.292, 66.44.310, 66.44.316, 66.44.318, 66.44.340, 66.44.350, and chapter 66.44 RCW.

314-16-122 Licensee-employees—Prohibited conduct with patrons. [Statutory Authority: RCW 66.08.030 and 66.98.070. WSR 83-13-055 (Order 124 and Resolution No. 133), § 314-16-122, filed 6/15/83. Statutory Authority: RCW 66.08.030 and 66.98.070. WSR 81-23-039 (Order 83, Resolution No. 92), § 314-16-122, filed 11/18/81.] Repealed by WSR 01-06-014, filed 2/26/01, effective 3/29/01. Statutory Authority: RCW 66.08.030, 66.28.100, 66.28.040, 66.28.090, 66.44.010, 66.44.070, 66.44.200, 66.44.270, 66.44.291, 66.44.292, 66.44.310, 66.44.316, 66.44.318, 66.44.340, 66.44.350, and chapter 66.44 RCW.

314-16-125 Suggestive, lewd and/or obscene conduct on licensed premises. [Statutory Authority: RCW 66.08.030. WSR 91-19-098 and 92-01-105, § 314-16-125, filed 9/18/91 and 12/18/91, effective 10/19/91 and 1/18/92. Statutory Authority: RCW 66.08.030 and 66.98.070. WSR 82-22-069 (Order 115, Resolution No. 124), § 314-16-125, filed 11/2/82; WSR 81-23-039 (Order 83, Resolution No. 92), § 314-16-125, filed 11/18/81; Order 34, § 314-16-125, filed 6/24/75.] Repealed by WSR 01-06-014, filed 2/26/01, effective 3/29/01. Statutory Authority: RCW 66.08.030, 66.28.100, 66.28.040, 66.28.090, 66.44.010, 66.44.070, 66.44.200, 66.44.270, 66.44.291, 66.44.292, 66.44.310, 66.44.316, 66.44.318, 66.44.340, 66.44.350, and chapter 66.44 RCW.

314-16-130 In transit stamps. [Rule 28, filed 6/13/63.] Repealed by WSR 00-17-065, filed 8/9/00, effective 9/9/00. Statutory Authority: RCW 66.08.030, 66.24.210, 66.24.230, 66.24.290, 66.24.305, 66.24.270, 66.24.215, 66.24.580, 66.24.206.

314-16-140 Entertainment license displayed. [Rule 29, filed 6/13/63.] Repealed by WSR 00-07-117, filed 3/21/00, effective 4/21/00. Statutory Authority: RCW 66.08.030, 66.24.010, 66.24.120.

314-16-145 Presentation of card of identification penalty for refusal—Detention for reasonable period to determine age—Person who cannot establish age may be removed from licensed premises. [Statutory Authority: RCW 66.08.030 and 66.98.070. WSR 83-12-022 (Order 123, Resolution No. 132), § 314-16-145, filed 5/25/83.] Repealed by WSR 01-06-014, filed 2/26/01, effective 3/29/01. Statutory Authority: RCW 66.08.030, 66.28.100, 66.28.040, 66.28.090, 66.44.010, 66.44.070, 66.44.200, 66.44.270, 66.44.291, 66.44.292, 66.44.310, 66.44.316, 66.44.318, 66.44.340, 66.44.350, and chapter 66.44 RCW.

314-16-155 Licensee's certification card—Evidence of age. [Rule 31, filed 6/13/63.] Repealed by WSR 87-21-037 (Order 231, Resolution No. 240), filed 10/13/87. Statutory Authority: RCW 66.08.030.

314-16-170 Suspension notices, posting of—Other closing notices prohibited. [Rule 33, filed 6/13/63.] Repealed by WSR 92-21-057, filed 10/19/92, effective 11/19/92. Statutory Authority: RCW 66.08.030.

314-16-180 Alterations and changes of premises and activities—Outside storage. [Statutory Authority: RCW 66.08.030. WSR 86-15-042 (Order 193, Resolution No. 202), § 314-16-180, filed 7/16/86; Rule 34, filed 6/13/63.] Repealed by WSR 00-07-117, filed 3/21/00, effective 4/21/00. Statutory Authority: RCW 66.08.030, 66.24.010, 66.24.120.

314-16-190 Spirits, beer and wine restaurant—Qualifications. [Statutory Authority: RCW 66.08.030, 66.24.010, 66.24.120. WSR 00-12-051, § 314-16-190, filed 6/5/00, effective 7/6/00. Statutory Authority: RCW 66.08.030, 15.88.030, 19.126.020, 66.04.010, 66.08.180, 66.16.100, 66.20.010, 66.20.300, 66.20.310, 66.24.150, 66.24.170, 66.24.185, 66.24.200, 66.24.206, 66.24.210, 66.24.230, 66.24.240, 66.24.244, 66.24.250, 66.24.375, 66.24.380, 66.24.395, 66.24.400, 66.24.420, 66.24.425, 66.24.440, 66.24.450, 66.24.455, 66.24.495, 66.24.540, 66.28.010, 66.28.040, 66.28.050, 66.28.170, 66.28.180, 66.28.190, 66.28.200, 66.28.310, 66.44.190, 66.44.310, 66.98.060 and 82.08.150. WSR 98-18-097, § 314-16-190, filed 9/2/98, effective 10/3/98. Statutory Authority: RCW 66.08.030. WSR 95-16-008, § 314-16-190, filed 7/20/95, effective 8/20/95; WSR 93-10-092, § 314-16-190, filed 5/4/93, effective 6/4/93. Statutory Authority: RCW 66.98.070. WSR 88-07-058 (Order 240, Resolution No. 249), § 314-16-190, filed 3/15/88. Statutory Authority: RCW 66.08.030 and 66.98.070. WSR 85-14-107 (Order 160, Resolution No. 169), § 314-16-190, filed 7/3/85; WSR 78-07-002 (Order 66, Resolution No. 75), § 314-16-190, filed 6/9/78; Order 55, § 314-16-190, filed 5/31/77, effective 7/1/77; Order 52, § 314-16-190, Rule 35, filed 1/18/77, effective 2/18/77.] Repealed by WSR 05-22-022, filed 10/24/05, effective 11/24/05. Statutory Authority: RCW 66.04.010, 66.08.030, 66.24.410, 66.44.310, and 66.44.420.

314-16-195 Spirits, beer and wine restaurant restricted—Qualifications. [Statutory Authority: RCW 66.04.010, 66.08.030, 66.24.410, 66.44.310, and 66.44.420. WSR 05-22-022, § 314-16-195, filed 10/24/05, effective 11/24/05. Statutory Authority: RCW 66.08.030, 15.88.030, 19.126.020, 66.04.010, 66.08.180, 66.16.100, 66.20.010, 66.20.300, 66.20.310, 66.24.150, 66.24.170, 66.24.185, 66.24.200, 66.24.206, 66.24.210, 66.24.230, 66.24.240, 66.24.244, 66.24.250, 66.24.375, 66.24.380, 66.24.395, 66.24.400, 66.24.420, 66.24.425, 66.24.440, 66.24.450, 66.24.455, 66.24.495, 66.24.540, 66.28.010, 66.28.040, 66.28.050, 66.28.170, 66.28.180, 66.28.190, 66.28.200, 66.28.310, 66.44.190, 66.44.310, 66.98.060 and 82.08.150. WSR 98-18-097, § 314-16-195, filed 9/2/98, effective 10/3/98. Statutory Authority: RCW 66.08.030 and 66.98.070. WSR 82-13-069 (Order 107, Resolution No.

116), § 314-16-195, filed 6/16/82.] Repealed by WSR 11-01-133, filed 12/21/10, effective 1/21/11. Statutory Authority: RCW 66.08.030 and 66.24.363.

314-16-196 Spirits, beer and wine restaurant—Floor space requirements—Conditions for service bar only premises. [Statutory Authority: RCW 66.08.030, 66.24.010, 66.24.120. WSR 00-12-051, § 314-16-196, filed 6/5/00, effective 7/6/00. Statutory Authority: RCW 66.08.030, 15.88.030, 19.126.020, 66.04.010, 66.08.180, 66.16.100, 66.20.010, 66.20.300, 66.20.310, 66.24.150, 66.24.170, 66.24.185, 66.24.200, 66.24.206, 66.24.210, 66.24.230, 66.24.240, 66.24.244, 66.24.250, 66.24.375, 66.24.380, 66.24.395, 66.24.400, 66.24.420, 66.24.425, 66.24.440, 66.24.450, 66.24.455, 66.24.495, 66.24.540, 66.28.010, 66.28.040, 66.28.050, 66.28.170, 66.28.180, 66.28.190, 66.28.200, 66.28.310, 66.44.190, 66.44.310, 66.98.060 and 82.08.150. WSR 98-18-097, § 314-16-196, filed 9/2/98, effective 10/3/98. Statutory Authority: RCW 66.08.030. WSR 96-03-005, § 314-16-196, filed 1/4/96, effective 2/4/96; WSR 95-20-005, § 314-16-196, filed 9/21/95, effective 10/22/95; WSR 93-10-092, § 314-16-196, filed 5/4/93, effective 6/4/93; WSR 92-14-025, § 314-16-196, filed 6/22/92, effective 7/23/92. Statutory Authority: RCW 66.08.030 and 66.08.080. WSR 87-02-011 (Order 208, Resolution No. 217), § 314-16-196, filed 12/30/86. Statutory Authority: RCW 66.98.070. WSR 86-15-066 (Order 194, Resolution No. 203), § 314-16-196, filed 7/22/86. Statutory Authority: RCW 66.08.030 and 66.98.070. WSR 83-13-056 (Order 125, Resolution No. 134), § 314-16-196, filed 6/15/83.] Repealed by WSR 05-22-022, filed 10/24/05, effective 11/24/05. Statutory Authority: RCW 66.04.010, 66.08.030, 66.24.410, 66.44.310, and 66.44.420.

314-16-197 Minimum qualifications for applicants who apply for beer and/or wine restaurant licenses in lieu of presently held tavern license. [Statutory Authority: RCW 66.08.030, 15.88.030, 19.126.020, 66.04.010, 66.08.180, 66.16.100, 66.20.010, 66.20.300, 66.20.310, 66.24.150, 66.24.170, 66.24.185, 66.24.200, 66.24.206, 66.24.210, 66.24.230, 66.24.240, 66.24.244, 66.24.250, 66.24.375, 66.24.380, 66.24.395, 66.24.400, 66.24.420, 66.24.425, 66.24.440, 66.24.450, 66.24.455, 66.24.495, 66.24.540, 66.28.010, 66.28.040, 66.28.050, 66.28.170, 66.28.180, 66.28.190, 66.28.200, 66.28.310, 66.44.190, 66.44.310, 66.98.060 and 82.08.150. WSR 98-18-097, § 314-16-197, filed 9/2/98, effective 10/3/98. Statutory Authority: RCW 66.08.030. WSR 92-14-026, § 314-16-197, filed 6/22/92, effective 7/23/92. Statutory Authority: RCW 66.08.030 and 66.98.070. WSR 85-14-107 (Order 160, Resolution No. 169), § 314-16-197, filed 7/3/85.] Repealed by WSR 00-07-117, filed 3/21/00, effective 4/21/00. Statutory Authority: RCW 66.08.030, 66.24.010, 66.24.120.

314-16-199 Cocktail lounge declassification—Sunday dining events. [Statutory Authority: RCW 66.08.030, 15.88.030, 19.126.020, 66.04.010, 66.08.180, 66.16.100, 66.20.010, 66.20.300, 66.20.310, 66.24.150, 66.24.170, 66.24.185, 66.24.200, 66.24.206, 66.24.210, 66.24.230, 66.24.240, 66.24.244, 66.24.250, 66.24.375, 66.24.380, 66.24.395, 66.24.400, 66.24.420, 66.24.425, 66.24.440, 66.24.450, 66.24.455, 66.24.495, 66.24.540, 66.28.010, 66.28.040, 66.28.050, 66.28.170, 66.28.180, 66.28.190, 66.28.200, 66.28.310, 66.44.190, 66.44.310, 66.98.060 and 82.08.150. WSR 98-18-097, § 314-16-199, filed 9/2/98, effective 10/3/98. Statutory Authority: RCW 66.08.030. WSR 94-13-127, § 314-16-199, filed 6/20/94, effective 7/21/94.] Repealed by WSR 00-07-117, filed 3/21/00, effective 4/21/00. Statutory Authority: RCW 66.08.030, 66.24.010, 66.24.120.

314-16-200 Minimum qualifications for issuance of grocery store or beer and/or wine specialty shop licenses. [Statutory Authority: RCW 66.08.030, 15.88.030, 19.126.020, 66.04.010, 66.08.180, 66.16.100, 66.20.010, 66.20.300, 66.20.310, 66.24.150, 66.24.170, 66.24.185, 66.24.200, 66.24.206, 66.24.210, 66.24.230, 66.24.240, 66.24.244, 66.24.250, 66.24.375, 66.24.380, 66.24.395, 66.24.400, 66.24.420, 66.24.425, 66.24.440, 66.24.450, 66.24.455, 66.24.495, 66.24.540, 66.28.010, 66.28.040, 66.28.050, 66.28.170, 66.28.180, 66.28.190, 66.28.200, 66.28.310, 66.44.190, 66.44.310, 66.98.060 and 82.08.150. WSR 98-18-097, § 314-16-200, filed 9/2/98, effective 10/3/98. Statutory Authority: RCW 66.08.030. WSR 95-17-006, § 314-16-200, filed 8/3/95, effective 9/3/95. Statutory Authority: RCW 66.08.030 and 66.98.070. WSR 84-19-051 (Order 146, Resolution No. 155), § 314-16-200, filed 9/18/84; WSR 82-10-019 (Order 102, Resolution No. 111), § 314-16-200, filed 4/28/82; Order 55, § 314-16-200, filed 5/31/77, effective 7/1/77.] Repealed by WSR 00-07-117, filed 3/21/00, effective 4/21/00. Statutory Authority: RCW 66.08.030, 66.24.010, 66.24.120.

314-16-205 Minimum qualifications for issuance for a beer and wine gift delivery license. [Statutory Authority: RCW 66.08.030, 15.88.030, 19.126.020, 66.04.010, 66.08.180, 66.16.100, 66.20.010, 66.20.300, 66.20.310, 66.24.150, 66.24.170, 66.24.185, 66.24.200, 66.24.206, 66.24.210, 66.24.230, 66.24.240, 66.24.244, 66.24.250, 66.24.375, 66.24.380, 66.24.395, 66.24.400, 66.24.420, 66.24.425, 66.24.440, 66.24.450, 66.24.455, 66.24.495, 66.24.540, 66.28.010, 66.28.040, 66.28.050, 66.28.170, 66.28.180, 66.28.190, 66.28.200, 66.28.310, 66.44.190, 66.44.310, 66.98.060 and 82.08.150. WSR 98-18-097, § 314-16-205, filed 9/2/98, effective 10/3/98. Statutory Authority: RCW 66.08.030. WSR 87-15-110 (Order 220, Resolution No. 229), § 314-16-205, filed 7/22/87. Statutory Authority: RCW 66.08.030 and 66.98.070. WSR 84-09-024 (Order 139, Resolution No. 148), § 314-16-205, filed 4/11/84.] Repealed by WSR 00-07-117, filed 3/21/00, effective 4/21/00. Statutory Authority: RCW 66.08.030, 66.24.010, 66.24.120.

314-16-210 Spirits, beer and wine restaurant license fees in unincorporated areas—Seasonal operations—Prorating fees. [Statutory Authority: RCW 66.08.030, 15.88.030, 19.126.020, 66.04.010, 66.08.180, 66.16.100, 66.20.010, 66.20.300, 66.20.310, 66.24.150, 66.24.170, 66.24.185, 66.24.200, 66.24.206, 66.24.210, 66.24.230, 66.24.240, 66.24.244, 66.24.250, 66.24.375, 66.24.380, 66.24.395, 66.24.400, 66.24.420, 66.24.425, 66.24.440, 66.24.450, 66.24.455, 66.24.495, 66.24.540, 66.28.010, 66.28.040, 66.28.050, 66.28.170, 66.28.180, 66.28.190, 66.28.200, 66.28.310, 66.44.190, 66.44.310, 66.98.060 and 82.08.150. WSR 98-18-097, § 314-16-210, filed 9/2/98, effective 10/3/98. Statutory Authority: RCW 66.08.030 and 66.98.070. WSR 81-22-026 (Order 85, Resolution No. 94), § 314-16-210, filed 10/28/81.] Repealed by WSR 00-07-117, filed 3/21/00, effective 4/21/00. Statutory Authority: RCW 66.08.030, 66.24.010, 66.24.120.

314-16-220 Class F licensees—Principal business sale of wine for off-premises consumption—Authorization for selling or serving samples. [Statutory Authority: RCW 66.08.030 and 66.98.070. WSR 81-22-026 (Order 85, Resolution No. 94), § 314-16-220, filed 10/28/81.] Repealed by WSR 98-18-097, filed 9/2/98, effective 10/3/98. Statutory Authority: RCW 66.08.030, 15.88.030, 19.126.020, 66.04.010, 66.08.180, 66.16.100, 66.20.010, 66.20.300, 66.20.310, 66.24.150, 66.24.170, 66.24.185, 66.24.200, 66.24.206, 66.24.210, 66.24.230, 66.24.240, 66.24.244, 66.24.250, 66.24.375, 66.24.380, 66.24.395, 66.24.400, 66.24.420, 66.24.425, 66.24.440, 66.24.450, 66.24.455, 66.24.495, 66.24.540, 66.28.010, 66.28.040, 66.28.050, 66.28.170, 66.28.180, 66.28.190, 66.28.200, 66.28.310, 66.44.190, 66.44.310, 66.98.060 and 82.08.150.

314-16-240 Beer and/or wine specialty shop licenses—Principal business sale of beer and wine for off-premises consumption—Authorization for selling or serving samples. [Statutory Authority: RCW 66.08.030, 15.88.030, 19.126.020, 66.04.010, 66.08.180, 66.16.100, 66.20.010, 66.20.300, 66.20.310, 66.24.150, 66.24.170, 66.24.185, 66.24.200, 66.24.206, 66.24.210, 66.24.230, 66.24.240, 66.24.244, 66.24.250, 66.24.375, 66.24.380, 66.24.395, 66.24.400, 66.24.420, 66.24.425, 66.24.440, 66.24.450, 66.24.455, 66.24.495, 66.24.540, 66.28.010, 66.28.040, 66.28.050, 66.28.170, 66.28.180, 66.28.190, 66.28.200, 66.28.310, 66.44.190, 66.44.310, 66.98.060 and 82.08.150. WSR 98-18-097, § 314-16-240, filed 9/2/98, effective 10/3/98. Statutory Authority: RCW 66.08.030. WSR 87-15-113 (Order 221, Resolution No. 230), § 314-16-240, filed 7/22/87.] Repealed by WSR 00-07-117, filed 3/21/00, effective 4/21/00. Statutory Authority: RCW 66.08.030, 66.24.010, 66.24.120.

314-16-250 Retail sale of malt liquor in kegs. [Statutory Authority: RCW 66.08.030, 15.88.030, 19.126.020, 66.04.010, 66.08.180, 66.16.100, 66.20.010, 66.20.300, 66.20.310, 66.24.150, 66.24.170, 66.24.185, 66.24.200, 66.24.206, 66.24.210, 66.24.230, 66.24.240, 66.24.244, 66.24.250, 66.24.375, 66.24.380, 66.24.395, 66.24.400, 66.24.420, 66.24.425, 66.24.440, 66.24.450, 66.24.455, 66.24.495,

66.24.540, 66.28.010, 66.28.040, 66.28.050, 66.28.170, 66.28.180, 66.28.190, 66.28.200, 66.28.310, 66.44.190, 66.44.310, 66.98.060 and 82.08.150. WSR 98-18-097, § 314-16-250, filed 9/2/98, effective 10/3/98. Statutory Authority: RCW 66.08.030. WSR 93-15-026, § 314-16-250, filed 7/12/93, effective 8/12/93; WSR 91-19-070, § 314-16-250, filed 9/16/91, effective 10/17/91. Statutory Authority: RCW 66.08.030 and 66.98.070. WSR 89-17-037 (Order 283, Resolution No. 292), § 314-16-250, filed 8/9/89, effective 9/9/89.] Repealed by WSR 00-12-011, filed 5/25/00, effective 6/25/00. Statutory Authority: RCW 66.08.030, 66.28.200, 66.28.210.

314-16-260 Sports/entertainment facility license—Purpose. [Statutory Authority: RCW 66.08.030 and 66.24.570. WSR 99-24-106, § 314-16-260, filed 12/1/99, effective 1/1/00.] Repealed by WSR 11-01-133, filed 12/21/10, effective 1/21/11. Statutory Authority: RCW 66.08.030 and 66.24.363.

314-16-265 Definitions. [Statutory Authority: RCW 66.08.030 and 66.24.570. WSR 99-24-106, § 314-16-265, filed 12/1/99, effective 1/1/00.] Repealed by WSR 11-01-133, filed 12/21/10, effective 1/21/11. Statutory Authority: RCW 66.08.030 and 66.24.363.

314-16-270 Sports/entertainment facility licenses—Operating plans. [Statutory Authority: RCW 66.08.030 and 66.24.570. WSR 99-24-106, § 314-16-270, filed 12/1/99, effective 1/1/00.] Repealed by WSR 11-01-133, filed 12/21/10, effective 1/21/11. Statutory Authority: RCW 66.08.030 and 66.24.363.

314-16-275 How will the operating plans be enforced? [Statutory Authority: RCW 66.08.030 and 66.24.570. WSR 99-24-106, § 314-16-275, filed 12/1/99, effective 1/1/00.] Repealed by WSR 11-01-133, filed 12/21/10, effective 1/21/11. Statutory Authority: RCW 66.08.030 and 66.24.363.

WAC 314-16-020 Dispensing apparatus and containers—Furnishing of certain devices. (1) Faucets, spigots, or other dispensing apparatus must be labeled with the correct brand name of the beer being drawn. Brewers and beer distributors may furnish "tap marking devices" to retail dispensers at a nominal value or cost to the brewer or beer distributor. Brewers and beer distributors may also furnish can and bottle openers to retail licensees at a nominal value or cost to the brewer or beer distributor.

(2) Every bottle or other container from which wine is sold by a retail licensee for consumption on a licensed premises must be labeled with the correct brand name, type and manufacturer's name of the wine. Wineries and wine distributors may furnish labels and "tap marking devices" or container marking devices and corkscrews to retail dispensers at a nominal value or cost to the winery or wine distributor.

[Statutory Authority: RCW 66.08.030, 66.28.100, 66.28.040, 66.28.090, 66.44.010, 66.44.070, 66.44.200, 66.44.270, 66.44.291, 66.44.292, 66.44.310, 66.44.316, 66.44.318, 66.44.340, 66.44.350, and chapter 66.44 RCW. WSR 01-06-014, § 314-16-020, filed 2/26/01, effective 3/29/01. Statutory Authority: RCW 66.08.030, 15.88.030, 19.126.020, 66.04.010, 66.08.180, 66.16.100, 66.20.010, 66.20.300, 66.20.310, 66.24.150, 66.24.170, 66.24.185, 66.24.200, 66.24.206, 66.24.210, 66.24.230, 66.24.240, 66.24.244, 66.24.250, 66.24.375, 66.24.380, 66.24.395, 66.24.400, 66.24.420, 66.24.425, 66.24.440, 66.24.450, 66.24.455, 66.24.495, 66.24.540, 66.28.010, 66.28.040, 66.28.050, 66.28.170, 66.28.180, 66.28.190, 66.28.200, 66.28.310, 66.44.190, 66.44.310, 66.98.060 and 82.08.150. WSR 98-18-097, § 314-16-020, filed 9/2/98, effective 10/3/98. Statutory Authority: RCW 66.08.030. WSR 93-10-070, § 314-16-020, filed 5/3/93, effective 6/3/93; WSR 87-22-018 (Order 233, Resolution No. 242), § 314-16-020, filed 10/27/87; Rule 17, filed 6/13/63.]

WAC 314-16-040 Drink menu. No holder of a beer and/or wine restaurant license shall advertise for sale, nor sell, any mixed drink under the name of "Old Fashioned," "Whiskey Sour," "Singapore Sling," "Martini," "Manhattan," nor any other name which, by long and general usage, has become associated in the public mind as being the name of a mixed drink made from spirituous liquor, unless the name of such drink is prefaced by the word "wine," such as Wine Old Fashioned. The holder of a beer and/or wine restaurant license may advertise for sale, mix, compound or sell upon order, mixed drinks made from one or more wines under a name which does not conflict with this section.

[Statutory Authority: RCW 66.08.030 and 66.24.600. WSR 10-01-091, § 314-16-040, filed 12/16/09, effective 1/16/10. Statutory Authority: RCW 66.08.030, 66.28.100, 66.28.040, 66.28.090, 66.44.010, 66.44.070, 66.44.200, 66.44.270, 66.44.291, 66.44.292, 66.44.310, 66.44.316, 66.44.318, 66.44.340, 66.44.350, and chapter 66.44 RCW. WSR 01-06-014, § 314-16-040, filed 2/26/01, effective 3/29/01. Statutory Authority: RCW 66.08.030, 66.24.010, 66.24.120. WSR 00-12-051, § 314-16-040, filed 6/5/00, effective 7/6/00. Statutory Authority: RCW 66.08.030, 15.88.030, 19.126.020, 66.04.010, 66.08.180, 66.16.100, 66.20.010, 66.20.300, 66.20.310, 66.24.150, 66.24.170, 66.24.185, 66.24.200, 66.24.206, 66.24.210, 66.24.230, 66.24.240, 66.24.244, 66.24.250, 66.24.375, 66.24.380, 66.24.395, 66.24.400, 66.24.420, 66.24.425, 66.24.440, 66.24.450, 66.24.455, 66.24.495, 66.24.540, 66.28.010, 66.28.040, 66.28.050, 66.28.170, 66.28.180, 66.28.190, 66.28.200, 66.28.310, 66.44.190, 66.44.310, 66.98.060 and 82.08.150. WSR 98-18-097, § 314-16-040, filed 9/2/98, effective 10/3/98. Statutory Authority: RCW 66.08.030. WSR 88-23-100 (Order 261, Resolution No. 270), § 314-16-040, filed 11/22/88; WSR 87-20-014 (Order 228, Resolution No. 237), § 314-16-040, filed 9/29/87; WSR 86-07-015 (Order 179, Resolution No. 188), § 314-16-040, filed 3/11/86; WSR 85-06-023 (Order 155, Resolution No. 164), § 314-16-040, filed 2/27/85. Statutory Authority: RCW 66.08.030 and 66.98.070. WSR 84-11-092 (Order 142, Resolution No. 151), § 314-16-040, filed 5/23/84. Statutory Authority: RCW 66.08.030, 66.08.060 and 66.98.070. WSR 80-02-094 (Order 69, Resolution No. 78), § 314-16-040, filed 1/23/80; Rule 19, filed 6/13/63.]

WAC 314-16-110 Liquor purchases by spirits, beer, and wine licensees. (1) Any employee authorized by the board may sell spirituous liquor at a discount of fifteen percent from the retail price fixed by the board, together with all taxes, to any spirits, beer and wine restaurant, spirits, beer, and wine nightclub, spirits, beer, and wine club or sports/entertainment facility licensee upon presentation to such employee at the time of purchase of a special permit issued by the board to such licensee or through such other means of insuring identification of the authorized purchaser as are approved by the board. Prior to license delivery, a new licensee may, with board authorization, be sold discount liquor and beer and wine purchased under Title 66 RCW for the purpose of stocking the premises. The employee shall at the time of selling any spirituous liquor to a spirits, beer and wine restaurant, spirits, beer, and wine nightclub, spirits, beer, and wine club or sports/entertainment facility licensee make a record of the liquor so sold, together with the name of the spirits, beer and wine restaurant, spirits, beer, and wine nightclub, spirits, beer, and wine club or sports/entertainment facility licensee making the purchase. No sale of beer, wine, or spirituous liquor shall take place until the premises of the new licensee have been inspected by the board and the spirits, beer and wine restaurant, spirits, beer, and wine nightclub, spirits, beer, and wine club or sports/entertainment facility license is delivered.

(2) Every spirits, beer and wine restaurant, spirits, beer, and wine nightclub, spirits, beer, and wine club or sports/entertainment facility licensee, upon purchasing any spirituous liquor from the board, shall immediately cause such liquor to be delivered to his or her licensed premises, and he or she shall not remove or permit to be removed from

said premises any bottle or other container containing such liquor, except pursuant to chapter 314-70 WAC or to return it to a state liquor store or agency, nor shall he or she dispose or allow to be disposed the liquor contained therein in any manner except as authorized by his or her license. A delivery service business may pick up more than one liquor order on the same day so long as each of said orders are delivered in the normal course of business on the same day without detour or diversion, except for those stops and deliveries as may be necessary to make deliveries to the other licensees whose order is also on the particular delivery vehicle. The possession of any bottle or other container purchased from the board at a discount by any person other than the licensee or said licensee's agents or employees who purchased the same, or the possession thereof at any place which is not the licensed premises of the licensee who purchased such liquor, shall be prima facie evidence that the licensee unlawfully permitted the removal thereof from his or her licensed premises. The licensee who permanently discontinues business, other than as a result of a legal distraint action, may remove open bottles of liquor from the premises for personal use upon payment to the board of an amount to be determined by the board in lieu of the discount and tax exemption in effect at that time.

(3) No licensee shall keep in or on the licensed premises any spirituous liquor which was not purchased from the board at a discount. Spirituous liquor not purchased at a discount from the board may be kept in or on the licensed premises under authority of a banquet permit issued pursuant to RCW 66.20.010(3) and chapter 314-18 WAC, but only during the specific date and time for which the banquet permit was issued. Notwithstanding any other provision of Title 314 WAC, a spirits, beer and wine licensee may display antique, unusual, or unique liquor bottles with or without liquor on the licensed premises if such bottles are used as part of the decor, and any such bottles containing liquor are locked securely in display cases, and are not for sale.

(4) No person, including anyone acting as the agent for another other than a spirits, beer and wine licensee shall keep or possess any bottle or other container containing spirituous liquor which was purchased from the board at a discount except as provided in subsection (2) of this section.

(5) All spirituous liquor in and on the licensed premises shall be made available at all times by every licensee for inspection by the board, and such licensee shall permit any authorized inspector of the board to make such tests or analyses, by spirit hydrometer or otherwise, as the inspector deems proper. Such inspectors are authorized to seize as evidence any bottles or other containers and the contents thereof which they have determined have been reused, refilled, tampered with, adulterated, diluted, fortified or substituted.

[Statutory Authority: RCW 66.08.030 and 66.24.600. WSR 10-01-091, § 314-16-110, filed 12/16/09, effective 1/16/10. Statutory Authority: RCW 66.08.030, 15.88.030, 19.126.020, 66.04.010, 66.08.180, 66.16.100, 66.20.010, 66.20.300, 66.20.310, 66.24.150, 66.24.170, 66.24.185, 66.24.200, 66.24.206, 66.24.210, 66.24.230, 66.24.240, 66.24.244, 66.24.250, 66.24.375, 66.24.380, 66.24.395, 66.24.400, 66.24.420, 66.24.425, 66.24.440, 66.24.450, 66.24.455, 66.24.495, 66.24.540, 66.28.010, 66.28.040, 66.28.050, 66.28.170, 66.28.180, 66.28.190, 66.28.200, 66.28.310, 66.44.190, 66.44.310, 66.98.060 and 82.08.150. WSR 98-18-097, § 314-16-110, filed 9/2/98, effective 10/3/98. Statutory Authority: RCW 66.08.070. WSR 87-02-012 (Order 209, Resolution No. 218), § 314-16-110, filed 12/30/86. Statutory Authority: RCW 66.08.030 and 66.98.070. WSR 84-15-061 (Order 147, Resolution No. 156), § 314-16-110, filed 7/18/84; WSR 84-02-066 (Order 136, Resolution No. 145), § 314-16-110, filed 1/4/84; WSR 83-01-029 (Order 116, Resolution No. 125), § 314-16-110, filed 12/8/82; WSR 82-17-022 (Order 109, Resolution No. 118), § 314-16-110, filed 8/9/82; Order 50, § 314-16-110, filed 11/30/76, effective 12/31/76; Order 19, § 314-16-110, filed 8/10/72; Rule 26, filed 6/13/63.]

WAC 314-16-150 No sale of liquor to minors, intoxicated persons, etc. (1) No retail licensee shall give or otherwise supply liquor to any person under the age of twenty-one years, either for his/her own use or for the use of his/her parent or of any other person; or to any person apparently under the influence of liquor; nor shall any licensee or employee thereof permit any person under the said age or in said condition to consume liquor on his/her premises, or on any premises adjacent thereto and under his/her control.

(2) No retail licensee shall permit any person apparently under the influence of liquor to physically possess liquor on the licensed premises.

[Statutory Authority: RCW 66.08.030, 15.88.030, 19.126.020, 66.04.010, 66.08.180, 66.16.100, 66.20.010, 66.20.300, 66.20.310, 66.24.150, 66.24.170, 66.24.185, 66.24.200, 66.24.206, 66.24.210, 66.24.230, 66.24.240, 66.24.244, 66.24.250, 66.24.375, 66.24.380, 66.24.395, 66.24.400, 66.24.420, 66.24.425, 66.24.440, 66.24.450, 66.24.455, 66.24.495, 66.24.540, 66.28.010, 66.28.040, 66.28.050, 66.28.170, 66.28.180, 66.28.190, 66.28.200, 66.28.310, 66.44.190, 66.44.310, 66.98.060 and 82.08.150. WSR 98-18-097, § 314-16-150, filed 9/2/98, effective 10/3/98. Statutory Authority: RCW 66.08.030. WSR 94-08-030, § 314-16-150, filed 3/30/94, effective 4/30/94; Rule 30, filed 6/13/63.]

WAC 314-16-160 Purchases—Reports. (1) Failure by industry members and retailers to keep accurate accounting records which result in the extension of or receipt of credit from an industry member through the use of a prior cash deposit which is overextended may result in administrative action being taken against the liquor license.

(2) Prior to license delivery, a new beer and/or wine retailer may, with board authorization, be sold beer and/or wine for the purpose of stocking the premises. No retail sale of beer and/or wine shall take place until the applicant premises have been inspected by the board and the liquor license is delivered.

[Statutory Authority: RCW 66.08.030 and 66.24.600. WSR 10-01-091, § 314-16-160, filed 12/16/09, effective 1/16/10. Statutory Authority: RCW 66.08.030, 66.20.360 through [66.20].380, 66.20.390, 66.24.170, 66.24.206, 66.24.210, 66.24.240, 66.24.244, 66.24.270, 66.24.290, 66.28.170, 66.28.180, and 42.56.270. WSR 07-02-076, § 314-16-160, filed 12/29/06, effective 1/29/07. Statutory Authority: RCW 66.08.030, 66.28.100, 66.28.040, 66.28.090, 66.44.010, 66.44.070, 66.44.200, 66.44.270, 66.44.291, 66.44.292, 66.44.310, 66.44.316, 66.44.318, 66.44.340, 66.44.350, and chapter 66.44 RCW. WSR 01-06-014, § 314-16-160, filed 2/26/01, effective 3/29/01. Statutory Authority: RCW 66.08.030, 15.88.030, 19.126.020, 66.04.010, 66.08.180, 66.16.100, 66.20.010, 66.20.300, 66.20.310, 66.24.150, 66.24.170, 66.24.185, 66.24.200, 66.24.206, 66.24.210, 66.24.230, 66.24.240, 66.24.244, 66.24.250, 66.24.375, 66.24.380, 66.24.395, 66.24.400, 66.24.420, 66.24.425, 66.24.440, 66.24.450, 66.24.455, 66.24.495, 66.24.540, 66.28.010, 66.28.040, 66.28.050, 66.28.170, 66.28.180, 66.28.190, 66.28.200, 66.28.310, 66.44.190, 66.44.310, 66.98.060 and 82.08.150. WSR 98-18-097, § 314-16-160, filed 9/2/98, effective 10/3/98. Statutory Authority: RCW 66.08.030. WSR 88-23-101 (Order 270, Resolution No. 279), § 314-16-160, filed 11/22/88; WSR 87-04-017 (Order 210, Resolution No. 219), § 314-16-160, filed 1/27/87. Statutory Authority: RCW 66.08.030 and 66.98.070. WSR 82-17-022 (Order 109, Resolution No. 118), § 314-16-160, filed 8/9/82; Order 24, § 314-16-160, filed 6/28/73; Order 5, § 314-16-160, filed 8/7/69, effective 9/8/69; Rule 32, filed 6/13/63.]

WAC 314-16-230 Authorization for sale of beer and/or wine in unopened bottles for off-premises consumption under special occasion license. Authorization for the sale of unopened bottles and original packages of beer and/or wine not to be consumed on the premises where sold, as authorized by RCW 66.24.380, must be applied for to the board at the time the society or organization makes application for the special occasion license, and the board's written approval is required before any such sales are made.

[Statutory Authority: RCW 66.8.030 [66.08.030]. WSR 13-07-005, § 314-16-230, filed 3/6/13, effective 4/6/13. Statutory Authority: RCW 66.08.030, 15.88.030, 19.126.020, 66.04.010, 66.08.180, 66.16.100, 66.20.010, 66.20.300, 66.20.310, 66.24.150, 66.24.170, 66.24.185, 66.24.200, 66.24.206, 66.24.210, 66.24.230, 66.24.240, 66.24.244, 66.24.250, 66.24.375, 66.24.380, 66.24.395, 66.24.400, 66.24.420, 66.24.425, 66.24.440, 66.24.450, 66.24.455, 66.24.495, 66.24.540, 66.28.010, 66.28.040, 66.28.050, 66.28.170, 66.28.180, 66.28.190, 66.28.200, 66.28.310, 66.44.190, 66.44.310, 66.98.060 and 82.08.150. WSR 98-18-097, § 314-16-230, filed 9/2/98, effective 10/3/98. Statutory Authority: RCW 66.08.030 and 66.98.070. WSR 81-22-026 (Order 85, Resolution No. 94), § 314-16-230, filed 10/28/81.]

Chapter 314-17 WAC
MANDATORY ALCOHOL SERVER TRAINING
(Formerly chapter 314-14 WAC)

WAC

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DISPOSITION OF SECTIONS FORMERLY CODIFIED IN THIS CHAPTER

314-17-055 Temporary certification as a provider. [Statutory Authority: RCW 66.08.030, 66.12.160, 66.44.010, 66.44.200, 66.44.240, 66.44.270, 66.24.291 [66.44.290], 66.44.310. WSR 04-18-038, § 314-17-055, filed 8/25/04, effective 9/25/04. Statutory Authority: RCW 66.08.030, 66.20.300, 66.20.310, 66.20.320, 66.20.330, 66.20.340, 66.20.350. WSR 01-03-085, § 314-17-055, filed 1/17/01, effective 2/17/01.] Repealed by WSR 10-12-124, filed 6/2/10, effective 7/3/10. Statutory Authority: RCW 66.08.030 and 66.20.330.

WAC 314-17-005 What is the purpose of this chapter? (1) RCW 66.20.300 through 66.20.350 set up a mandatory alcohol server training program. These laws require persons who serve, mix, sell, or supervise the service of, alcohol for on-premises consumption to hold one of two permits as outlined in this chapter.

(2) This chapter explains how a person receives a class 12 or 13 permit, and how a person may become certified to provide alcohol server training.

[Statutory Authority: RCW 66.08.030 and 66.20.330. WSR 10-12-124, § 314-17-005, filed 6/2/10, effective 7/3/10. Statutory Authority: RCW 66.08.030, 66.20.300, 66.20.310, 66.20.320, 66.20.330, 66.20.340, 66.20.350. WSR 01-03-085, § 314-17-005, filed 1/17/01, effective 2/17/01.]

WAC 314-17-010 Definitions. The following definitions clarify the purpose and intent of the laws and regulations governing mandatory alcohol server training and chapter 314-17 WAC. Additional definitions are in RCW 66.04.010 and 66.20.300.

(1) "Alcohol server education program," "mandatory alcohol server training" or "mandatory alcohol server training program" means the set of policies and procedures developed and administered by the board to educate servers and enforce state liquor laws and regulations.

(2) "Permit holder" means a person who holds either a class 12 or 13 permit.

(3) "Provider" means a "training entity" as defined in RCW 66.20.300.

(4) "Retail licensed premises" means any:

(a) Premises licensed to sell or serve alcohol by the glass, by the drink, by samples or in original containers, primarily for consumption on the premises as authorized by RCW 66.24.320, 66.24.330, 66.24.350, 66.24.400, 66.24.425, 66.24.450, 66.24.540, 66.24.570, 66.24.580, 66.24.590 or 66.24.600;

(b) Distillery or craft distillery, licensed pursuant to RCW 66.24.140 or 66.24.145, that is authorized to serve samples of its own production; or

(c) Facility established by a domestic winery for serving or selling wine pursuant to RCW 66.24.170(4).

(5) "Student" means an individual enrolled in a class 12 or 13 training course.

(6) "Trainer" means an individual employed or authorized by a provider to conduct a training course.

(7) "Training course" means a board-certified mandatory alcohol server training class.

(8) "Training program" means a provider's curriculum administered by a provider or a trainer.

[Statutory Authority: RCW 66.08.030 and 66.20.330. WSR 10-12-124, § 314-17-010, filed 6/2/10, effective 7/3/10. Statutory Authority: RCW 66.08.030, 66.20.300, 66.20.310, 66.20.320, 66.20.330, 66.20.340, 66.20.350. WSR 01-03-085, § 314-17-010, filed 1/17/01, effective 2/17/01.]

WAC 314-17-015 What are the two types of alcohol server training permits? There are two types of permits for persons who serve, mix, sell, or who supervise the sale of, alcohol at a retail licensed premises.

Class 12 permit	Class 13 permit
(1) A class 12 permit holder must be at least twenty-one years of age.	(5) A class 13 permit holder must be at least eighteen years of age.

Class 12 permit		Class 13 permit	
(2)	A class 12 permit is required for any person who:	(6)	A class 13 permit is required for any person who:
(a)	Manages a retail licensed premises licensed to sell alcoholic beverages for on-premises consumption;	(a)	Takes orders for alcoholic beverages for on-premises consumption;
(b)	Sells, mixes or draws from a dispensing device alcoholic beverages for on-premises consumption; or	(b)	Delivers alcoholic beverages to customers for on-premises consumption; or
(c)	Supervises a class 13 permit holder.	(c)	Opens or pours beer or wine into a customer's glass at a customer's table.
(3)	A class 12 permit includes all authorities granted under a class 13 permit.	(7)	See RCW 66.20.310 for exceptions for grocery store employees.
(4)	See RCW 66.20.310 for exceptions for grocery store employees.		

(8) Upon a temporary absence of a class 12 permit holder, a class 13 permit holder may perform the functions of a class 12 permit holder until a class 12 permit holder arrives to fulfill those duties provided that a class 13 permit holder:

(a) Is twenty-one years of age or older; and

(b) Functions as a class 12 permit holder for no more than thirty calendar days per year.

(9) See RCW 66.44.310, 66.44.316, 66.44.318, and 66.44.350 for additional information about permissions and restrictions for eighteen to twenty-year-old persons.

[Statutory Authority: RCW 66.08.030 and 66.20.330. WSR 10-12-124, § 314-17-015, filed 6/2/10, effective 7/3/10. Statutory Authority: RCW 66.08.030, 66.20.300, 66.20.310, 66.20.320, 66.20.330, 66.20.340, 66.20.350. WSR 01-03-085, § 314-17-015, filed 1/17/01, effective 2/17/01.]

WAC 314-17-020 How long are class 12 and 13 permits good for? (1) Class 12 and 13 permits are valid for five years. A class 12 or 13 permit expires on the first day of the month, five years following the month a student passes the standardized exam. For example, if a student passes the standardized exam on June 15, 2010, his or her class 12 or 13 permit will expire on July 1, 2015.

(2) A permit holder must retake a class 12 or 13 training course and pass the standardized exam to obtain a subsequent class 12 or 13 permit.

[Statutory Authority: RCW 66.08.030 and 66.20.330. WSR 10-12-124, § 314-17-020, filed 6/2/10, effective 7/3/10. Statutory Authority: RCW 66.08.030, 66.12.160, 66.44.010, 66.44.200, 66.44.240, 66.44.270, 66.24.291 [66.44.290], 66.44.310. WSR 04-18-038, § 314-17-020, filed 8/25/04, effective 9/25/04. Statutory Authority: RCW 66.08.030, 66.20.300, 66.20.310, 66.20.320, 66.20.330, 66.20.340, 66.20.350. WSR 01-03-085, § 314-17-020, filed 1/17/01, effective 2/17/01.]

WAC 314-17-025 Does a permit holder have to carry his or her class 12 or 13 permit? (1) Any time a licensee or an employee performs the duties outlined in WAC 314-17-015 at a retail licensed premises, a licensee or an employee must have:

(a) His or her class 12 or 13 permit on the retail licensed premises; and

(b) One form of identification (see RCW 66.16.040 for acceptable forms of identification).

(2) Both a class 12 or 13 permit and a form of identification must be available for inspection by any representative of the board, peace officer or law enforcement officer.

(3) A person shall be in violation if he or she falsifies a class 12 or 13 permit or keeps or possesses a class 12 or 13 permit contrary to the provisions of this title.

(4) The name and personal identifying characteristics on a class 12 or 13 permit must match with those on a permit holder's form of identification.

[Statutory Authority: RCW 66.08.030 and 66.20.330. WSR 10-12-124, § 314-17-025, filed 6/2/10, effective 7/3/10. Statutory Authority: RCW 66.08.030, 66.20.300, 66.20.310, 66.20.320, 66.20.330, 66.20.340, 66.20.350. WSR 01-03-085, § 314-17-025, filed 1/17/01, effective 2/17/01.]

WAC 314-17-030 Are employers responsible for ensuring that their employees have class 12 or 13 permits? Yes. Any person who holds a license to sell liquor at a retail licensed premises must ensure that any person who engages in the sale or service of liquor for on-premises consumption, or who supervises such activities, has a current and valid class 12 or 13 permit within sixty calendar days of the date of hire. See RCW 66.20.310 for exceptions for grocery stores that have an on-premises liquor license.

(1) A class 12 permit holder must be on a retail licensed premises to supervise the on-premises sale, service, and consumption of liquor.

(2) A class 12 or 13 permit is the sole property of a permit holder.

[Statutory Authority: RCW 66.08.030 and 66.20.330. WSR 10-12-124, § 314-17-030, filed 6/2/10, effective 7/3/10. Statutory Authority: RCW 66.08.030, 66.12.160, 66.44.010, 66.44.200, 66.44.240, 66.44.270, 66.24.291 [66.44.290], 66.44.310. WSR 04-18-038, § 314-17-030, filed 8/25/04, effective 9/25/04. Statutory Authority: RCW 66.08.030, 66.20.300, 66.20.310, 66.20.320, 66.20.330, 66.20.340, 66.20.350. WSR 01-03-085, § 314-17-030, filed 1/17/01, effective 2/17/01.]

WAC 314-17-035 How are lost class 12 and 13 permits replaced? To replace a lost class 12 or 13 permit or to replace a class 12 or 13 permit because of a name change, a permit holder must:

(1) Contact the provider or trainer who issued the class 12 or 13 permit; or

(2) Complete a class 12 or 13 permit replacement form, and submit that form and the appropriate fee to the board. The board will issue a new class 12 or 13 permit, which will have the same expiration date as the original class 12 or 13 permit.

[Statutory Authority: RCW 66.08.030 and 66.20.330. WSR 10-12-124, § 314-17-035, filed 6/2/10, effective 7/3/10. Statutory Authority: RCW 66.08.030, 66.20.300, 66.20.310, 66.20.320, 66.20.330, 66.20.340, 66.20.350. WSR 01-03-085, § 314-17-035, filed 1/17/01, effective 2/17/01.]

WAC 314-17-040 May an eighteen to twenty year-old student who takes and passes a class 12 training course

upgrade to a class 12 permit upon turning twenty-one without retaking the training course? Yes.

(1) An eighteen, nineteen or twenty year-old person may take a class 12 training course and pass the corresponding exam; however, he or she may be issued only a class 13 permit. Upon turning twenty-one years of age, such a person who obtains a class 13 permit after taking and passing a class 12 training course and exam may request that a provider or trainer upgrade his or her class 13 permit to a class 12 permit.

(2) The expiration date of an upgraded class 12 permit shall be the same expiration date as the original class 13 permit.

[Statutory Authority: RCW 66.08.030 and 66.20.330. WSR 10-12-124, § 314-17-040, filed 6/2/10, effective 7/3/10. Statutory Authority: RCW 66.08.030, 66.20.300, 66.20.310, 66.20.320, 66.20.330, 66.20.340, 66.20.350. WSR 01-03-085, § 314-17-040, filed 1/17/01, effective 2/17/01.]

WAC 314-17-045 How do I get a class 12 or 13 permit in Washington if I was trained in another state? (1) If a person completes an alcohol server training course in another state and that training course is also certified in the state of Washington, he or she may receive a class 12 or 13 permit in Washington by completing the provider's board-certified Washington state supplement to the program and passing the standardized exam.

(2) A trainer or provider shall issue a class 12 or 13 permit, which will expire five years from the first day of the month following the date an original training course was taken. For example, if you complete a training course on June 15, 2010, your class 12 or 13 permit will expire on July 1, 2015.

[Statutory Authority: RCW 66.08.030 and 66.20.330. WSR 10-12-124, § 314-17-045, filed 6/2/10, effective 7/3/10. Statutory Authority: RCW 66.08.030, 66.20.300, 66.20.310, 66.20.320, 66.20.330, 66.20.340, 66.20.350. WSR 01-03-085, § 314-17-045, filed 1/17/01, effective 2/17/01.]

WAC 314-17-050 How do I become a provider? (1) **Application process, application materials, and briefing.** To become a provider, you must submit an application to the board and brief board staff on the proposed training program. Application materials shall include:

(a) A completed application form provided by the board;

(b) A copy of the proposed curriculum for the training program (see WAC 314-17-060);

(c) A copy of all audio, video, online, and instructional materials that will be used in the training program;

(d) A copy of all printed or printable (as in the case of an online training course) materials that will be provided to a student;

(e) An explanation of the examination procedures necessary to pass a training course;

(f) An explanation of how a student's identity shall be ensured for an online training course;

(g) A plan describing how a provider shall assess a trainer's work performance;

(h) A trainer's manual; and

(i) Documentation demonstrating a trainer's qualifications and education to teach a training course in the state of Washington.

(2) The board will respond within forty-five calendar days of receipt of the application materials, at which point the board will either:

(a) Issue certification; or

(b) Specify what additions or changes to make to a training program. If additions or changes are not received by the board within thirty calendar days, an application will be withdrawn.

(3) **Temporary certification.** The board may issue temporary certification once an applicant submits an application and briefs board staff.

(a) Temporary certification is valid for up to six months. During this time period, an applicant may adjust a training course outline or method of presentation without prior board approval provided that a training course continues to meet the standards set in WAC 314-17-060.

(b) The board may immediately revoke temporary certification if, in the board's opinion, an applicant fails to comply with a lesson plan as submitted and approved or with any of the requirements of this title.

(c) An applicant who fails to obtain permanent certification during the six-month temporary certification period shall be subject to the discontinuance of business requirements specified in subsection (10) of this section.

(4) The board may consider any information pertaining to a provider's certification in any state, including any certification suspensions or revocations in the past five years. The board, at its discretion and in consideration of public safety, may also consider criminal history, administrative violations, patterns of misconduct, and other applicable occurrences or circumstances when deciding to approve, deny, suspend or revoke a provider's certification.

(5) **Appeal rights.** See WAC 314-17-115.

(6) **Standardized exam.**

(a) Upon certification of a training program, the board will provide a standardized exam to be used for all training courses.

(b) With board approval, a provider or trainer may provide an additional exam or add questions to the standardized exam.

(c) The board or its designee may attend any in-person training course or take any online training course at no charge for evaluation purposes.

(7) A provider must receive approval from the board before making any changes to training course content or method of presentation.

(8) **Qualifying and continuing education.**

(a) A provider must ensure that its trainers are qualified to teach a training course in the state of Washington, and that its trainers are current of new Washington state laws and regulations and science and industry advances pertaining to alcohol service. As part of this effort, a trainer must attend a board-provided conference or a provider-sponsored education workshop, or complete a board-approved professional online or long distance program, before receiving certification and then at least once every five years thereafter.

(b) At a minimum, an education or continuing-education conference, workshop or program shall address current Washington state liquor laws and regulations, mandatory alcohol server training rules and procedures, and legal liabilities for servers.

(c) The board may conduct at least one seminar in each provider-sponsored education workshop performed in the state of Washington.

(d) A provider must obtain documentation that verifies a trainer's completion of an education or continuing-education conference, workshop or program, as well as documentation showing the subjects covered at such conference, workshop or program (see WAC 314-17-085).

(e) A provider must supply a trainer with a trainer's manual. A provider must also revise a manual within thirty calendar days following:

(i) The effective date of a new applicable state law or regulation; or

(ii) Receipt of new or updated information from the board.

(9) **Certificate expiration and recertification.** Each certification is valid for up to five years. A provider may be recertified by reapplying at least forty-five days prior to expiration and in accordance with subsections (1) and (2) of this section.

(10) **Discontinuance of business.** When a provider discontinues its training program, a provider must reconcile class 12 and 13 permit form records to the board's satisfaction and return all unused class 12 and 13 permit forms to the board.

[Statutory Authority: RCW 66.08.030 and 66.20.330. WSR 10-12-124, § 314-17-050, filed 6/2/10, effective 7/3/10. Statutory Authority: RCW 66.08.030, 66.12.160, 66.44.010, 66.44.200, 66.44.240, 66.44.270, 66.24.291 [66.44.290], 66.44.310. WSR 04-18-038, § 314-17-050, filed 8/25/04, effective 9/25/04. Statutory Authority: RCW 66.08.030, 66.20.300, 66.20.310, 66.20.320, 66.20.330, 66.20.340, 66.20.350. WSR 01-03-085, § 314-17-050, filed 1/17/01, effective 2/17/01.]

WAC 314-17-060 What are the course standards, course content, and other requirements for class 12 or 13 training programs? Class 12 and 13 training courses shall have the standards and requirements as stipulated in RCW 66.20.320 and in this section.

(1) **Subjects.** Each class 12 or 13 training course and accompanying workbook shall include:

(a) Those subjects listed in RCW 66.20.320;

(b) Washington state liquor laws and regulations;

(c) Employment of persons under twenty-one years of age;

(d) Legal hours of liquor sale and service;

(e) Prohibited conduct by patrons and employees;

(f) Required signs at retail licensed premises;

(g) Minimum lighting requirements; and

(h) Administrative and criminal sanctions against liquor licensees and permit holders, including permit suspension for delinquent child support payment.

(2) **Administrative materials.** Before beginning a class 12 or 13 training course, each student shall receive:

(a) An enrollment agreement that clearly states the obligations of a trainer and a student, refund policies, and procedures to terminate enrollment;

(b) A statement that says, "If you have questions, comments or complaints about the program, please contact the Liquor Control Board," and includes the appropriate board contact information; and

(c) A notice that students must complete the entire training course before taking the standardized exam.

(3) A provider or trainer is prohibited from stating or implying that the state of Washington, the board or any other state agency endorses or recommends one provider's program over another's program.

(4) **Student evaluation of training course.** A student evaluation for each in-person or online training course is required. A trainer shall provide a separate course evaluation form to each student enrolled in an in-person training course, and a form shall include the board's contact information.

(5) **Exams.** Exams shall be administered following each class 12 or 13 training course.

(a) An exam must demonstrate a student's familiarity with all of the subjects listed in subsection (1) of this section.

(b) A student may not refer to any written, video or online material, or have an in-person or online discussion with another person, during an exam. However, a trainer may allow a student to use an interpreter.

(c) The standardized exam shall have a minimum passing grade of eighty percent unless otherwise stipulated from the board.

(6) **Online training courses.** Effective December 1, 2010, the board allows class 12 and 13 online training courses subject to additional requirements.

(a) A provider must take extra measures to ensure the identity of each student. Extra measures include obtaining the log-in and log-off times (see WAC 314-17-085). Other ways to prevent fraudulent test taking may include, but are not limited to:

(i) Allowing a student to access an examination only once per training course;

(ii) Discontinuing an examination if it stays idle for thirty minutes or more or if another program is accessed; or

(iii) Asking each student personal identifying questions.

(b) A trainer shall be available to answer questions during standard business hours via the internet, telephone or some other method.

(7) **Length of class.** Excluding exam time, a class 12 training course shall be at least three hours in length, and a class 13 training course shall be at least one hour in length.

(8) **Presentation method.** A presentation method may be in-class or online.

(9) **Student workbook.**

(a) A student workbook must contain accurate, current, and complete information.

(b) A provider must update student workbooks and other training course material within thirty calendar days following:

(i) The effective date of a new applicable state law or regulation; or

(ii) Receipt of new or updated information from the board.

(c) The board may establish additional workbook standards or requirements as the board deems necessary.

[Statutory Authority: RCW 66.08.030 and 66.20.330. WSR 10-12-124, § 314-17-060, filed 6/2/10, effective 7/3/10. Statutory Authority: RCW 66.08.030, 66.12.160, 66.44.010, 66.44.200, 66.44.240, 66.44.270, 66.24.291 [66.44.290], 66.44.310. WSR 04-18-038, § 314-17-060, filed 8/25/04, effective 9/25/04. Statutory Authority: RCW 66.08.030, 66.20.300, 66.20.310, 66.20.320, 66.20.330, 66.20.340, 66.20.350. WSR 01-03-085, § 314-17-060, filed 1/17/01, effective 2/17/01.]

WAC 314-17-065 How does a provider receive certification for its trainers? (1) To certify one of its trainers, a provider must complete a form provided by and returned to the board.

(2) A provider will contract only with a trainer who:

(a) Has a minimum of two years of post-secondary education in, or equivalent years of work experience in, one or more of the following fields:

(i) Training;

(ii) Education;

(iii) Law;

(iv) Law enforcement;

(v) Substance abuse rehabilitation; or

(vi) Sale and service of alcoholic beverages;

(b) Holds a class 12 permit;

(c) Meets the criminal history requirements (see WAC 314-17-070); and

(d) Meets the continuing education requirements (see WAC 314-17-050).

(3) The board may consider any information pertaining to a trainer's certification in any state, including any certification suspensions or revocations in the past five years. The board, at its discretion and in consideration of public safety, may also consider criminal history (see WAC 314-17-070), administrative violations, patterns of misconduct, and other applicable occurrences or circumstances when deciding to approve, deny, suspend or revoke a trainer's certification.

(4) The board will respond to a request for trainer certification within thirty calendar days of receipt of a request, and then will either certify an applicant trainer or explain why an applicant trainer fails to meet the qualifications.

(5) A trainer may not begin to teach a training course until a trainer receives his or her certification from the board.

(6) A trainer must teach a provider's training program in its entirety as approved, and may not change the method of presentation or course content without approval from a provider and the board.

(7) It is the responsibility of a provider to keep the board informed of its current trainers. In this effort, a provider must notify the board within seventy-two hours of the termination of a trainer or within seventy-two hours of when a provider is notified that a trainer has terminated his or her employment.

[Statutory Authority: RCW 66.08.030 and 66.20.330. WSR 10-12-124, § 314-17-065, filed 6/2/10, effective 7/3/10. Statutory Authority: RCW 66.08.030, 66.12.160, 66.44.010, 66.44.200, 66.44.240, 66.44.270, 66.24.291 [66.44.290], 66.44.310. WSR 04-18-038, § 314-17-065, filed 8/25/04, effective 9/25/04. Statutory Authority: RCW 66.08.030, 66.20.300, 66.20.310, 66.20.320, 66.20.330, 66.20.340, 66.20.350. WSR 01-03-085, § 314-17-065, filed 1/17/01, effective 2/17/01.]

WAC 314-17-070 What criminal history would prevent a person from receiving certification to be a trainer? (1) The board may investigate the criminal history of a person applying for trainer certification. The board may also use a point system and deny an application if an applicant's criminal history totals eight or more points. Points are set as follows:

Description	Time period during which points will be assigned	Points the board will assign
Felony conviction	10 years	12 points
Currently under federal or state supervision for a felony conviction	n/a	8 points
Gross misdemeanor conviction	3 years	5 points
Driving under the influence conviction	3 years	5 points
Misdemeanor conviction	3 years	4 points
Nondisclosure of any of the above	n/a	4 points

(2) For pending criminal charges that would score eight or more points in the event of conviction, the board shall postpone its approval or denial decision pending disposition of the matter. If the matter remains unresolved after ninety calendar days, the board will withdraw an application.

(3) **Appeal rights.** See WAC 314-17-115.

[Statutory Authority: RCW 66.08.030 and 66.20.330. WSR 10-12-124, § 314-17-070, filed 6/2/10, effective 7/3/10. Statutory Authority: RCW 66.08.030, 66.12.160, 66.44.010, 66.44.200, 66.44.240, 66.44.270, 66.24.291 [66.44.290], 66.44.310. WSR 04-18-038, § 314-17-070, filed 8/25/04, effective 9/25/04. Statutory Authority: RCW 66.08.030, 66.20.300, 66.20.310, 66.20.320, 66.20.330, 66.20.340, 66.20.350. WSR 01-03-085, § 314-17-070, filed 1/17/01, effective 2/17/01.]

WAC 314-17-075 How does a provider get class 12 or 13 permit forms? A provider (or a trainer with authorization from a provider) may purchase class 12 or 13 permit forms by submitting an order form to the board.

[Statutory Authority: RCW 66.08.030 and 66.20.330. WSR 10-12-124, § 314-17-075, filed 6/2/10, effective 7/3/10. Statutory Authority: RCW 66.08.030, 66.20.300, 66.20.310, 66.20.320, 66.20.330, 66.20.340, 66.20.350. WSR 01-03-085, § 314-17-075, filed 1/17/01, effective 2/17/01.]

WAC 314-17-080 What should a provider or a trainer do when a class 12 or 13 permit is issued in error? (1) If a provider or trainer issues a class 12 permit in error to a student under twenty-one years of age, a provider or trainer must initiate corrective actions within one business day of discovery of an error.

(a) Contact a student and notify him or her that a permit was issued in error.

(b) Retrieve the original class 12 permit from a student.

(c) Issue a class 13 permit provided that a student is at least eighteen years of age.

(d) Provide the tear-off portion of a corrected class 13 permit to the board.

If unable to contact a student and issue a corrected permit, a provider or trainer must provide the board with proof that a certified letter was sent to a student who received a class 12 permit in error.

(2) If a provider or trainer issues a class 13 permit in error to a student under eighteen years of age, a provider or

trainer must initiate corrective actions within one business day of discovery of the error.

(a) Contact a student and notify him or her that a class 13 permit was issued in error.

(b) Retrieve a class 13 permit from a student.

If unable to contact a student and retrieve an invalid class 13 permit, a provider or trainer must provide the board with proof that a certified letter was sent to a student informing him or her that a class 13 permit was issued in error and that serving liquor with an unauthorized permit may be cause for a criminal citation.

[Statutory Authority: RCW 66.08.030 and 66.20.330. WSR 10-12-124, § 314-17-080, filed 6/2/10, effective 7/3/10. Statutory Authority: RCW 66.08.030, 66.12.160, 66.44.010, 66.44.200, 66.44.240, 66.44.270, 66.24.291 [66.44.290], 66.44.310. WSR 04-18-038, § 314-17-080, filed 8/25/04, effective 9/25/04. Statutory Authority: RCW 66.08.030, 66.20.300, 66.20.310, 66.20.320, 66.20.330, 66.20.340, 66.20.350. WSR 01-03-085, § 314-17-080, filed 1/17/01, effective 2/17/01.]

WAC 314-17-085 What records must a provider or trainer submit to the board or keep on file? (1) A provider (or a trainer on a provider's behalf) shall submit a list of students receiving class 12 or 13 permits and additional permit information to the board within thirty calendar days of completion of each training course. Information shall be submitted using a format supplied or stipulated by the board.

(2) Within thirty calendar days of a student completing a class 12 or 13 training course and passing the standardized exam, a provider (or a trainer on a provider's behalf) must:

(a) Issue a class 12 or 13 permit to a student; and

(b) Submit a session roster showing each student's name and assigned permit number in a format supplied by the board; and

(c) Submit the tear-off portion of a fully completed class 12 or 13 permit form to the board.

(3) A provider must keep certain records and information at its place of business for a period of five years. Records and information must be available for board inspection, and they shall include:

(a) A session roster showing the student information and assigned permit number of each student who successfully completes an online or in-person training course, and the date and time of completion;

(b) The permit number for any voided permit;

(c) All presentation information for each training course;

(d) Each student's examination answers; and

(e) The log-in and log-off times.

(4) A provider (or a trainer on a provider's behalf) must provide the following information to the board upon request:

(a) Advance notice of any prescheduled training courses;

(b) Copies of program publications, brochures, pamphlets, scripts or any other advertising materials related to a training course; and

(c) Documentation that verifies a trainer's attendance at a continuing education conference or workshop (see WAC 314-17-050).

(5) **Securing records and information.**

All training course records that contain information about a student must be safely secured and maintained.

[Statutory Authority: RCW 66.08.030 and 66.20.330. WSR 10-12-124, § 314-17-085, filed 6/2/10, effective 7/3/10. Statutory Authority: RCW 66.08.030, 66.12.160, 66.44.010, 66.44.200, 66.44.240, 66.44.270, 66.24.291 [66.44.290], 66.44.310. WSR 04-18-038, § 314-17-085, filed 8/25/04, effective 9/25/04. Statutory Authority: RCW 66.08.030, 66.20.300, 66.20.310, 66.20.320, 66.20.330, 66.20.340, 66.20.350. WSR 01-03-085, § 314-17-085, filed 1/17/01, effective 2/17/01.]

WAC 314-17-090 Prohibited conduct by providers and trainers. No provider or trainer shall:

(1) Make any false material statement or misleading statement to induce or prevent board action;

(2) Falsify, alter or tamper with any material or records associated with a training program, training course or class 12 or 13 permit; or

(3) Prohibit or interfere with on-site observation by the board or fail to assist the board in scheduling an observation.

[Statutory Authority: RCW 66.08.030 and 66.20.330. WSR 10-12-124, § 314-17-090, filed 6/2/10, effective 7/3/10. Statutory Authority: RCW 66.08.030, 66.20.300, 66.20.310, 66.20.320, 66.20.330, 66.20.340, 66.20.350. WSR 01-03-085, § 314-17-090, filed 1/17/01, effective 2/17/01.]

WAC 314-17-095 What must a provider do when a trainer violates a liquor law or regulation? (1) The board may hold a provider responsible when any of its trainers, authorized personnel or representatives violate any state liquor law or regulation affecting provider privileges whether through a specific action or through an act of omission.

(2) When a trainer fails to comply with a provision of the alcohol server education program requirements, a provider must:

(a) Correct a violation immediately;

(b) Notify the board of discovery as soon as possible, but no later than five calendar days following discovery; and

(c) Create an action plan to prevent further violations and submit that plan to the board within ten calendar days of discovery.

[Statutory Authority: RCW 66.08.030 and 66.20.330. WSR 10-12-124, § 314-17-095, filed 6/2/10, effective 7/3/10. Statutory Authority: RCW 66.08.030, 66.12.160, 66.44.010, 66.44.200, 66.44.240, 66.44.270, 66.24.291 [66.44.290], 66.44.310. WSR 04-18-038, § 314-17-095, filed 8/25/04, effective 9/25/04. Statutory Authority: RCW 66.08.030, 66.20.300, 66.20.310, 66.20.320, 66.20.330, 66.20.340, 66.20.350. WSR 01-03-085, § 314-17-095, filed 1/17/01, effective 2/17/01.]

WAC 314-17-100 What are the penalties when a provider or a trainer violates a liquor law or regulation? The board may suspend or revoke a provider or trainer certification if a provider or a trainer violates any of the provisions of RCW 66.20.300 through 66.20.350 or of chapter 314-17 WAC or if the board determines that immediate suspension or revocation is in the public interest. The board may also penalize a provider or trainer as follows:

(1) First violation	(a) A provider or a trainer will receive a notice of intended suspension or revocation of the board's certification or authorization. (b) A provider or a trainer will correct any violation as soon as possible, but no later than thirty calendar days following receipt of a notice of intended suspension or revocation. (c) If a violation or problem is rectified, no further action will be taken.

(2) First violation unresolved or second violation occurs within a three-year period	(a) The board will suspend a provider's or a trainer's certification for up to six months. (b) A monetary penalty of up to five hundred dollars may be imposed in lieu of suspension. (c) Prior to lifting a suspension or accepting a monetary penalty, a provider or a trainer must correct the problem(s) that caused a proposed suspension.
(3) Successive violations within a three-year period	The board may cancel or suspend the approval, certification or both, of a provider or a trainer for up to five years.

[Statutory Authority: RCW 66.08.030 and 66.20.330. WSR 10-12-124, § 314-17-100, filed 6/2/10, effective 7/3/10. Statutory Authority: RCW 66.08.030, 66.20.300, 66.20.310, 66.20.320, 66.20.330, 66.20.340, 66.20.350. WSR 01-03-085, § 314-17-100, filed 1/17/01, effective 2/17/01.]

WAC 314-17-105 What are the penalties when a permit holder violates a liquor law or regulation? Penalties assessed for violations within a three-year period will normally be as follows:

Violation Type	1st Violation	2nd Violation	3rd Violation	4th Violation
AFTER HOURS: Selling, serving or allowing alcohol to be consumed between 2 a.m. and 6 a.m. See WAC 314-11-070.	5-day permit suspension OR $100 monetary option	10-day permit suspension OR $200 monetary option	30-day permit suspension OR $400 monetary option	Revocation of permit
DISORDERLY CONDUCT: Disorderly conduct by a licensee or employee, or allowing patrons to engage in disorderly conduct. See WAC 314-11-050.	5-day permit suspension OR $100 monetary option	10-day permit suspension OR $200 monetary option	30-day permit suspension OR $400 monetary option	Revocation of permit
FALSIFICATION OF PERMIT: Falsifying a class 12 or 13 permit or possessing a class 12 or 13 permit contrary to this title. See RCW 66.20.310 and WAC 314-17-025.	5-day permit suspension OR $100 monetary option	10-day permit suspension OR $200 monetary option	30-day permit suspension OR $400 monetary option	Revocation of permit
INTOXICATED PERSONS: Selling or serving to an apparently intoxicated person or allowing such a person to possess or consume alcohol. See RCW 66.44.200 and WAC 314-11-035.	5-day permit suspension OR $100 monetary option	10-day permit suspension OR $200 monetary option	30-day permit suspension OR $400 monetary option	Revocation of permit
LEWD CONDUCT: Allowing lewd conduct on a retail licensed premises. See WAC 314-11-050.	5-day permit suspension OR $100 monetary option	10-day permit suspension OR $200 monetary option	30-day permit suspension OR $400 monetary option	Revocation of permit
MISCELLANEOUS: Violation of other retail liquor laws or regulations.	5-day permit suspension OR $100 monetary option	10-day permit suspension OR $200 monetary option	30-day permit suspension OR $400 monetary option	Revocation of permit
MINORS: Selling or serving alcohol to a person under twenty-one years of age. See RCW 66.44.310 and WAC 314-11-020.	5-day permit suspension OR $200 monetary option	10-day permit suspension OR $400 monetary option	30-day permit suspension OR $500 monetary option	Revocation of permit
MINORS: Allowing a person under twenty-one years of age to frequent a restricted premises or area. See RCW 66.44.310 and WAC 314-11-020.	5-day permit suspension OR $100 monetary option	10-day permit suspension OR $200 monetary option	30-day permit suspension OR $400 monetary option	Revocation of permit
OBSTRUCTING AN OFFICER: Obstructing a law enforcement officer, or failure to allow an inspection. See RCW 66.28.090.	5-day permit suspension OR $100 monetary option	10-day permit suspension OR $200 monetary option	30-day permit suspension OR $400 monetary option	Revocation of permit

Violation Type	1st Violation	2nd Violation	3rd Violation	4th Violation
OTHER VIOLATION OF LAWS: Conviction of liquor laws, driving under the influence or felony.	5-day permit suspension OR $100 monetary option	Revocation of permit		
PERMIT: Failure to produce permit or identification upon request. See RCW 66.20.310 and 66.20.180.	5-day permit suspension OR $100 monetary option	10-day permit suspension OR $200 monetary option	30-day permit suspension OR $400 monetary option	Revocation of permit
PRIVATE CLUBS: Prohibitions involving club liquor and use by the general public. See WAC 314-40-010.	5-day permit suspension OR $100 monetary option	10-day permit suspension OR $200 monetary option	30-day permit suspension OR $400 monetary option	Revocation of permit

[Statutory Authority: RCW 66.08.030 and 66.20.330. WSR 10-12-124, § 314-17-105, filed 6/2/10, effective 7/3/10. Statutory Authority: RCW 66.08.030, 66.12.160, 66.44.010, 66.44.200, 66.44.240, 66.44.270, 66.24.291 [66.44.290], 66.44.310. WSR 04-18-038, § 314-17-105, filed 8/25/04, effective 9/25/04. Statutory Authority: RCW 66.08.030, 66.20.300, 66.20.310, 66.20.320, 66.20.330, 66.20.340, 66.20.350. WSR 01-03-085, § 314-17-105, filed 1/17/01, effective 2/17/01.]

WAC 314-17-110 May the board impose sanctions or penalties other than those described in WAC 314-17-105? (1) Based on aggravating or mitigating circumstances, the board may impose a different penalty or suspension than the standard penalties and suspensions described in WAC 314-17-105.

(2) Examples of aggravating and mitigating circumstances include, but are not limited to:

(a) Examples of aggravating circumstances that may cause a more severe penalty:	(b) Examples of mitigating circumstances that may allow a less severe penalty:
• Patron's identification not checked;	• Permit holder checked one of the acceptable forms of identification (see RCW 66.16.040);
• Noncooperation with or obstruction of any law enforcement officer;	• Cooperation with law enforcement officer(s);
• Permit holder did not call law enforcement officer when requested by a customer or a board employee.	• Permit holder used a licensee certification card (see RCW 66.20.190).

[Statutory Authority: RCW 66.08.030 and 66.20.330. WSR 10-12-124, § 314-17-110, filed 6/2/10, effective 7/3/10. Statutory Authority: RCW 66.08.030, 66.20.300, 66.20.310, 66.20.320, 66.20.330, 66.20.340, 66.20.350. WSR 01-03-085, § 314-17-110, filed 1/17/01, effective 2/17/01.]

WAC 314-17-115 Appeal rights. Any person whose class 12 or 13 permit, trainer certification or provider certification is denied, revoked or suspended may request an adjudicative hearing under the provisions of the Administrative Procedure Act (chapter 34.05 RCW). The board may conduct an adjudicative hearing itself or refer the matter to the office of administrative hearings.

[Statutory Authority: RCW 66.08.030 and 66.20.330. WSR 10-12-124, § 314-17-115, filed 6/2/10, effective 7/3/10. Statutory Authority: RCW 66.08.030, 66.20.300, 66.20.310, 66.20.320, 66.20.330, 66.20.340, 66.20.350. WSR 01-03-085, § 314-17-115, filed 1/17/01, effective 2/17/01.]

Chapter 314-18 WAC
BANQUET PERMITS

WAC

314-18-010	Banquet permits—Authorized.
314-18-020	Definitions.
314-18-030	Applicants—Retail liquor licensees ineligible—Exceptions.
314-18-040	Issuance fee—Restrictions.
314-18-050	Sale of liquor—Not authorized.
314-18-060	Liquor to be served and consumed—Restrictions.
314-18-070	Responsibilities of permittee.
314-18-080	Hours of operation—Inspection of premises.
314-18-090	Misrepresentation on application—Consequences.
314-18-100	Penalties.

WAC 314-18-010 Banquet permits—Authorized. Pursuant to the provisions of RCW 66.20.010, the board may issue banquet permits in accordance with the following rules.

[Statutory Authority: RCW 66.08.030 and 66.98.070. WSR 82-16-100 (Orders 110 and 112, Resolution Nos. 119 and 121), § 314-18-010, filed 8/4/82.]

WAC 314-18-020 Definitions. In this chapter unless the context otherwise requires:

(1) "Permit" means a banquet permit authorized by RCW 66.20.010(3).

(2) "Banquet"

(a) Means any event not open to the general public to be held or conducted at a specific place upon a specific date where the persons in attendance will have some common purpose or interest, either business or social or a combination thereof, for attending;

(b) Does not mean or refer to an event or affair requiring the presence or service of food as might be construed in the more formal sense of that term; nor is there any implication that such events are limited to any specific number of times that they may be held or conducted, if the applicants are qualified and the events are conducted in conformance with this chapter;

(c) Is not intended to refer to or be applicable to an event, affair, or occasion held in the privacy of a person's home.

[Statutory Authority: RCW 66.08.030 and 66.98.070. WSR 82-16-100 (Orders 110 and 112, Resolution Nos. 119 and 121), § 314-18-020, filed 8/4/82.]

WAC 314-18-030 Applicants—Retail liquor licensees ineligible—Exceptions. (1) Any person twenty-one years of age or older, either for himself/herself or in a representative capacity on behalf of a society, organization, or business entity, may apply for a banquet permit which authorizes the service and consumption of liquor at a specific place upon a specific date.

(2) Retail liquor licensees are NOT eligible to apply for banquet permits for events to be held at, in, or upon such licensee's premises: Provided, however, That the licensee's ineligibility will not apply:

(a) When the application is by an established organization of members or auxiliary within a licensed club;

(b) Where grand openings, or special openings following new construction or substantial alterations, or when conventions are to be held on the licensed premises;

(c) Where special occasions such as employee Christmas parties, business anniversaries, etc. are held on the licensed premises;

(d) For functions held at locations other than the licensed premises.

(3) Banquet permits may be issued to qualified applicants for private functions on a chartered bus, chartered boat, chartered plane, or a chartered passenger car on a train.

(4) A banquet permit is not required for:

(a) Spirit, beer and wine sampling conducted in accordance with RCW 66.28.040 as implemented by chapter 314-64 WAC.

(b) Beer or wine provided by a brewery, winery, or distributor as part of a course of instruction for liquor licensees and/or their employees pursuant to RCW 66.28.150.

(5) The board interprets and will apply the relevant portions of the Liquor Act (RCW 66.20.010, 66.04.010(23), 66.04.010(26), 66.24.480, 66.24.481, and 66.44.100), reading them in pari materia, as not requiring a banquet permit to be obtained by an individual for a function when that individual is not acting with a business purpose or on behalf of an organization or business entity, where each of the following conditions are met:

(a) The function to be held by the individual is of a personal, noncommercial type which would normally be held in the individual's private home but for space considerations. Examples being a birthday party, wedding reception, bar mitzvah, etc. In lieu of holding the function in his or her home, the individual has arranged for use of a facility which is to be closed off from the public during the function and which is not on any licensed premises.

(b) The function is hosted by the individual personally. That is, there is no charge in any manner whatsoever for attendance, whether by admission charge, donation, dues, fees, or otherwise, and there is no charge in any manner whatsoever for anything provided at the function (i.e., mixer, setups, ice, food, hors d'oeuvres, etc.).

(c) That there is no business purpose for the function and that no pecuniary gain is intended or realized by the individual from the holding of the function.

(d) That those persons attending the function are the personal invitees of the individual holding it.

[Statutory Authority: RCW 66.08.030, 15.88.030, 19.126.020, 66.04.010, 66.08.180, 66.16.100, 66.20.010, 66.20.300, 66.20.310, 66.24.150, 66.24.170, 66.24.185, 66.24.200, 66.24.206, 66.24.210, 66.24.230, 66.24.240, 66.24.244, 66.24.250, 66.24.375, 66.24.380, 66.24.395, 66.24.400, 66.24.420, 66.24.425, 66.24.440, 66.24.450, 66.24.455, 66.24.495, 66.24.540, 66.28.010, 66.28.040, 66.28.050, 66.28.170, 66.28.180, 66.28.190, 66.28.200, 66.28.310, 66.44.190, 66.44.310, 66.98.060 and 82.08.150. WSR 98-18-097, § 314-18-030, filed 9/2/98, effective 10/3/98. Statutory Authority: RCW 66.08.030. WSR 88-22-026 (Order 268, Resolution No. 277), § 314-18-030, filed 10/25/88. Statutory

Authority: RCW 66.08.030 and 66.98.070. WSR 82-16-100 (Orders 110 and 112, Resolution Nos. 119 and 121), § 314-18-030, filed 8/4/82.]

WAC 314-18-040 Issuance fee—Restrictions. (1) Banquet permits may be issued by the board's stores and agencies to qualified applicants on forms provided by the board; the fee for each banquet permit will be ten dollars.

(2) Except for outdoor areas, banquet permits will only be issued for use at premises that are or can be arranged so that the general public can be excluded therefrom.

(3) Where the application is for a banquet to be held either partially or wholly out-of-doors, the following restrictions will apply:

(a) State parks: State parks are exempt from the law requiring a license or permit to consume liquor in a public place (RCW 66.04.011). Banquet permits shall not be issued for the service and consumption of liquor in state parks.

(b) City and county parks: Applicants will be issued banquet permits only upon presentation of written approval from the appropriate local authority for the banquet applied for.

(c) Commercial parks (privately owned and operated): Store and agency managers may issue banquet permits for use in such commercial parks even though the event is to be held partly or wholly out-of-doors.

(d) All other outdoor areas: Issuance is conditioned upon approval of the area liquor enforcement officer.

(4) Where the application is for a banquet permit for an event to be held on a college or university campus or upon the premises of an elementary or high school, public or private; permits will be issued provided that approval, in writing, by an appropriate official of the college, university, elementary, or high school is furnished with the application.

(5) When the application is for a banquet permit for an event to be held in or at a state armory used for military purposes, permits will be issued provided that approval, in writing, by the adjutant general or his/her designee is furnished by the applicant to the board and to the chief of police of the incorporated city or town in which the armory is located or to the county sheriff if the armory is located outside the boundaries of incorporated cities or towns.

(6) Banquet permits will not be issued for use at premises that have a license issued by the board that is or will be suspended on the date of the scheduled banquet.

(7) The event for which the banquet permit application is made cannot be open to the public through general admission ticket sales.

(8) The event for which the banquet permit application is made cannot be open to the public or advertised to the public.

(9) Approval of the area enforcement officer is required for banquet permits intended for use in the cocktail lounge facilities or tap rooms of hotels, restaurants, and clubs, unless the entire premises under the control of the licensee is devoted to the banquet, and then only if all licensee liquor is removed from view and securely isolated.

(10) Where the application is for a banquet permit for an event to be held on a vessel under the jurisdiction of the Washington state ferry system; permits will be issued provided that approval, in writing, by an appropriate official of the Washington state ferry system is furnished with the application.

[Statutory Authority: RCW 66.08.030, 15.88.030, 19.126.020, 66.04.010, 66.08.180, 66.16.100, 66.20.010, 66.20.300, 66.20.310, 66.24.150, 66.24.170, 66.24.185, 66.24.200, 66.24.206, 66.24.210, 66.24.230, 66.24.240, 66.24.244, 66.24.250, 66.24.375, 66.24.380, 66.24.395, 66.24.400, 66.24.420, 66.24.425, 66.24.440, 66.24.450, 66.24.455, 66.24.495, 66.24.540, 66.28.010, 66.28.040, 66.28.050, 66.28.170, 66.28.180, 66.28.190, 66.28.200, 66.28.310, 66.44.190, 66.44.310, 66.98.060 and 82.08.150. WSR 98-18-097, § 314-18-040, filed 9/2/98, effective 10/3/98. Statutory Authority: RCW 66.08.030. WSR 86-09-075 (Order 183, Resolution No. 192), § 314-18-040, filed 4/22/86. Statutory Authority: RCW 66.08.030 and 66.98.070. WSR 85-06-021 (Order 153, Resolution No. 162), § 314-18-040, filed 2/27/85; WSR 84-09-025 (Order 140, Resolution No. 149), § 314-18-040, filed 4/11/84; WSR 82-16-100 (Orders 110 and 112, Resolution Nos. 119 and 121), § 314-18-040, filed 8/4/82.]

WAC 314-18-050 Sale of liquor—Not authorized. (1) A banquet permit does not authorize the sale of liquor for cash, credit, check, scrip, or in any manner whatever: Provided, however, That the cost of the occasion to those attending, if any, may be included in the total price for the banquet, in which event, to assure participants receiving an equal share, an allocation based upon a distribution of tickets exchangeable for drinks as a part of the package price is permissible.

(2) The prohibition provided for in subsection (1) of this section extends to the sale of mixers, ice, or "set-ups" if the prices charged therefor are unrelated to the cost of such goods and/or services and approximate what the charge for a drink containing liquor would be.

(3) Liquor cannot be raffled off or offered as a prize at an event for which a banquet permit has been issued. (Such disposition would constitute a "sale" of liquor as that term is defined in RCW 66.04.010(27).)

[Statutory Authority: RCW 66.08.030 and 66.98.070. WSR 82-16-100 (Orders 110 and 112, Resolution Nos. 119 and 121), § 314-18-050, filed 8/4/82.]

WAC 314-18-060 Liquor to be served and consumed—Restrictions. (1) Spirit, beer and wine restaurant discount liquor cannot be sold, served, or consumed under or by authority of a banquet permit. Liquor to be served will be purchased from an authorized retail source only.

(2) Licensees and/or commercial caterers shall not pay for or advance the moneys to purchase the liquor for the event for which the banquet permit application has been made, but they may transport the prepaid liquor purchased by the applicant to whom the banquet permit was issued.

(3) No banquet permittee may buy or accept delivery of liquor from any manufacturer, brewer, distributor, distiller, winery, importer, or agent thereof.

(4) It is not necessary for a banquet permit applicant to purchase liquor at the time the permit is issued, and individuals attending a banquet function may bring their own liquor.

[Statutory Authority: RCW 66.08.030, 15.88.030, 19.126.020, 66.04.010, 66.08.180, 66.16.100, 66.20.010, 66.20.300, 66.20.310, 66.24.150, 66.24.170, 66.24.185, 66.24.200, 66.24.206, 66.24.210, 66.24.230, 66.24.240, 66.24.244, 66.24.250, 66.24.375, 66.24.380, 66.24.395, 66.24.400, 66.24.420, 66.24.425, 66.24.440, 66.24.450, 66.24.455, 66.24.495, 66.24.540, 66.28.010, 66.28.040, 66.28.050, 66.28.170, 66.28.180, 66.28.190, 66.28.200, 66.28.310, 66.44.190, 66.44.310, 66.98.060 and 82.08.150. WSR 98-18-097, § 314-18-060, filed 9/2/98, effective 10/3/98. Statutory Authority: RCW 66.08.030. WSR 92-01-080, § 314-18-060, filed 12/16/91, effective 1/16/92. Statutory Authority: RCW 66.08.030 and 66.98.070. WSR 82-16-100 (Orders 110 and 112, Resolution Nos. 119 and 121), § 314-18-060, filed 8/4/82.]

WAC 314-18-070 Responsibilities of permittee. (1) No banquet permittee, or employee thereof, may knowingly permit the service to or consumption of liquor by any person under the age of twenty-one years who is present at the event for which a banquet permit has been issued.

(2) No banquet permittee, or employee thereof, may knowingly permit any disorderly conduct to occur or serve or permit the consumption of liquor by an apparently intoxicated person(s) on the premises for which a banquet permit has been issued.

(3) The banquet permit shall be posted in a conspicuous place at the premises for which the permit was issued during all times the permit is in use.

[Statutory Authority: RCW 66.08.030 and 66.98.070. WSR 82-16-100 (Orders 110 and 112, Resolution Nos. 119 and 121), § 314-18-070, filed 8/4/82.]

WAC 314-18-080 Hours of operation—Inspection of premises. (1) Banquet permits may be issued for any day and may authorize the service and consumption of liquor between the hours of 6:00 a.m. and 2:00 a.m. of the following day.

(2) Any premises where a banquet permit has been granted shall be open to inspection by any peace officer or enforcement officer of the board to the same extent as provided for in WAC 314-12-120.

[Statutory Authority: RCW 66.08.030. WSR 95-04-044, § 314-18-080, filed 1/25/95, effective 2/25/95. Statutory Authority: RCW 66.08.030 and 66.98.070. WSR 82-16-100 (Orders 110 and 112, Resolution Nos. 119 and 121), § 314-18-080, filed 8/4/82.]

WAC 314-18-090 Misrepresentation on application—Consequences. A misrepresentation of fact found to have been made by an applicant for any banquet permit shall be deemed a lack of good faith and shall constitute good and sufficient cause for the disapproval of such application or for the cancellation of said permit if the event for which the permit has been granted has not yet been held, or for the immediate termination of the permit if the event for which the permit has been issued is in progress.

[Statutory Authority: RCW 66.08.030 and 66.98.070. WSR 82-16-100 (Orders 110 and 112, Resolution Nos. 119 and 121), § 314-18-090, filed 8/4/82.]

WAC 314-18-100 Penalties. In addition to the general penalties provided by law (RCW 66.44.175 and 66.44.180) for the violation of board regulations, the board, upon a finding that a banquet permittee has violated any of the regulations of this chapter, may, in its discretion:

(1) Cancel or terminate the permit.

(2) Hold the applicant and/or the premises for which the banquet permit was issued ineligible for future banquet permits.

[Statutory Authority: RCW 66.08.030 and 66.98.070. WSR 82-16-100 (Orders 110 and 112, Resolution Nos. 119 and 121), § 314-18-100, filed 8/4/82.]

Chapter 314-19 WAC

BEER AND WINE TAX REPORTING AND PAYMENT REQUIREMENTS

WAC

314-19-005 What is the purpose of chapter 314-19 WAC?
314-19-010 Definitions.
314-19-015 What are the reporting and tax payment requirements?
314-19-020 What if a licensee doesn't report or pay the taxes due, or reports or pays late?
314-19-025 Are there any exceptions to the tax payments required in this chapter if the licensee primarily exports beer and/or wine?
314-19-030 How can a licensee claim a credit or refund for tax-paid product?
314-19-035 Reduced tax rate for beer.

DISPOSITION OF SECTIONS FORMERLY CODIFIED IN THIS CHAPTER

314-19-040 Is there any exception to the additional tax imposed on fortified wine? [Statutory Authority: RCW 66.08.030, 66.24.206, 66.24.210, 66.24.230, 66.24.290, 66.24.305, 66.24.215, and 66.24.580. WSR 04-24-007, § 314-19-040, filed 11/19/04, effective 12/20/04. Statutory Authority: RCW 66.08.030, 66.24.210, 66.24.230, 66.24.290, 66.24.305, 66.24.270, 66.24.215, 66.24.580, 66.24.206. WSR 00-17-065, § 314-19-040, filed 8/9/00, effective 9/9/00.] Repealed by WSR 12-24-091, filed 12/5/12, effective 1/5/13. Statutory Authority: RCW 66.08.030.

WAC 314-19-005 What is the purpose of chapter 314-19 WAC? The purpose of this chapter is to outline the beer and wine tax reporting and payment requirements for the following liquor licensees and permit holders:

Type of liquor license	Laws that outline tax rates and requirements
(a) Washington beer and/or wine distributor	RCW 66.24.210, 66.24.230, 66.24.290, 66.24.305
(b) Washington beer and/or wine importer	RCW 66.24.230
(c) Domestic brewery	RCW 66.24.270, 66.24.290, 66.24.305
(d) Domestic brewery/brand owner	RCW 66.24.270, 66.24.290, 66.24.305
(e) Microbrewery	RCW 66.24.270, 66.24.290, 66.24.305
(f) Domestic winery	RCW 66.24.210, 66.24.215, 66.24.230, 66.24.305
(g) Public house	RCW 66.24.290, 66.24.580
(h) Beer certificate of approval holder	RCW 66.24.270
(i) Wine certificate of approval holder	RCW 66.24.210, 66.24.206
(j) Authorized representative certificate of approval holder - U.S. produced beer	RCW 66.04.010, 66.24.261, 66.24.270
(k) Authorized representative certificate of approval holder - Foreign produced beer	RCW 66.04.010, 66.24.261, 66.24.270
(l) Authorized representative certificate of approval holder - U.S. produced wine	RCW 66.04.010, 66.24.203, 66.24.206
(m) Authorized representative certificate of approval holder - Foreign produced wine	RCW 66.04.010, 66.24.203, 66.24.206
(n) Retailer with an endorsement to receive direct shipments of beer and wine from breweries, microbreweries, or wineries	RCW 66.24.210, 66.24.290, 66.24.270
(o) Wine shipper permit holder	RCW 66.24.210

[Statutory Authority: RCW 66.08.030. WSR 12-24-091, § 314-19-005, filed 12/5/12, effective 1/5/13. Statutory Authority: RCW 66.08.030, 66.20.360 through [66.20].380, 66.20.390, 66.24.170, 66.24.206, 66.24.210, 66.24.240, 66.24.244, 66.24.270, 66.24.290, 66.28.170, 66.28.180, and 42.56.270. WSR 07-02-076, § 314-19-005, filed 12/29/06, effective 1/29/07. Statutory Authority: RCW 66.08.030, 66.24.206, 66.24.210, 66.24.230, 66.24.290, 66.24.305, 66.24.215, and 66.24.580. WSR 04-24-007, § 314-19-005, filed 11/19/04, effective 12/20/04. Statutory Authority: RCW 66.08.030, 66.24.210, 66.24.230, 66.24.290, 66.24.305, 66.24.270, 66.24.215, 66.24.580, 66.24.206. WSR 00-17-065, § 314-19-005, filed 8/9/00, effective 9/9/00.]

WAC 314-19-010 Definitions. The following definitions are to clarify the purpose and intent of the rules and laws governing beer and wine tax reporting and payment requirements. Additional definitions can be found in RCW 66.04.010.

(1) "Late." A tax payment is considered late if it is unpaid on the due date and remains unpaid until the twentieth day of the following month.

(2) "Missing." A tax report and tax payment, if taxes are owed, is considered missing if it is more than thirty days past the required filing date.

(3) "Samples" are beer and/or wine furnished to retail licensees for the purpose of negotiating a sale, per RCW 66.28.040. See WAC 314-64-080 for sampling procedures.

(4) "Tastings" are beer and/or wine products provided to customers at no charge for the purpose of promoting a sale, that are consumed on the premises of a domestic brewery, microbrewery, winery, or additional winery locations as

authorized by RCW 66.24.170(4). Tastings are not taxable under this title.

[Statutory Authority: RCW 66.08.030. WSR 12-24-091, § 314-19-010, filed 12/5/12, effective 1/5/13. Statutory Authority: RCW 66.08.030, 66.20.360 through [66.20].380, 66.20.390, 66.24.170, 66.24.206, 66.24.210, 66.24.240, 66.24.244, 66.24.270, 66.24.290, 66.28.170, 66.28.180, and 42.56.270. WSR 07-02-076, § 314-19-010, filed 12/29/06, effective 1/29/07. Statutory Authority: RCW 66.08.030, 66.24.210, 66.24.230, 66.24.290, 66.24.305, 66.24.270, 66.24.215, 66.24.580, 66.24.206. WSR 00-17-065, § 314-19-010, filed 8/9/00, effective 9/9/00.]

WAC 314-19-015 What are the reporting and tax payment requirements? (1) The required beer and/or wine tax reports must be:

(a) On a form furnished by the board or in a format approved by the board;

(b) Filed every month, including months with no activity or taxes due. A winery or wine certificate of approval holder with total taxable sales of wine in Washington state of six thousand gallons or less during the calendar year may elect to file annually;

(c) Submitted, with the tax due, to the board on or before the twentieth day of the month following the end of the reporting period, for the previous reporting period (for example, a monthly report listing transactions for the month of January is due by February 20; an annual report listing transactions for 2012 is due by January 20, 2013). When the twentieth day of the month falls on a Saturday, Sunday, or a legal holiday, the filing must be postmarked by the U.S. Postal Service no later than the next postal business day; and

(d) Filed separately for each type of liquor license or permit held.

(2) Wineries, wine certificate of approval holders and wine shippers who elect to file annually:

(a) Must have taxable sales of wine in Washington state of six thousand gallons or less during the calendar year;

(b) New licensees who anticipate taxable sales of wine in Washington state of less than six thousand gallons must request by notifying the liquor control board within thirty days of license issuance that they would like to file annually;

(c) May only change reporting frequency (to annual filing or off annual filing) at the beginning of a calendar year, effective month must be January;

(d) Are required to file multiple reports in the event of a midyear tax rate change (for example, the tax rate changes June 1st; annual filer will submit two reports. One for January 1st through May 31st and one for June 1st through December 31st. Both are due January 20th following the end of the reporting period);

(e) Must submit a report the month following the month the license has been discontinued or business closed (for example, annual filer closes business/discontinued license May 25th, report is due June 20th).

Type of Licensee	Tax Payment Requirements
(3) Washington beer and/or wine distributor	(a) Distributors must pay taxes on all beer and/or wine received during the preceding calendar month, including samples received at no charge (see WAC 314-64-080 and 314-64-090 for more information). The total tax due (per barrel for beer and per liter for wine) is to be paid by the first distributor to receive the product and must be included with the monthly report. (b) Distributors do not pay taxes on beer and/or wine received from another in-state licensed distributor who has already paid the Washington state tax on the product. (c) Distributors may claim a tax refund or credit, provided that they have paid the taxes prior to claiming the credit, for the following (see WAC 314-19-030 for information on claiming a tax refund or credit): (i) Shipments exported directly to a point outside the state of Washington, including sales to interstate common carriers; (ii) Sales to any military reservation in Washington state; (iii) Product that is deemed unsalable due to freight damage, product quality, or other causes that occurred prior to receipt by the distributor, subject to the following conditions: (A) The unsalable product must be destroyed within the state of Washington (per RCW 66.24.305); (B) The licensee must notify their local liquor enforcement officer in advance for destruction of more than fifty cases of wine or two hundred cases of beer; (C) The licensee must report the destroyed product on the next required monthly report; (D) The licensee must keep records showing the reason for the destruction and an inventory of products destroyed. These records must be kept on the licensed premises and available for inspection by board employees for a period of two years; and (E) The licensee must provide documentation from the freight company with the report if they are claiming a credit due to freight damage.
(4) Washington beer and/or wine importers	Importers must pay taxes on samples received during the preceding calendar month, as follows: (a) If the samples are used by the importer within the state of Washington, the importer must pay the tax. (b) If samples are provided to a distributor, the distributor must pay the tax.
(5) Domestic breweries, microbreweries, and domestic wineries	(a) Domestic breweries, microbreweries, and domestic wineries must list production for the current reporting period only. The brewery that the domestic brewery/brand owner contracts with is required to include any products they produce for the brand owner in their production count. (b) Domestic breweries, microbreweries, and domestic wineries must pay taxes on beer and/or wine that is:

Type of Licensee	Tax Payment Requirements
	(i) Sold at retail on the licensed premises (or shipped to additional winery locations as authorized by RCW 66.24.170(4)), including retail sales to out-of-state residents; (ii) Sold to retail licensees; (iii) Furnished as samples to retail licensees as authorized by RCW 66.28.040, WAC 314-64-080, and 314-64-090 (does not include samples provided to distributors); (iv) Provided as donations to qualifying 501 (c)(3) or (6) nonprofit organizations per RCW 66.28.040 or to the Washington wine commission per RCW 66.12.180 and 66.24.210; (v) Received via an interplant transfer if used as outlined in above subsections (i), (ii), (iii), or (iv); (vi) Sold at farmers markets as authorized by RCW 66.24.170(5), 66.24.240(4) and/or 66.24.244(5); or (vii) Wine that has been shipped out-of-state as nontax paid export and returned to Washington state if used as outlined in (b)(i), (ii), (iii), (iv), or (vi) of this subsection. (c) Domestic breweries, microbreweries, and domestic wineries do not pay tax on beer and/or wine that is: (i) Sold to or furnished as samples to distributors; (ii) Shipped out of a particular location for an interplant transfer; (iii) Exported directly to a point outside the state of Washington, including sales to interstate common carriers; (iv) Sold to any military reservation in Washington state; or (v) Provided as a tasting on the brewery or winery premises or at additional winery locations at no charge, as authorized by RCW 66.24.170(4). See WAC 314-19-010(3) for the definition of "tastings."
(6) Domestic brewery—Brand owners	(a) Domestic brewery-brand owners must file a report showing the quantity of all beer sold or delivered to each licensed beer distributor, or beer exported directly to a point outside the state of Washington, during the preceding reporting period. (b) Domestic brewery-brand owners are not responsible for the tax on beer that is contract produced.
(7) Out-of-state beer and/or wine certificate of approval holders	(a) Certificate of approval holders must file a report showing the quantity of all beer and/or wine sold or delivered to each licensed beer or wine distributor or importer, including samples, during the preceding reporting period. (b) Tax is due from the certificate of approval holder: (i) On samples shipped to licensed agents, and (ii) On donations to the Washington wine commission per RCW 66.12.180 and 66.24.210 or to 501 (c)(3) nonprofit charitable associations within Washington state per RCW 66.28.040.
(8) Out-of-state United States beer and/or wine certificate of approval holders with a direct shipping to Washington retailer endorsement	(a) Certificate of approval holders with this endorsement must file an addendum report showing the quantity of beer and/or wine sold or delivered to each licensed retailer, including samples, during the preceding reporting period. (b) Tax is due from the certificate of approval holder on beer and/or wine sold or delivered to retail licensees and on sales to nonprofit charitable associations.
(9) Out-of-state United States wine certificate of approval holders with a direct shipping to consumers endorsement	(a) A certificate of approval holder with this endorsement must report the total quantity of wine sold to consumers in Washington state during the preceding reporting period. (b) Tax is due from the certificate of approval holder on wine sold or delivered to Washington state residents.
(10) Authorized representative certificate of approval holders-U.S. and/or foreign produced beer or wine	(a) Authorized representative certificate of approval holders must file a report showing the quantity of all beer and/or wine sold or delivered to each licensed beer or wine distributor or importer, including samples. They must list the brewery and/or winery that they represent and that had shipments into Washington state during the preceding month. (b) Tax is due from the authorized representative beer and/or wine certificate of approval holders only on samples shipped to licensed agents, directly to retailers per WAC 314-64-080 and 314-64-090, donations to the Washington wine commission per RCW 66.12.180 and 66.24.210, or to 501 (c)(3) nonprofit charitable associations within Washington state per RCW 66.28.040.
(11) Public house licensees	Public house licensees must pay taxes on all sales of their own product during the preceding calendar month.
(12) Retailer with an endorsement allowing receipt of direct shipment of beer or wine from a United States brewery, microbrewery, or winery	A Washington retailer who receives shipments directly from a United States brewery, microbrewery, or winery, outside Washington, must file a report showing the quantity of beer and wine received by direct shipment from each licensed beer or wine producer, including samples, during the preceding month.
(13) Wine shipper permit holder	(a) An out-of-state winery must file a report showing the total quantity of wine sold or delivered to consumers during the preceding reporting period. (b) Pay the tax due for sales of wine to Washington state residents.

[Statutory Authority: RCW 66.08.030. WSR 12-24-091, § 314-19-015, filed 12/5/12, effective 1/5/13. Statutory Authority: RCW 66.08.030 and 66.28.320. WSR 10-01-090, § 314-19-015, filed 12/16/09, effective 1/16/10. Statutory Authority: RCW 66.08.030, 66.20.360 through [66.20].380, 66.20.390, 66.24.170, 66.24.206, 66.24.210, 66.24.240, 66.24.244, 66.24.270, 66.24.290, 66.28.170, 66.28.180, and 42.56.270. WSR 07-02-076, § 314-19-015, filed 12/29/06, effective 1/29/07. Statutory Authority: RCW 66.08.030, 66.24.206, 66.24.210, 66.24.230, 66.24.290, 66.24.305, 66.24.215, and 66.24.580. WSR 04-24-007, § 314-19-015, filed 11/19/04, effective 12/20/04. Statutory Authority: RCW 66.08.030, 66.24.210, 66.24.230, 66.24.290, 66.24.305, 66.24.270, 66.24.215, 66.24.580, 66.24.206. WSR 00-17-065, § 314-19-015, filed 8/9/00, effective 9/9/00.]

WAC 314-19-020 What if a licensee doesn't report or pay the taxes due, or reports or pays late? The board may take the following actions against a licensee or permit holder in order to collect any of the reports or taxes due that are outlined in this title.

(1) **Suspension or revocation of license**	(a) Failure to make a report and/or pay the taxes in the manner and dates outlined in this chapter will be sufficient ground for the board to suspend or revoke a liquor license, wine shipper permit, or certificate of approval (per RCW 66.08.150, 66.24.010, 66.24.120, 66.24.206, 66.20.370, 66.20.380, and 66.24.270). (b) The suspension will remain in effect until all missing reports and/or taxes have been filed with the board (see WAC 314-19-010(1) for the definition of "missing").
(2) **Penalties**	A penalty of two percent per month will be assessed on any tax payments postmarked after the twentieth day of the month following the reporting period of the transactions (per the reporting requirements outlined in WAC 314-19-015, RCW 66.24.290, and 66.24.210). When the twentieth day of the month falls on a Saturday, Sunday, or a legal holiday, the filing must be postmarked by the U.S. Postal Service no later than the next postal business day. Absent a postmark, the date received at the Washington state liquor control board, or designee, will be used to determine if penalties are to be assessed.
(3) **Surety bond requirements**	(a) **What is a surety bond?** A "surety bond" is a type of insurance policy that guarantees beer and/or wine tax payment to the state. The surety bond must be: (i) Executed by a surety company authorized to do business in the state of Washington; (ii) On a form and in an amount acceptable to the board; (iii) Payable to the Washington state liquor control board; and (iv) Conditioned that the licensee will pay the taxes and penalties levied by RCW 66.24.210 and/or 66.24.290. (v) As an option to obtaining a surety bond, a licensee may create an assignment of savings account for the board in the same amount as required for a surety bond. Requests for this option must be submitted in writing to the board's financial division. (b) **When will the board require a surety bond?** The board may require a surety bond from a Washington beer and/or wine distributor, domestic microbrewery, domestic brewery, public house, domestic winery, wine shipper, or a beer or wine certificate of approval holder that has a direct shipment privilege. If any of the following occur, the board may require the licensee or permit holder to obtain a surety bond or assignment of savings account, within twenty-one days after an administrative violation notice is issued: (i) A report or tax payment is missing, as defined in WAC 314-19-010, for two or more consecutive months; or (ii) A report or tax payment is missing, as defined in WAC 314-19-010, two or more times within a two year period. (c) **What will happen if the licensee does not acquire the surety bond or savings account?** Failure to meet the bonding or savings account requirements outlined in subsections (a) and (b) of this rule may result in immediate suspension of license privileges until all missing reports are filed and late taxes have been paid and the surety bond is acquired or the savings account is established. (d) **In what amount and for how long will the board require a surety bond?** The amount of a surety bond or savings account required by this chapter must be either $3,000, or the total of the highest four months' worth of tax liability for the previous twelve month period, whichever is greater. (i) The licensee or permit holder must maintain the bond for at least two years. After the two year period the licensee or permit holder may request an exemption as outlined in subsection (f) of this rule. (ii) Surety bond and savings account amounts may be reviewed annually and compared to the last twelve months' tax liability of the licensee. If the current bond or savings account amount does not meet the requirements outlined in this section, the licensee or permit holder will be required to increase the bond amount or amount on deposit within twenty-one days. (e) **What action will the board take when a licensee or permit holder holds a surety bond and does not pay taxes due or pays late?** If a licensee or permit holder holds a surety bond or savings account, the board will immediately start the process to collect overdue taxes from the surety company or assigned account. If the exact amount of taxes due is not known due to missing reports, the board will estimate the taxes due based on previous production, receipts, and/or sales. (f) **Can a licensee or permit holder request an exemption to the surety bond or savings account requirement?** A licensee or permit holder may make a written request to the board's financial division for an exemption from the surety bond or assignment of savings account requirements. The board will grant an exemption once the following criteria are met: (i) The licensee or permit holder has filed reports and paid applicable taxes to the board for at least two years immediately prior to the exemption request; and (ii) There have been no late or missing reports or tax payments during the previous two years. (iii) In order to remain exempt from the surety bond or assignment of savings account requirements, the licensee must continue to meet the tax reporting and payment requirements outlined in this title (outlined in WAC 314-19-015, RCW 66.24.206, 66.24.210, 66.24.270, 66.24.290, and 66.24.580).

[Statutory Authority: RCW 66.08.030. WSR 14-12-101, § 314-19-020, filed 6/4/14, effective 7/5/14; WSR 12-24-091, § 314-19-020, filed 12/5/12, effective 1/5/13. Statutory Authority: RCW 66.08.030, 66.20.360 through [66.20].380, 66.20.390, 66.24.170, 66.24.206, 66.24.210, 66.24.240, 66.24.244, 66.24.270, 66.24.290, 66.28.170, 66.28.180, and 42.56.270. WSR 07-02-076, § 314-19-020, filed 12/29/06, effective 1/29/07. Statutory Authority: RCW 66.08.030, 66.24.206, 66.24.210, 66.24.230, 66.24.290, 66.24.305, 66.24.215, and 66.24.580. WSR 04-24-007, § 314-19-020, filed

11/19/04, effective 12/20/04. Statutory Authority: RCW 66.08.030, 66.24.210, 66.24.230, 66.24.290, 66.24.305, 66.24.270, 66.24.215, 66.24.580, 66.24.206. WSR 00-17-065, § 314-19-020, filed 8/9/00, effective 9/9/00.]

WAC 314-19-025 Are there any exceptions to the tax payments required in this chapter if the licensee primarily exports beer and/or wine? Washington beer and/or wine distributors or importers who purchase fifty percent or more of their beer or wine for the purpose of exporting the product from the state may request that the board make simplified arrangements for reporting and payment of tax.

(1) The licensee must make a written request for such arrangement to the board's financial division.

(2) The board will make such arrangements on an individual basis for the purpose of simplifying the reporting and accounting requirements.

[Statutory Authority: RCW 66.08.030, 66.24.210, 66.24.230, 66.24.290, 66.24.305, 66.24.270, 66.24.215, 66.24.580, 66.24.206. WSR 00-17-065, § 314-19-025, filed 8/9/00, effective 9/9/00.]

WAC 314-19-030 How can a licensee claim a credit or refund for tax-paid product?

(1) How to claim a tax credit	(2) How to claim a tax refund
(a) On the next report filed, show the amount of product for which a tax credit is due in the appropriate section(s) of the form. (b) Deduct the total credit from the total amount due on this report.	(a) A licensee may request a refund, rather than claim a credit, if the amount of the credit is too large to be used in a reasonable amount of time or the licensee has discontinued business. (b) On the next report filed, the licensee must show the amount of product for which a tax refund is due in the appropriate section(s) of the form. (c) The board will not issue a refund check until the total amount to be refunded accumulates to at least ten dollars.

[Statutory Authority: RCW 66.08.030. WSR 12-24-091, § 314-19-030, filed 12/5/12, effective 1/5/13. Statutory Authority: RCW 66.08.030, 66.24.206, 66.24.210, 66.24.230, 66.24.290, 66.24.305, 66.24.215, and 66.24.580. WSR 04-24-007, § 314-19-030, filed 11/19/04, effective 12/20/04. Statutory Authority: RCW 66.08.030, 66.24.210, 66.24.230, 66.24.290, 66.24.305, 66.24.270, 66.24.215, 66.24.580, 66.24.206. WSR 00-17-065, § 314-19-030, filed 8/9/00, effective 9/9/00.]

WAC 314-19-035 Reduced tax rate for beer. (1) The additional beer taxes imposed under RCW 66.24.290 (3)(a) do not apply to the first sixty thousand barrels of beer sold by a brewery in Washington each fiscal year, if:

(a) The beer is produced in the United States; and

(b) The producing brewery or domestic brewery-brand owner meets the qualifications of 26 U.S.C. Sec. 5051 (a)(2).

(2) In order to qualify for this exemption, the Washington brewer or the out-of-state beer certificate of approval holder must provide the board a copy of an Alcohol and Tobacco Tax and Trade Bureau (TTB) acknowledged copy of their filing "Notice of Brewer to Pay Reduced Rate of Tax" for the calendar year as required under 27 C.F.R. Sec. 25.167; a variance for any year that waives annual submission to the TTB; or the Brewer's Notice which waives annual submission to the TTB.

(3) The tax exemption will not apply until the first day of the second month following the month the notice is received (for example, if the notice is received by the Board on January 10, the tax exemption will start on March 1).

(4) How will the distributor know what tax rate to pay for each brewery's products?

(a) The board will provide distributors a list of breweries that qualify for the reduced tax rate; and

(b) The qualifying brewery is responsible to inform the distributors when product sold to distributors exceeds the first sixty thousand barrels exempted from the additional tax.

(c) Once a qualifying brewery's sales to distributors exceeds sixty thousand barrels, the distributors must begin paying the full tax rate on their next monthly tax report.

(5) Per RCW 66.24.290, authorized representative certificate of approval holders do not qualify for the reduced rate in Washington state.

(6) The tax exemption will not apply to strong beer. Strong beer must be paid at the higher rate even when the brewery meets the qualifications for the reduced rate. Strong beer is any malt beverage that contains more than eight percent alcohol by weight.

[Statutory Authority: RCW 66.08.030 and 66.28.320. WSR 10-01-090, § 314-19-035, filed 12/16/09, effective 1/16/10. Statutory Authority: RCW 66.08.030, 66.24.206, 66.24.210, 66.24.230, 66.24.290, 66.24.305, 66.24.215, and 66.24.580. WSR 04-24-007, § 314-19-035, filed 11/19/04, effective 12/20/04. Statutory Authority: RCW 66.08.030, 66.24.210, 66.24.230, 66.24.290, 66.24.305, 66.24.270, 66.24.215, 66.24.580, 66.24.206. WSR 00-17-065, § 314-19-035, filed 8/9/00, effective 9/9/00.]

Chapter 314-20 WAC
BEER—BREWERS, HOLDERS, IMPORTERS, ETC.

WAC

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DISPOSITION OF SECTIONS FORMERLY CODIFIED IN THIS CHAPTER

314-20-010 Brewers—Importers—Distributors—Monthly reports—Tax refund procedures. [Statutory Authority: RCW 66.08.030, 15.88.030, 19.126.020, 66.04.010, 66.08.180, 66.16.100, 66.20.010, 66.20.300, 66.20.310, 66.24.150, 66.24.170, 66.24.185, 66.24.200, 66.24.206, 66.24.210, 66.24.230, 66.24.240, 66.24.244, 66.24.250, 66.24.375, 66.24.380, 66.24.395, 66.24.400, 66.24.420, 66.24.425, 66.24.440, 66.24.450, 66.24.455, 66.24.495, 66.24.540, 66.28.010, 66.28.040, 66.28.050, 66.28.170, 66.28.180, 66.28.190, 66.28.200, 66.28.310, 66.44.190, 66.44.310, 66.98.060 and 82.08.150. WSR 98-18-097, § 314-20-010, filed 9/2/98, effective 10/3/98. Statutory Authority: RCW 66.08.030. WSR 84-09-023 (Order 138, Resolution No. 147), § 314-20-010, filed 4/11/84. Statutory Authority: RCW 66.08.030 and 66.98.070. WSR 81-22-026 (Order 85, Resolution No. 94), § 314-20-010, filed 10/28/81; Order 40, § 314-20-010, filed 8/21/75; Order 8, § 314-20-010, filed 11/24/69, effective 12/26/69; Rule 37, filed 6/13/63.] Repealed by WSR 00-17-065, filed 8/9/00, effective 9/9/00. Statutory Authority: RCW 66.08.030, 66.24.210, 66.24.230, 66.24.290, 66.24.305, 66.24.270, 66.24.215, 66.24.580, 66.24.206.

314-20-040 Beer in transit stamps—General. [Order 42, § 314-20-040, filed 11/6/75; Rule 40, filed 6/13/63.] Repealed by WSR 00-17-065, filed 8/9/00, effective 9/9/00. Statutory Authority: RCW 66.08.030, 66.24.210, 66.24.230, 66.24.290, 66.24.305, 66.24.270, 66.24.215, 66.24.580, 66.24.206.

314-20-060 Beer distributors and importers—Reports—Stamps. [Statutory Authority: RCW 66.08.030, 15.88.030, 19.126.020, 66.04.010, 66.08.180, 66.16.100, 66.20.010, 66.20.300, 66.20.310, 66.24.150, 66.24.170, 66.24.185, 66.24.200, 66.24.206, 66.24.210, 66.24.230, 66.24.240, 66.24.244, 66.24.250, 66.24.375, 66.24.380, 66.24.395, 66.24.400, 66.24.420, 66.24.425, 66.24.440, 66.24.450, 66.24.455, 66.24.495, 66.24.540, 66.28.010, 66.28.040, 66.28.050, 66.28.170, 66.28.180, 66.28.190, 66.28.200, 66.28.310, 66.44.190, 66.44.310, 66.98.060 and 82.08.150. WSR 98-18-097, § 314-20-060, filed 9/2/98, effective 10/3/98; Rule 45, filed 6/13/63.] Repealed by WSR 00-17-065, filed 8/9/00, effective 9/9/00. Statutory Authority: RCW 66.08.030, 66.24.210, 66.24.230, 66.24.290, 66.24.305, 66.24.270, 66.24.215, 66.24.580, 66.24.206.

314-20-105 Beer suppliers' price filings, contracts and memoranda. [Statutory Authority: RCW 66.08.030, 15.88.030, 19.126.020, 66.04.010, 66.08.180, 66.16.100, 66.20.010, 66.20.300, 66.20.310, 66.24.150, 66.24.170, 66.24.185, 66.24.200, 66.24.206, 66.24.210, 66.24.230, 66.24.240, 66.24.244, 66.24.250, 66.24.375, 66.24.380, 66.24.395, 66.24.400, 66.24.420, 66.24.425, 66.24.440, 66.24.450, 66.24.455, 66.24.495, 66.24.540, 66.28.010, 66.28.040, 66.28.050, 66.28.170, 66.28.180, 66.28.190, 66.28.200, 66.28.310, 66.44.190, 66.44.310, 66.98.060 and 82.08.150. WSR 98-18-097, § 314-20-105, filed 9/2/98, effective 10/3/98. Statutory Authority: RCW 66.08.030. WSR 87-01-014 (Order 207, Resolution No. 216), § 314-20-105, filed 12/9/86. Statutory Authority: RCW 66.08.030, 66.98.070 and 66.08.060. WSR 86-16-060 (Order 173, Resolution No. 182), § 314-20-105, filed 8/5/86. Statutory Authority: RCW 66.08.030. WSR 85-21-020 (Order 166, Resolution No. 175), § 314-20-105, filed 10/9/85, effective 11/25/85; WSR 82-16-069 (Order 91, Resolution No. 100), § 314-20-105, filed 8/2/82; Order 54, § 314-20-105, Rule 49.5, filed 5/24/77, effective 7/1/77; Order 51, § 314-20-105, filed 12/15/76; Order 15, § 314-20-105, filed 5/13/71, effective 7/1/71.] Repealed by WSR 04-19-155, filed 9/22/04, effective 10/23/04. Statutory Authority: RCW 66.08.030, 66.28.180, and 2004 c 160.

314-20-150 Beer importers—Responsibility—Taxes—Stamps. [Rule 54, filed 6/13/63.] Repealed by WSR 00-17-065, filed 8/9/00, effective 9/9/00. Statutory Authority: RCW 66.08.030, 66.24.210, 66.24.230, 66.24.290, 66.24.305, 66.24.270, 66.24.215, 66.24.580, 66.24.206.

314-20-180 Partial beer tax exemption. [Statutory Authority: RCW 66.08.030. WSR 93-15-023, § 314-20-180, filed 7/12/93, effective 8/12/93.] Repealed by WSR 00-17-065, filed 8/9/00, effective 9/9/00. Statutory Authority: RCW 66.08.030, 66.24.210, 66.24.230, 66.24.290, 66.24.305, 66.24.270, 66.24.215, 66.24.580, 66.24.206.

WAC 314-20-001 Definitions. Per RCW 66.04.010(2), an "authorized representative" means a person who:

(1) Is required to have a federal basic permit issued by the alcohol and tobacco tax and trade bureau;

(2) Has its business located in the United States outside of the state of Washington;

(3) Acquires ownership of beer that is produced anywhere outside Washington by a brewery who does not distribute those brands for transportation into and resale in the state of Washington;

(4) Is appointed by the brewery referenced in subsection (3) of this section as its authorized representative for marketing and selling its products within the United States or within Washington state, in accordance with a written agreement between the authorized representative and the brewery.

[Statutory Authority: RCW 66.08.030 and 66.28.320. WSR 10-01-090, § 314-20-001, filed 12/16/09, effective 1/16/10. Statutory Authority: RCW 66.08.030, 2004 c 160. WSR 04-24-097, § 314-20-001, filed 12/1/04, effective 1/1/05.]

WAC 314-20-005 Application procedure—Beer distributor's or importer's license. Any person making application for a new beer distributor's or importer's license shall submit to the board, as a condition precedent to the board considering the application, such information as may be requested by the board and shall additionally submit a written commitment from a manufacturer or importer that the product the applicant proposes to distribute is available to him should a license be issued.

The decision as to whether a license will or will not be issued in a particular case is, pursuant to RCW 66.24.010, a matter of board discretion. The submission of the above information and written commitment shall not be construed as creating a vested right in the applicant to have a license issued.

[Statutory Authority: RCW 66.08.030, 15.88.030, 19.126.020, 66.04.010, 66.08.180, 66.16.100, 66.20.010, 66.20.300, 66.20.310, 66.24.150, 66.24.170, 66.24.185, 66.24.200, 66.24.206, 66.24.210, 66.24.230, 66.24.240, 66.24.244, 66.24.250, 66.24.375, 66.24.380, 66.24.395, 66.24.400, 66.24.420, 66.24.425, 66.24.440, 66.24.450, 66.24.455, 66.24.495, 66.24.540, 66.28.010, 66.28.040, 66.28.050, 66.28.170, 66.28.180, 66.28.190, 66.28.200, 66.28.310, 66.44.190, 66.44.310, 66.98.060 and 82.08.150. WSR 98-18-097, § 314-20-005, filed 9/2/98, effective 10/3/98; Order 55, § 314-20-005, filed 5/31/77.]

WAC 314-20-015 Licensed brewers—Retail sales of beer on brewery premises—Beer served without charge on premises—Spirit, beer and wine restaurant operation. (1) A licensed brewer holding a proper retail license, pursuant to chapter 66.24 RCW, may sell beer of its own production at retail on the brewery premises[.]

(2) In selling beer at retail, as provided in subsection (1) of this regulation, a brewer shall conduct such operation in conformity with the statutes and regulations applicable to holders of such beer retailers' licenses. The brewer shall maintain records of such retail operation separate from other brewery records.

(3) Upon written authorization of the board, pursuant to RCW 66.04.011, beer of a licensed brewer's own production may be consumed in designated parks and picnic areas adjacent to and held by the same ownership as the licensed brewer.

(4) A licensed brewer or a lessee of a licensed brewer operating a spirit, beer and wine restaurant, licensed pursuant to RCW 66.28.010, shall conduct such operation in conformity with the statutes and regulations which apply to holders of such spirit, beer and wine restaurant licenses.

(5) A brewer may serve its own beer and beer not of its own production without charge on the brewery premises, as authorized by RCW 66.28.040.

(6) No retail license or fee is required for the holder of a brewer's license to serve beer without charge on the brewery premises as set forth in subsection (5) of this regulation. Before exercising this privilege, however, such brewer shall obtain approval of the proposed service area and facilities from the board. Such brewer shall maintain a separate record of all beer so served.

(7) A brewery is required to obtain the appropriate retail license to sell beer, wine, or spirits on the brewery premises that is not of its own production.

[Statutory Authority: RCW 66.08.030, 66.24.210, 66.24.230, 66.24.290, 66.24.305, 66.24.270, 66.24.215, 66.24.580, 66.24.206. WSR 00-17-065, § 314-20-015, filed 8/9/00, effective 9/9/00. Statutory Authority: RCW 66.08.030, 15.88.030, 19.126.020, 66.04.010, 66.08.180, 66.16.100, 66.20.010, 66.20.300, 66.20.310, 66.24.150, 66.24.170, 66.24.185, 66.24.200, 66.24.206, 66.24.210, 66.24.230, 66.24.240, 66.24.244, 66.24.250, 66.24.375, 66.24.380, 66.24.395, 66.24.400, 66.24.420, 66.24.425, 66.24.440, 66.24.450, 66.24.455, 66.24.495, 66.24.540, 66.28.010, 66.28.040, 66.28.050, 66.28.170, 66.28.180, 66.28.190, 66.28.200, 66.28.310, 66.44.190, 66.44.310, 66.98.060 and 82.08.150. WSR 98-18-097, § 314-20-015, filed 9/2/98, effective 10/3/98. Statutory Authority: RCW 66.08.030. WSR 93-11-028, § 314-20-015, filed 5/10/93, effective 6/10/93. Statutory Authority: RCW 66.08.030 and 66.98.070. WSR 81-22-026 (Order 85, Resolution No. 94), § 314-20-015, filed 10/28/81; Order 61, § 314-20-015, filed 12/6/77; Order 40, § 314-20-015, Rule 37.5, filed 8/21/75.]

Reviser's note: RCW 34.05.395 requires the use of underlining and deletion marks to indicate amendments to existing rules, and deems ineffectual changes not filed by the agency in this manner. The bracketed material in the above section does not appear to conform to the statutory requirement.

WAC 314-20-017 Brewery and microbrewery retail liquor licenses—Selling kegs and containers. A brewery or microbrewery licensed under RCW 66.24.240 or 66.24.244 may hold up to two retail liquor licenses to operate a spirits, beer, and wine restaurant, a tavern, a beer and/or wine restaurant, or any combination thereof.

(1) Definitions.

(a) For the purposes of this section, a "container" is a sealable receptacle, such as a carton, jug, growler or keg, and has no minimum holding requirement. A "keg" is a container holding four gallons or more.

(b) "Malt liquor" is a specific type of "beer" (as explained in RCW 66.04.010).

(c) "Beer" includes malt liquor and flavored malt beverages (as explained in RCW 66.04.010).

(2) Applicable to retail licenses for spirits, beer, and wine restaurants, beer and/or wine restaurants, and taverns.

(a) A retail license is separate from a brewery or microbrewery license.

(b) All containers of beer must be sold from the retail premises.

(c) A retail location may be located on or off the brewery or microbrewery premises.

(3) A brewery-operated or microbrewery-operated spirits, beer, and wine restaurant may sell containers of beer of its own production and cider as defined in RCW 66.24.210(6) without a kegs-to-go endorsement provided that it sells this beer and cider for off-premises consumption only. A brewery or microbrewery may supply the container or use a container brought to the premises by a customer, and filled at the tap at the time of sale.

(4) A brewery-operated or microbrewery-operated spirits, beer, and wine restaurant may sell kegs of malt liquor of another brewery's or microbrewery's production provided that it:

(a) Sells this malt liquor for off-premises consumption only;

(b) Has a kegs-to-go endorsement; and

(c) Supplies the kegs.

(5) A tavern or beer and/or wine restaurant that is operated by a brewery or microbrewery and has an off-premises beer and wine retailer's privilege may:

(a) Sell kegs of malt liquor for either on-premises or off-premises consumption. The malt liquor may be of the

licensee's own production or the production of another brewery or microbrewery;

(b) Sell containers of beer for either on-premises or off-premises consumption provided that the customer supplies the container. The beer may be of the licensee's own production or the production of another brewery or microbrewery; and

(c) Sell containers of cider as defined in RCW 66.24.210(6) for off-premises consumption in a sanitary container brought to the premises by the customer or provided by the licensee and filled at the tap at the time of sale, provided the licensee has a license to sell wine. The licensee must comply with federal regulations.

[Statutory Authority: RCW 66.08.030, 66.24.371, and 66.24.590. WSR 15-01-001, § 314-20-017, filed 12/3/14, effective 1/3/15. Statutory Authority: RCW 66.08.030, 66.24.240, 66.24.244. WSR 09-02-009, § 314-20-017, filed 12/29/08, effective 1/29/09.]

WAC 314-20-018 Farmer's market beer and wine sampling. (1) To conduct beer and wine tasting at a farmer's market, the following criteria must be met:

(a) The farmer's market must be authorized to allow breweries, microbreweries, and wineries to sell bottled wine and/or beer at retail.

(b) The farmer's market must hold an endorsement to allow sampling of beer and wine or both.

(c) A brewery, microbrewery, or winery offering samples at a farmer's market must have an endorsement from the board to sell beer or wine of its own production at a farmer's market (see RCW 66.24.170, 66.24.240, and 66.24.244).

(d) No more than three breweries, microbreweries, or wineries combined may offer samples at a qualifying farmer's market per day.

(e) A brewery, microbrewery, or winery may advertise that it offers samples only at its designated booth, stall, or anywhere within the farmer's market.

(2) Samples of beer or wine may be offered only under the following conditions:

(a) Each sample must be two ounces or less, up to a total of two ounces per customer per day.

(b) Beer and wine samples are to be conducted at the booth or stall of the brewery, microbrewery, or winery with a barrier at least forty-two inches in height, where licensees are able to observe and control customers participating in the samples. The barriers may be moveable (an example would be ropes and stanchions).

(c) A brewery, microbrewery, or winery must have food available for customers to consume while sampling beer or wine, or must be adjacent to a vendor offering prepared food.

(d) Customers must remain in the designated sampling area while sampling beer or wine.

(e) Brewery, microbrewery, or winery employees serving beer or wine during sampling events must hold a valid MAST permit.

(f) The brewery, microbrewery, or winery is required to send a list of scheduled beer and wine samplings to the liquor control board at MIWenforce@liq.wa.gov at the beginning of each month. The date for each beer and wine sampling must be included.

(g) The farmer's market is also required to send a list of scheduled beer and wine samplings to the liquor control board at MIWenforce@liq.wa.gov at the beginning of each month. The date for each beer and wine sampling, and the names of the brewery, microbrewery, and winery providing the samples must be included.

(h) The farmer's market is required to provide a sketch to the licensing division of the area where beer and wine samples will be conducted and to any adjacent food booths.

[Statutory Authority: RCW 66.24.170, 66.24.240, and 66.24.244. WSR 14-03-084, § 314-20-018, filed 1/16/14, effective 2/16/14.]

WAC 314-20-020 Beer labels—Certificate of label approval required—Labels to be submitted. (1) Every bottle or can containing beer intended for sale in the state of Washington shall bear a label in compliance with RCW 66.28.120. No beer shall be imported or sold within the state of Washington until the licensed brewery, or certificate of approval holder, shall have obtained from the board a certificate of label approval for such beer.

(2) A request for certificate of label approval must be submitted on a form prescribed by the board which is one copy of the federal certificate of label approval for such beer, issued by the Bureau of Alcohol, Tobacco, and Firearms, U.S. Treasury Department.

(3) Any change in label or product which requires reissuance of federal certificate of label approval, must also be submitted to the board, in accordance with the foregoing provisions of this regulation.

(4) No label shall be used that is misleading.

(5) Every producer, importer, distributor of beer, or beer certificate of approval holder shall, upon request of the board or its authorized representative, furnish without cost to the board, samples of any brand of beer upon its premises for the purpose of analysis in order to determine whether the beer conforms to commercial standards.

(6) No label will be approved which is designed to be especially appealing to children or other persons under legal age to consume. Persons who appear to be under legal age to consume may be depicted on a label when, in the discretion of the board, the depiction is dignified and does not promote illegal consumption of liquor.

(7) For strong beer, the label must contain the beer's alcohol content, stated in terms of percentage of alcohol by volume. Per RCW 66.04.010, strong beer means any malt beverage that contains more than eight percent of alcohol by weight, which is approximately ten percent of alcohol by volume.

[Statutory Authority: RCW 66.08.030, 2004 c 160. WSR 04-24-097, § 314-20-020, filed 12/1/04, effective 1/1/05. Statutory Authority: RCW 66.08.030, 66.04.010, 66.28.120. WSR 04-06-007, § 314-20-020, filed 2/20/04, effective 3/22/04. Statutory Authority: RCW 66.08.030, 15.88.030, 19.126.020, 66.04.010, 66.08.180, 66.16.100, 66.20.010, 66.20.300, 66.20.310, 66.24.150, 66.24.170, 66.24.185, 66.24.200, 66.24.206, 66.24.210, 66.24.230, 66.24.240, 66.24.244, 66.24.250, 66.24.375, 66.24.380, 66.24.395, 66.24.400, 66.24.420, 66.24.425, 66.24.440, 66.24.450, 66.24.455, 66.24.495, 66.24.540, 66.28.010, 66.28.040, 66.28.050, 66.28.170, 66.28.180, 66.28.190, 66.28.200, 66.28.310, 66.44.190, 66.44.310, 66.98.060 and 82.08.150. WSR 98-18-097, § 314-20-020, filed 9/2/98, effective 10/3/98. Statutory Authority: RCW 66.08.030. WSR 92-03-109, § 314-20-020, filed 1/21/92, effective 2/21/92. Statutory Authority: RCW 66.08.030 and 66.28.160. WSR 91-08-022, § 314-20-020, filed 3/27/91, effective 4/27/91. Statutory Authority: RCW 66.08.030. WSR 90-18-008, § 314-20-020, filed 8/24/90, effective 1/1/92; WSR 89-02-015 (Order 275, Resolution No. 284), § 314-20-020, filed 12/28/88. Statutory Authority: RCW 66.08.030 and 66.28.120. WSR 88-14-131 (Order 255,

Resolution No. 264), § 314-20-020, filed 7/6/88. Statutory Authority: RCW 66.28.120 and 66.28.110. WSR 87-21-036 (Order 230, Resolution No. 239), § 314-20-020, filed 10/13/87. Statutory Authority: RCW 66.28.120. WSR 87-08-015 (Order 215, Resolution No. 224), § 314-20-020, filed 3/24/87; Order 42, § 314-20-020, filed 11/6/75; Order 19, § 314-20-020, filed 8/10/72; Rule 38, filed 6/13/63.]

WAC 314-20-022 Alcohol energy drinks. (1) No product that combines beer, strong beer, or malt liquor with caffeine, guarana, taurine, or other similar substances, which are commonly referred to as "alcohol energy drinks," may be imported into the state, produced, manufactured, distributed, sold or offered for sale by a licensed retailer in the state of Washington.

(2) Beer, strong beer, or malt liquor with coffee, chocolate, or other natural substances used for flavorings, are not prohibited under this section.

[Statutory Authority: RCW 66.08.010, 66.08.030, 66.24.261, and 66.28.120. WSR 11-06-070, § 314-20-022, filed 3/2/11, effective 4/2/11.]

WAC 314-20-030 Packages—Classification. (1) No manufacturer, distributor, importer, or beer certificate of approval holder shall sell beer for use in the state of Washington in any packages or containers differing in sizes and case quantities from the manufacturer's original packages.

(2) Net contents—Packaged beer. Net contents shall be stated in a clearly legible manner on the label in fluid ounces or as follows:

(a) If less than 1 pint, in fluid ounces, or fractions of a pint;

(b) If 1 pint, 1 quart, or 1 gallon, the net contents shall be so stated;

(c) If more than 1 pint, but less than 1 quart, the net contents shall be stated in fractions of a quart, or in pints and fluid ounces;

(d) If more than 1 quart, but less than 1 gallon, the net contents shall be stated in fractions of a gallon, or in quarts, pints, and fluid ounces;

(e) If more than 1 gallon, the net contents shall be stated in gallons and fractions thereof;

(f) The net contents need not be stated on any label if the net contents are displayed by having the same blown, branded, or burned in the container in letters or figures in such manner as to be plainly legible under ordinary circumstances and such statement is not obscured in any manner in whole or in part.

(3) Container size limitations—Barrels. Whole barrels (31 gallons), 1/2 barrels (15.5 gallons), 1/4 barrels (7.75 gallons), 1/6 barrels (5.16 gallons). Packaged beer—Maximum capacity for individual containers, 170 fluid ounces: Provided, however, That the board may, in its discretion, authorize other container and/or barrel size packages which have been approved for marketing within the United States by the Bureau of Alcohol, Tobacco, and Firearms, United States Treasury Department: Provided further, That the board may, in its discretion, authorize a brewery with spirit, beer and wine restaurant privileges to dispense beer directly from conditioning tanks/vessels to the spirit, beer and wine restaurant area provided the taxes have been paid prior to dispensing.

(4) The net contents of individual containers shall be stated on the outside of any multicontainer package where the individual container label or bottle size is not visible to the consumer at the point of purchase.

(5) Gift packages. A beer importer or beer wholesaler may prepare and sell "gift packages" consisting of containers of beer differing in case quantities from the manufacturer's original case capacities provided the tax has been paid on the previously purchased beer in accordance with RCW 66.24.290 and provided written approval by the board has been obtained.

[Statutory Authority: RCW 66.08.030, 2004 c 160. WSR 04-24-097, § 314-20-030, filed 12/1/04, effective 1/1/05. Statutory Authority: RCW 66.08.030, 15.88.030, 19.126.020, 66.04.010, 66.08.180, 66.16.100, 66.20.010, 66.20.300, 66.20.310, 66.24.150, 66.24.170, 66.24.185, 66.24.200, 66.24.206, 66.24.210, 66.24.230, 66.24.240, 66.24.244, 66.24.250, 66.24.375, 66.24.380, 66.24.395, 66.24.400, 66.24.420, 66.24.425, 66.24.440, 66.24.450, 66.24.455, 66.24.495, 66.24.540, 66.28.010, 66.28.040, 66.28.050, 66.28.170, 66.28.180, 66.28.190, 66.28.200, 66.28.310, 66.44.190, 66.44.310, 66.98.060 and 82.08.150. WSR 98-18-097, § 314-20-030, filed 9/2/98, effective 10/3/98. Statutory Authority: RCW 66.08.030. WSR 93-10-070, § 314-20-030, filed 5/3/93, effective 6/3/93; WSR 89-06-013 (Order 278, Resolution No. 287), § 314-20-030, filed 2/23/89; WSR 89-01-005 (Order 272, Resolution No. 281), § 314-20-030, filed 12/8/88. Statutory Authority: RCW 66.08.050. WSR 86-22-050 (Order 201, Resolution No. 210), § 314-20-030, filed 11/4/86. Statutory Authority: RCW 66.08.030. WSR 86-01-026 (Order 171, Resolution No. 180), § 314-20-030, filed 12/11/85. Statutory Authority: RCW 66.08.030 and 66.98.070. WSR 83-24-061 (Order 135, Resolution No. 144), § 314-20-030, filed 12/7/83, effective 2/15/84; WSR 78-02-031 (Order 64), § 314-20-030, Rule 39, filed 1/17/78; Order 49, § 314-20-030, filed 8/26/76, effective 9/26/76; Order 19, § 314-20-030, filed 8/10/72; Rule 39, filed 6/13/63.]

WAC 314-20-050 Beer distributors—Importers—Brewers—Records—Preservation. (1) Breweries, microbreweries, beer certificate of approval holders, and beer distributors must keep beer accounts separate and independent from other accounts and maintain proper records in a form approved by the board, showing all transactions in beer.

(2) Breweries, microbreweries, beer distributors, and beer importers must in case of beer exported or beer sold, transferred or shipped to another distributor, preserve all bills of lading or other evidence of shipment for a period of three years after such exportation, and must in the case of sales to retailers preserve all sales slips and keep the same on file in the office of the wholesaler for at least three years after each sale.

(3) Each brewery, beer distributor, and beer importer may maintain microfilm records containing reproductions (including microfiche) of any record, document, or report if first approved by the board. Request for approval shall be directed to the financial division of the Washington state liquor control board and must include the following information:

(a) Records proposed to be reproduced.

(b) Reproduction process.

(c) Manner of preserving the reproduction.

(d) Facilities provided for examining or viewing such reproduction.

If the request is approved, the licensee shall provide for the examining, viewing, and reproduction of such records the same as if they were the original records.

(4) If the brewery, beer distributor, or beer importer keeps records within an automated data processing (ADP) system, the system must include a method for producing legible records that will provide the same information required

of that type of record within this section. The ADP system is acceptable if it complies with the following guidelines:

(a) Provides an audit trail so that details (invoices and vouchers) underlying the summary accounting data may be identified and made available upon request.

(b) Provides the opportunity to trace any transaction back to the original source or forward to a final total. If print-outs of transactions are not made when they are processed, the system must have the ability to reconstruct these transactions.

(c) Has available a full description of the ADP portion of the accounting system. This should show the applications being performed, the procedures employed in each application, and the controls used to ensure accurate and reliable processing.

(5) The provisions contained in subsections (3) and (4) of this section do not eliminate the requirement to maintain source documents, but they do allow the source documents to be maintained in some other location.

[Statutory Authority: RCW 66.08.030 and 66.28.320. WSR 10-01-090, § 314-20-050, filed 12/16/09, effective 1/16/10. Statutory Authority: RCW 66.08.030, 66.20.360 through [66.20].380, 66.20.390, 66.24.170, 66.24.206, 66.24.210, 66.24.240, 66.24.244, 66.24.270, 66.24.290, 66.28.170, 66.28.180, and 42.56.270. WSR 07-02-076, § 314-20-050, filed 12/29/06, effective 1/29/07. Statutory Authority: RCW 66.08.030, 15.88.030, 19.126.020, 66.04.010, 66.08.180, 66.16.100, 66.20.010, 66.20.300, 66.20.310, 66.24.150, 66.24.170, 66.24.185, 66.24.200, 66.24.206, 66.24.210, 66.24.230, 66.24.240, 66.24.244, 66.24.250, 66.24.375, 66.24.380, 66.24.395, 66.24.400, 66.24.420, 66.24.425, 66.24.440, 66.24.450, 66.24.455, 66.24.495, 66.24.540, 66.28.010, 66.28.040, 66.28.050, 66.28.170, 66.28.180, 66.28.190, 66.28.200, 66.28.310, 66.44.190, 66.44.310, 66.98.060 and 82.08.150. WSR 98-18-097, § 314-20-050, filed 9/2/98, effective 10/3/98. Statutory Authority: RCW 66.08.030. WSR 87-20-013 (Order 229, Resolution No. 238), § 314-20-050, filed 9/29/87; Rule 44, filed 6/13/63.]

WAC 314-20-055 Microbrewery warehouse license. (1) A licensee holding a microbrewery license under RCW 66.24.244 and acting as a distributor of its own products may apply for a microbrewery warehouse license. There is no fee for this license.

(2) A microbrewery warehouse is a premises located off the microbrewery premises that is used for the storage and distribution of the microbrewery's own products.

(3) There may be no retail sales from the microbrewery warehouse.

[Statutory Authority: RCW 66.08.030, 66.24.240, 66.24.244. WSR 09-02-009, § 314-20-055, filed 12/29/08, effective 1/29/09.]

WAC 314-20-070 Claims for defective keg beer—Replacement of overaged packaged beer—Procedures. (1) In the case of beer in barrels, beer which is not in salable condition due to defective beer or a defective container may be returned by the retailer to the beer distributor for a claim adjustment. The brewer or supplier may make a credit adjustment to the distributor for such claim;

(2) No claim adjustment shall be accepted unless the same shall be made by the retailer within ten days after the defect in the beer or container has been discovered;

(3) All documentary evidence relating to the claim shall be preserved by the retailer, beer distributor, brewer, or beer importer for two years after the date of the claim;

(4) No brewer, beer distributor, or beer importer shall allow, or shall any retailer make claim for adjustment for defective keg beer unless the container or the beer is in fact defective;

(5) In the case of package beer, other than beer in barrels, beer which is not in a salable condition or overaged may be returned by a retail licensee to the beer distributor from whom the beer was purchased, provided it is immediately replaced by the beer distributor with an identical quantity, type and brand of beer: Provided further,That if the brand of beer is not presently in the beer distributor's stock and is not available to the distributor in the immediate future, a cash refund may be made to the retail licensee;

(6) Beer different from that ordered which has been delivered in error to a retail licensee may be returned to a beer distributor and either replaced with that beer which was ordered or a cash refund may be made: Provided, That the error in delivery shall be discovered and corrected within eight days of the date the delivery was made;

(7) Distributors who replace unsalable or overaged packaged beer as provided in subsection (5) of this section, shall maintain complete records of all such transactions, with such records to be readily available for inspection by authorized employees of the board;

(8) Salable or unsalable beer may be returned by a retail licensee or by a governmental agency who has seized the same to the beer distributor selling such beer in the event the retailer goes out of the business of selling beer at retail, and in such case a cash refund may be made upon return of the beer, provided that consent of the board is first had and obtained;

(9) Except as provided herein, no other adjustment, by way of cash refund or otherwise, shall be made by the beer distributor, brewer or beer importer.

[Statutory Authority: RCW 66.08.030, 15.88.030, 19.126.020, 66.04.010, 66.08.180, 66.16.100, 66.20.010, 66.20.300, 66.20.310, 66.24.150, 66.24.170, 66.24.185, 66.24.200, 66.24.206, 66.24.210, 66.24.230, 66.24.240, 66.24.244, 66.24.250, 66.24.375, 66.24.380, 66.24.395, 66.24.400, 66.24.420, 66.24.425, 66.24.440, 66.24.450, 66.24.455, 66.24.495, 66.24.540, 66.28.010, 66.28.040, 66.28.050, 66.28.170, 66.28.180, 66.28.190, 66.28.200, 66.28.310, 66.44.190, 66.44.310, 66.98.060 and 82.08.150. WSR 98-18-097, § 314-20-070, filed 9/2/98, effective 10/3/98. Statutory Authority: RCW 66.08.030. WSR 93-10-092, § 314-20-070, filed 5/4/93, effective 6/4/93; WSR 92-14-028, § 314-20-070, filed 6/22/92, effective 7/23/92. Statutory Authority: RCW 66.08.030 and 66.98.070. WSR 82-17-022 (Order 109, Resolution No. 118), § 314-20-070, filed 8/9/82; Order 49, § 314-20-070, filed 8/26/76, effective 9/26/76; Rule 46, filed 6/13/63.]

WAC 314-20-080 Sales to vessels. (1) Tax paid beer may be sold direct by beer distributors to:

(a) Vessels engaged in foreign commerce and operating on regular schedules.

(b) Vessels engaged in interstate commerce and operating on regular schedules.

(c) Vessels commonly known as "tramps," engaged in interstate and/or foreign commerce but not operating on regular schedules and taking cargo when and where it offers and to any port.

(2) Beer may not be sold direct by beer distributors to any other class of boat or vessel unless the boat or vessel is in possession of a proper retail license.

[Statutory Authority: RCW 66.08.030, 15.88.030, 19.126.020, 66.04.010, 66.08.180, 66.16.100, 66.20.010, 66.20.300, 66.20.310, 66.24.150,

66.24.170, 66.24.185, 66.24.200, 66.24.206, 66.24.210, 66.24.230, 66.24.240, 66.24.244, 66.24.250, 66.24.375, 66.24.380, 66.24.395, 66.24.400, 66.24.420, 66.24.425, 66.24.440, 66.24.450, 66.24.455, 66.24.495, 66.24.540, 66.28.010, 66.28.040, 66.28.050, 66.28.170, 66.28.180, 66.28.190, 66.28.200, 66.28.310, 66.44.190, 66.44.310, 66.98.060 and 82.08.150. WSR 98-18-097, § 314-20-080, filed 9/2/98, effective 10/3/98; Rule 47, filed 6/13/63.]

WAC 314-20-090 Cash sales. No beer distributor nor brewer or beer importer holding a beer distributor's license shall sell or deliver beer to any retailer except for cash paid at the time of the delivery thereof: Provided, That cash may be paid prior to the delivery of beer sold to any retailer. Failure by licensees to keep accurate accounting records which result in the extension of credit, in violation of RCW 66.28.010 through the use of a prior cash deposit which is overextended may result in administrative action being taken against the liquor license.

[Statutory Authority: RCW 66.08.030, 15.88.030, 19.126.020, 66.04.010, 66.08.180, 66.16.100, 66.20.010, 66.20.300, 66.20.310, 66.24.150, 66.24.170, 66.24.185, 66.24.200, 66.24.206, 66.24.210, 66.24.230, 66.24.240, 66.24.244, 66.24.250, 66.24.375, 66.24.380, 66.24.395, 66.24.400, 66.24.420, 66.24.425, 66.24.440, 66.24.450, 66.24.455, 66.24.495, 66.24.540, 66.28.010, 66.28.040, 66.28.050, 66.28.170, 66.28.180, 66.28.190, 66.28.200, 66.28.310, 66.44.190, 66.44.310, 66.98.060 and 82.08.150. WSR 98-18-097, § 314-20-090, filed 9/2/98, effective 10/3/98. Statutory Authority: RCW 66.08.030. WSR 88-23-101 (Order 270, Resolution No. 279), § 314-20-090, filed 11/22/88; Order 24, § 314-20-090, filed 6/28/73; Rule 48, filed 6/13/63.]

WAC 314-20-095 What are the requirements for contract production between microbreweries? This section clarifies the language for contract production found in RCW 66.24.244. For the purposes of this section, contract production is when one microbrewer, referred to as the "contractor," produces and packages beer for another microbrewer, referred to as the "contractee." This beer is referred to as the "product."

(1) The contractee is the product owner. As such, the contractee may distribute and retail the product.

(2) The contractor is required to physically transport all contracted product to the contractee. The contractor is not allowed to distribute or retail the product.

(3) The contractor must submit a copy of the contract to the board prior to production. Any changes in the contract must also be submitted to the board prior to subsequent production. The board may require additional information.

(4) The contractor is required to obtain federal label approval, and the contractee is required to obtain state label approval.

(5) State taxes listed under RCW 66.24.290.

(a) The contractor is not responsible for the taxes.

(b) The contractee is responsible for the taxes when the contractee is acting as its own distributor or retailer for the product.

(c) When the contractee uses a distributor to distribute the product, then the distributor is responsible for the taxes.

(6) Maintaining qualification as a microbrewery. Each microbrewery, whether in the capacity of a contractor or contractee, is allowed to produce under sixty thousand barrels of total product per year. Total product, in this instance, includes product (a) owned and produced by the microbrewery; (b) owned by the microbrewery but produced by another microbrewery; and (c) produced by the microbrewery on behalf of another microbrewery.

(7) Reporting and recordkeeping.

(a) The contractor must include the product produced when it reports its monthly production to the board.

(b) The contractee must include the sale of the product when it submits its monthly sales report to the board. The board may also require the contractee to include the product when the contractee reports its monthly production to the board.

(c) The contractor's and the contractee's recordkeeping documents must include the product information for each contract. The information must show the quantities produced.

[Statutory Authority: RCW 66.08.030, 66.24.240, 66.24.244. WSR 09-02-009, § 314-20-095, filed 12/29/08, effective 1/29/09.]

WAC 314-20-100 Beer suppliers and distributors. RCW 66.28.180 requires beer distributors and suppliers to maintain all current and prior price lists at its liquor licensed location.

(1) **Definitions—**For the purposes of this chapter:

(a) A "price list" means a declaration of the prices at which any and all brands of beer and any and all packages within a brand are to be sold by the person maintaining the list. Distributors must maintain a price list showing all such prices for sales to retailers. Each manufacturer functioning as a distributor must maintain a price list showing all such prices for sales to retailers as well as showing such prices for sales to distributors. The price list will contain the wholesale prices at which any and all brands of beer sold by the supplier or distributor shall be available to retailers within the state.

(b) A "beer supplier" means a microbrewery, domestic brewery, certificate of approval holder, beer importer, beer distributor acting as the first United States importer, or a distributor selling beer to another distributor.

(c) A "beer distributor" means a distributor selling to a retailer, a domestic brewery acting as a distributor, a microbrewery acting as a distributor, or a certificate of approval holder with a direct shipping to Washington retailer endorsement selling beer of its own production to a retailer.

(2) **Products and price lists—**If a beer supplier or distributor lists selected items on which prices are temporarily reduced, these prices must clearly reflect all items and the selling price. All products must be made available to all retail licensees to the extent it is reasonably practical to do so and all retail licensees must be given reasonable notice of all prices and price changes.

(3) **Distributor changes—**

(a) The following guidelines apply when a beer supplier makes a distributor change outside of the regular distributor appointment timelines. The supplier must notify the board in writing that he/she wishes to change his/her current distributor and appoint a new distributor to be effective immediately.

(b) A beer supplier must notify the board if any of the contracts or agreements listed in this rule are revised or terminated by either party.

(4) **Price lists for new distributors—**When the board issues a new beer distributor license, the licensee must have a price list available.

(5) **Accommodation sales—**The provisions of this rule do not apply when a beer distributor makes an accommoda-

tion sale to another beer distributor and this sale is made at a selling price that does not exceed the laid-in cost of the beer being sold. Accommodation sales may only be made when the distributor purchasing the beer is an appointed distributor of the supplier, when the distributor is an authorized purchaser of the brand and product being sold, and when the supplying distributor is appointed by the supplier.

[Statutory Authority: RCW 66.08.030 and 66.28.320. WSR 10-01-090, § 314-20-100, filed 12/16/09, effective 1/16/10. Statutory Authority: RCW 66.08.030, 66.20.360 through [66.20].380, 66.20.390, 66.24.170, 66.24.206, 66.24.210, 66.24.240, 66.24.244, 66.24.270, 66.24.290, 66.28.170, 66.28.180, and 42.56.270. WSR 07-02-076, § 314-20-100, filed 12/29/06, effective 1/29/07. Statutory Authority: RCW 66.08.030, 66.28.180, and 2004 c 160. WSR 04-19-155, § 314-20-100, filed 9/22/04, effective 10/23/04. Statutory Authority: RCW 66.08.030, 15.88.030, 19.126.020, 66.04.010, 66.08.180, 66.16.100, 66.20.010, 66.20.300, 66.20.310, 66.24.150, 66.24.170, 66.24.185, 66.24.200, 66.24.206, 66.24.210, 66.24.230, 66.24.240, 66.24.244, 66.24.250, 66.24.375, 66.24.380, 66.24.395, 66.24.400, 66.24.420, 66.24.425, 66.24.440, 66.24.450, 66.24.455, 66.24.495, 66.24.540, 66.28.010, 66.28.040, 66.28.050, 66.28.170, 66.28.180, 66.28.190, 66.28.200, 66.28.310, 66.44.190, 66.44.310, 66.98.060 and 82.08.150. WSR 98-18-097, § 314-20-100, filed 9/2/98, effective 10/3/98. Statutory Authority: RCW 66.08.030, 66.98.070 and 66.08.060. WSR 86-16-060 (Order 173, Resolution No. 182), § 314-20-100, filed 8/5/86. Statutory Authority: RCW 66.08.030. WSR 85-21-020 (Order 166, Resolution No. 175), § 314-20-100, filed 10/9/85, effective 12/10/85; WSR 82-16-069 (Order 91, Resolution No. 100), § 314-20-100, filed 8/2/82. Statutory Authority: RCW 66.08.030, 66.08.060 and 66.98.070. WSR 78-02-056 (Order 62), § 314-20-100, filed 1/20/78, effective 7/1/78; Order 54, § 314-20-100, filed 5/24/77, effective 7/1/77; Order 51, § 314-20-100, filed 12/15/76; Order 18, § 314-20-100, filed 1/13/72, effective 2/14/72; Order 15, § 314-20-100, filed 5/13/71, effective 7/1/71; Rule 49, filed 6/13/63.]

WAC 314-20-110 Beer importers—Principal office. Each beer importer shall keep the board informed at all times of the location of the principal office required by section 23-G, subdivision (2) of the Washington State Liquor Act (RCW 66.24.260) and shall, not less than two days prior thereto notify the board in writing or by telegraph of any change in the location of such office.

[Rule 50, filed 6/13/63.]

WAC 314-20-120 Beer importers—Warehouses. Beer importers maintaining warehouses at which beer imported by such importer is stored shall at all times keep the board advised of the location of such warehouse.

[Rule 51, filed 6/13/63.]

WAC 314-20-130 Imported beer—List filed—Labels. Each beer importer shall at all times keep on file with the board a list showing all beers which such importer intends to import, which list shall contain the trade name of the beer, the name of the brewer, and the location of the brewery at which such beer is manufactured. No beer shall be imported until duplicate copies of all beer labels intended to be used shall have been submitted to and approved by the board or its accredited representative.

[Rule 52, filed 6/13/63.]

WAC 314-20-140 Beer importers—Certain duties. No beer importer shall import or transport or cause to be transported into the state of Washington any brand of beer manufactured within or outside of the United States but outside the state of Washington, unless such importer shall have first filed with the board a notice of his intention so to do, and shall have ascertained from the board that the brewer manufacturing such beer or United States foreign importer of such beer, has obtained from the Washington state liquor control board a certificate of approval as provided in section 23-F of the Washington State Liquor Act (RCW 66.24.270).

[Statutory Authority: RCW 66.08.030, 2004 c 160. WSR 04-24-097, § 314-20-140, filed 12/1/04, effective 1/1/05; Rule 53, filed 6/13/63.]

WAC 314-20-145 Beer certificate of approval fee. (1) The fee for a beer certificate of approval license is $200 per year. The certificate of approval holder must pay the $200 fee for each privilege as described below:

(a) Manufacturer of beer produced in the United States but outside of Washington state, shipping beer to licensed Washington beer distributors or importers.

(b) Authorized representative for beer produced in the United States but outside of Washington state, shipping beer to licensed Washington beer distributors or importers.

(c) Authorized representative for beer produced outside of the United States, shipping beer to licensed Washington beer distributors or importers.

(2) A certificate of approval holder under RCW 66.24.270 (2)(a) may add an endorsement to the certificate of approval that allows the holder to ship beer or strong beer of the holder's own production directly to licensed liquor retailers. The fee for this endorsement is $100 and is in addition to the fee required for a certificate of approval license.

[Statutory Authority: RCW 66.08.030, 2006 c 302. WSR 06-11-051, § 314-20-145, filed 5/11/06, effective 6/11/06. Statutory Authority: RCW 66.08.030, 2004 c 160. WSR 04-24-097, § 314-20-145, filed 12/1/04, effective 1/1/05.]

WAC 314-20-160 Importation of foreign beer—Reports—Payment of tax. Beer manufactured outside of the United States may be imported by a beer importer or distributor, but only under the following conditions:

(1) Such beer shall be imported and delivered directly to either the warehouse of the importer or distributor or to some other warehouse previously designated by the importer or distributor and approved by the board.

(2) All matters pertaining to the importation, transportation, storage, payment of taxes and keeping of records, and all other matters pertaining to the importation of beer manufactured outside the United States shall be subject at all times to such orders, rules and regulations as the board may from time to time prescribe, and the board reserves the right to make orders applicable to individual and particular cases in addition to general orders, rules and regulations applicable generally.

[Statutory Authority: RCW 66.08.030, 66.24.210, 66.24.230, 66.24.290, 66.24.305, 66.24.270, 66.24.215, 66.24.580, 66.24.206. WSR 00-17-065, § 314-20-160, filed 8/9/00, effective 9/9/00. Statutory Authority: RCW 66.08.030 and 66.98.070. WSR 81-22-026 (Order 85, Resolution No. 94), § 314-20-160, filed 10/28/81; Order 14, § 314-20-160, filed 12/1/70, effective 1/1/71; Rule 55, filed 6/13/63.]

WAC 314-20-170 Holders of certificates of approval. Each beer certificate of approval holder may ship beer only to licensed beer importers or distributors. As required by RCW 66.24.270 and by the written agreement embodied in the application for certificate of approval, each brewer holding a

certificate of approval shall file the report(s) required by WAC 314-19-015.

All reports shall be made upon forms prescribed and furnished by the Washington state liquor control board.

[Statutory Authority: RCW 66.08.030, 2004 c 160. WSR 04-24-097, § 314-20-170, filed 12/1/04, effective 1/1/05. Statutory Authority: RCW 66.08.030, 66.24.210, 66.24.230, 66.24.290, 66.24.305, 66.24.270, 66.24.215, 66.24.580, 66.24.206. WSR 00-17-065, § 314-20-170, filed 8/9/00, effective 9/9/00; Rule 56, filed 6/13/63.]

Chapter 314-21 WAC
CONTROLLED PURCHASE PROGRAMS

WAC

314-21-005	What is an in-house controlled purchase program?
314-21-015	How can liquor licensees receive approval to conduct an in-house controlled purchase program?
314-21-025	What are the guidelines for controlled purchase programs?

WAC 314-21-005 What is an in-house controlled purchase program? (1) Per RCW 66.44.290, an in-house controlled purchase program is a program that allows retail liquor licensees to use eighteen, nineteen, or twenty year old persons to attempt to purchase alcohol for the purpose of evaluating the licensee's training program regarding the sale of liquor to persons under twenty-one years of age.

(2) The licensee's controlled purchase program must meet the requirements of RCW 66.44.290, WAC 314-21-015, and 314-21-025.

(3) Per RCW 66.44.290, violations occurring under an in-house controlled purchase program may not be used for criminal prosecution or administrative action by the liquor control board.

[Statutory Authority: RCW 66.08.030, 66.44.290. WSR 02-11-030, § 314-21-005, filed 5/7/02, effective 6/7/02.]

WAC 314-21-015 How can liquor licensees receive approval to conduct an in-house controlled purchase program? A retail liquor licensee must receive prior written approval from the liquor control board's enforcement and education division before conducting an in-house controlled purchase program.

(1) The board's approval will be based on the licensee submitting a written plan that meets the requirements outlined in RCW 66.44.290 and chapter 314-21 WAC.

(2) It will take up to twenty days for the licensee to receive written approval from the liquor control board's enforcement and education division once the licensee submits a properly completed written request, therefore the licensee must submit his/her request in writing to the board's enforcement and education division at least twenty working days prior to the first controlled purchase program.

(3) The written request must contain:

(a) The location(s) at which the licensee would like to conduct controlled purchase programs.

(b) The name and contact telephone number(s) of the person who will be on the premises supervising the control purchased program, who must be at least twenty-one years of age.

(c) The licensee's written procedures for their in-house controlled purchase program, which must address all of the guidelines in WAC 314-21-025.

[Statutory Authority: RCW 66.08.030, 66.44.290. WSR 02-11-030, § 314-21-015, filed 5/7/02, effective 6/7/02.]

WAC 314-21-025 What are the guidelines for controlled purchase programs? A retail liquor licensee may conduct an in-house controlled purchase program under the following conditions:

(1) The licensee must keep a statement on file signed by the licensee and each employee indicating that the employee has received training regarding the sale of liquor to persons under twenty-one years of age. Restaurant, tavern, or sports/entertainment facility licensees must keep on file either such a statement for each employee or a copy of the employee's mandatory alcohol server training permit. These records must be maintained on the licensed premises, available for inspection by the board, unless otherwise approved in writing by the liquor control board's enforcement and education division.

(2) During an in-house controlled purchase program, the person supervising the program must possess:

(a) The licensee's controlled purchase program procedures,

(b) The board's written approval of the in-house controlled purchase program, and

(c) Valid identification (see WAC 314-11-025 for a list of acceptable identification).

(3) The persons participating in the in-house controlled purchase program must be at least eighteen years of age.

(4) The persons participating in the in-house controlled purchase program may not use fraudulent identification and should not be deceptively mature in appearance.

(5) The licensee must ensure that two photos are taken of the persons participating in the in-house controlled purchase program on the day of the program. One photo must be full face and one photo must show the employee from head to toe. These photos must be maintained on the licensed premises, available for inspection by the board.

(6) If persons participating in the in-house controlled purchase program are paid for their time, the compensation of such persons may not be based on the number of successful purchases made during the course of the in-house controlled purchase program.

(7) The licensee must have written procedures that ensure any liquor purchased by an eighteen, nineteen, or twenty year old person during an in-house controlled purchase program is adequately secured by the licensee or an employee who is at least twenty-one years of age immediately following an occurrence of any purchase.

(8) Per RCW 66.44.290, the licensee must provide his/her employees a written description of the employer's in-house controlled purchase program, which must include a notice of action an employer may take as a consequence of an employee's failure to comply with the employer's policies regarding the sale of alcohol during an in-house controlled purchase program.

(9) Per RCW 66.44.290, a licensee may not terminate an employee solely for a first-time failure to comply with the licensee's policies regarding the sale of alcohol during an in-house controlled purchase program.

(10) If a licensee's controlled purchase program fails to meet any of the requirements of RCW 66.44.290, WAC 314-21-015, or 314-21-025, the board may revoke its approval to conduct in-house controlled purchase programs. The licensee may reapply for approval to conduct in-house controlled purchase programs not less than one year following the board's revocation of approval.

[Statutory Authority: RCW 66.08.030, 66.44.290. WSR 02-11-030, § 314-21-025, filed 5/7/02, effective 6/7/02.]

Chapter 314-23 WAC

SPIRITS DISTRIBUTORS, SPIRITS CERTIFICATE OF APPROVAL LICENSES, AND SPIRITS IMPORTERS

WAC

314-23-001 What does a spirits distributor license allow?
314-23-005 What are the fees for a spirits distributor license?
314-23-020 What are the requirements for a spirits distributor license?
314-23-021 What are the monthly reporting and payment requirements for a spirits distributor license?
314-23-022 What if a distributor licensee fails to report or pay, or reports or pays late?
314-23-025 Collection of shortfall of spirits distributor license fees from spirits distributor license holders.
314-23-030 What does a spirits certificate of approval license allow?
314-23-040 What are the requirements for a certificate of approval license?
314-23-041 What are the monthly reporting and payment requirements for a spirits certificate of approval licensee?
314-23-042 What if a certificate of approval licensee fails to report or pay, or reports or pays late?
314-23-050 What does a spirits importer license allow?

WAC 314-23-001 What does a spirits distributor license allow? (1) A spirits distributor licensee may not commence sales until March 1, 2012. A spirits distributor licensee is allowed to:

(a) Sell spirits purchased from manufacturers, distillers, importers, or spirits certificate of approval holders;

(b) Sell spirits to any liquor licensee allowed to sell spirits;

(c) Sell spirits to other spirits distributors; and

(d) Export spirits from the state of Washington.

(2) The price of spirits sold to retailers may not be below acquisition cost.

[Statutory Authority: RCW 66.08.030, 66.24.055, 66.24.160, 66.24.630, and 66.24.640. WSR 12-12-065, § 314-23-001, filed 6/5/12, effective 7/6/12.]

WAC 314-23-005 What are the fees for a spirits distributor license? (1) The holder of a spirits distributor license must pay to the board a monthly license fee as follows:

(a) Ten percent of the total revenue from all sales of spirits to retail licensees made during the month for which the fee is due for the first two years of licensure; and

(b) Five percent of the total revenue from all sales of spirits to retail licensees made during the month for which the fee is due for the third year of licensure and every year thereafter.

(c) The license fee is only calculated on sales of items which the licensee was the first spirits distributor in the state to have received:

(i) In the case of spirits manufactured in the state, from the distiller; or

(ii) In the case of spirits manufactured outside the state, from a spirits certificate of approval holder.

(d) Reporting of sales and payment must be submitted on forms provided by the board.

(2) The annual fee for a spirits distributor license is one thousand three hundred twenty dollars.

[Statutory Authority: RCW 66.08.030, 66.24.055, 66.24.160, 66.24.630, and 66.24.640. WSR 12-12-065, § 314-23-005, filed 6/5/12, effective 7/6/12.]

WAC 314-23-020 What are the requirements for a spirits distributor license? (1) In addition to any application requirements in chapter 314-07 WAC, applicants applying for a spirits distributor license must submit:

(a) A copy of all permits required by the federal government;

(b) Documentation showing the applicant has the right to the property;

(c) An acknowledgment form certifying the applicant has a security plan which addresses:

(i) Inventory management; and

(ii) Physical security of spirits product with respect to preventing theft.

(2) Spirits distributors must sell and deliver product from their licensed premises.

[Statutory Authority: RCW 66.08.030, 66.24.055, 66.24.160, 66.24.630, and 66.24.640. WSR 12-12-065, § 314-23-020, filed 6/5/12, effective 7/6/12.]

WAC 314-23-021 What are the monthly reporting and payment requirements for a spirits distributor license? (1) A **spirits distributor** must submit monthly reports and payments to the board.

(2) The required monthly reports must be:

(a) On a form furnished by the board;

(b) Filed every month, including months with no activity or payment due;

(c) Submitted, with payment due, to the board on or before the twentieth day of each month, for the previous month. (For example, a report listing transactions for the month of January is due by February 20th.) When the twentieth day of the month falls on a Saturday, Sunday, or a legal holiday, the filing must be postmarked by the U.S. Postal Service no later than the next postal business day; and

(d) Filed separately for each liquor license held.

[Statutory Authority: RCW 66.08.030, 66.24.055, 66.24.160, 66.24.630, and 66.24.640. WSR 12-12-065, § 314-23-021, filed 6/5/12, effective 7/6/12.]

WAC 314-23-022 What if a distributor licensee fails to report or pay, or reports or pays late? (1) Failure of a spirits distributor licensee to submit its monthly reports and payment to the board as required in WAC 314-23-021(1) will be sufficient grounds for the board to suspend or revoke the liquor license.

(2) A penalty of two percent per month will be assessed on any payments postmarked after the twentieth day of the month following the month of sale. When the twentieth day of the month falls on a Saturday, Sunday, or a legal holiday, the filing must be postmarked by the U.S. Postal Service no later than the next postal business day.

Absent a postmark, the date received at the Washington state liquor control board, or designee, will be used to determine if penalties are to be assessed.

[Statutory Authority: RCW 66.08.030. WSR 14-12-101, § 314-23-022, filed 6/4/14, effective 7/5/14. Statutory Authority: RCW 66.24.630, 66.24.055, 66.24.145 and 66.08.030. WSR 13-07-085, § 314-23-022, filed 3/20/13, effective 4/20/13. Statutory Authority: RCW 66.08.030, 66.24.055, 66.24.160, 66.24.630, and 66.24.640. WSR 12-12-065, § 314-23-022, filed 6/5/12, effective 7/6/12.]

WAC 314-23-025 Collection of shortfall of spirits distributor license fees from spirits distributor license holders. (1) RCW 66.24.055 requires that all persons holding a spirits distributor license on or before March 31, 2013, must have collectively paid a total of one hundred fifty million dollars in spirits distributor license fees by March 31, 2013. If the spirits distributor license fees collected by March 31, 2013, total less than one hundred fifty million dollars, the board is required to assess those persons holding a spirits distributor license on or before March 31, 2013, in order to collect a total of one hundred fifty million dollars. The board will calculate the additional amount owed by each spirits distributor licensee as follows:

(a) The amount of additional fees owed will be calculated using the total spirits sales made by each spirits distributor licensee during calendar year 2012. If a spirits distributor licensee had no spirits sales during calendar year 2012, no additional fees will be due;

(b) Each licensee will be assessed and required to pay their proportionate share of the remaining liability between one hundred fifty million dollars and actual collections. The proportionate share of fees due will be calculated by dividing the total dollar amount of sales made by each spirits distributor licensee by the total spirits sales made by all spirits distributor licensees combined. If the total amount of payments exceeds one hundred fifty million dollars, each licensee will be credited a proportionate amount of the overpayment to their future license issuance fee obligations.

(2) The board will notify all spirits distributor licensees no later than April 30, 2013, of the amount they are required to pay in additional license fees. Spirits distributor licensees must pay the additional license fees to the board by May 31, 2013.

(3) The board may suspend or revoke any spirits distributor license if the required additional license fees are not paid by May 31, 2013. If suspended, the suspension will remain in effect until the additional license fees are paid.

(4) The board may also initiate collection proceedings for any amount of additional fees not paid to the board by May 31, 2013.

[Statutory Authority: RCW 66.24.055 and 66.08.030. WSR 12-21-057, § 314-23-025, filed 10/15/12, effective 11/15/12.]

WAC 314-23-030 What does a spirits certificate of approval license allow? (1) A spirits certificate of approval licensee may not commence sales until March 1, 2012. A spirits certificate of approval license may be issued to spirits manufacturers located outside of the state of Washington but within the United States.

(2) There are three separate spirits certificate of approval licenses as follows:

(a) A holder of a spirits certificate of approval may act as a distributor of spirits they are entitled to import into the state by selling directly to spirits distributors or spirits importers licensed in Washington state. The fee for a certificate of approval is two hundred dollars per year.

(b) A holder of an authorized representative out-of-state spirits importer or brand owner for spirits produced in the United States but outside of Washington state may obtain a spirits authorized representative domestic certificate of approval license which entitles the holder to import spirits into the state by selling directly to spirits distributors, or spirits importers licensed in Washington state. The fee for an authorized representative certificate of approval for spirits is two hundred dollars per year.

(c) A holder of an authorized representative out-of-state spirits importer or brand owner for spirits produced outside of the United States obtains a spirits authorized representative foreign certificate of approval which entitles the holder to import spirits into the state by selling directly to spirits distributors, or spirits importers licensed in Washington state. The fee for an authorized representative certificate of approval for foreign spirits is two hundred dollars per year.

(3) A spirits certificate of approval holder, a spirits authorized representative domestic certificate of approval holder, and/or a spirits authorized representative foreign certificate of approval holder must obtain an endorsement to the certificate of approval that allows the shipment of spirits the holder is entitled to import into the state directly to licensed liquor retailers. The fee for this endorsement is one hundred dollars per year and is in addition to the fee for the certificate of approval license. The holder of a certificate of approval license that sells directly to licensed liquor retailers must:

(a) Report to the board monthly, on forms provided by the board, the amount of all sales of spirits to licensed retailers.

(b) Pay to the board a fee of ten percent of the total revenue from all sales of spirits to retail licensees made during the month for which the fee is due for the first two years of licensure.

(c) Pay to the board five percent of the total revenue from all sales of spirits to retail licensees made during the month for which the fee is due for the third year of licensure and every year thereafter.

[Statutory Authority: RCW 66.24.640, 66.08.030. WSR 13-07-009, § 314-23-030, filed 3/7/13, effective 4/7/13. Statutory Authority: RCW 66.08.030, 66.24.055, 66.24.160, 66.24.630, and 66.24.640. WSR 12-12-065, § 314-23-030, filed 6/5/12, effective 7/6/12.]

WAC 314-23-040 What are the requirements for a certificate of approval license? The following documents are required to obtain a certificate of approval license:

(1) Copies of all permits required by the federal government;

(2) Copies of all state licenses and permits required by the state in which your operation is located; and

(3) Licensing documents as determined by the board.

[Statutory Authority: RCW 66.08.030, 66.24.055, 66.24.160, 66.24.630, and 66.24.640. WSR 12-12-065, § 314-23-040, filed 6/5/12, effective 7/6/12.]

WAC 314-23-041 What are the monthly reporting and payment requirements for a spirits certificate of

approval licensee? (1) A spirits certificate of approval licensee must submit monthly reports and payments to the board.

(2) The required monthly reports must be:

(a) On a form furnished by the board;

(b) Filed every month, including months with no activity or payment due;

(c) Submitted, with payment due, to the board on or before the twentieth day of each month, for the previous month. (For example, a report listing transactions for the month of January is due by February 20th.) When the twentieth day of the month falls on a Saturday, Sunday, or a legal holiday, the filing must be postmarked by the U.S. Postal Service no later than the next postal business day; and

(d) Filed separately for each liquor license held.

[Statutory Authority: RCW 66.08.030, 66.24.055, 66.24.160, 66.24.630, and 66.24.640. WSR 12-12-065, § 314-23-041, filed 6/5/12, effective 7/6/12.]

WAC 314-23-042 What if a certificate of approval licensee fails to report or pay, or reports or pays late? (1) If a spirits certificate of approval licensee does not submit its monthly reports and payment to the board as required by this subsection (1), the licensee is subject to penalties.

(2) A penalty of two percent per month will be assessed on any payments postmarked after the twentieth day of the month following the month of sale. When the twentieth day of the month falls on a Saturday, Sunday, or a legal holiday, the filing must be postmarked by the U.S. Postal Service no later than the next postal business day.

Absent a postmark, the date received at the Washington state liquor control board, or designee, will be used to determine if penalties are to be assessed.

[Statutory Authority: RCW 66.08.030. WSR 14-12-101, § 314-23-042, filed 6/4/14, effective 7/5/14. Statutory Authority: RCW 66.08.030, 66.24.055, 66.24.160, 66.24.630, and 66.24.640. WSR 12-12-065, § 314-23-042, filed 6/5/12, effective 7/6/12.]

WAC 314-23-050 What does a spirits importer license allow? (1) A spirits importer license is issued to an in-state spirits importer. A spirits importer is allowed to:

(a) Import spirits into the state of Washington;

(b) Store spirits in the state of Washington;

(c) Sell spirits to spirits distributors; and

(d) Export spirits in original containers.

(2) An out-of-state spirits importer is required to obtain an authorized representative certificate of approval license as referenced in WAC 314-23-030.

[Statutory Authority: RCW 66.08.030, 66.24.055, 66.24.160, 66.24.630, and 66.24.640. WSR 12-12-065, § 314-23-050, filed 6/5/12, effective 7/6/12.]

Chapter 314-24 WAC

DOMESTIC WINERIES AND DOMESTIC WINE DISTRIBUTORS

WAC

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314-24-010 Eligibility. [Rule 59, filed 6/13/63.] Repealed by Order 5, filed 8/7/69, effective 9/8/69.

314-24-030 Domestic winery defined. [Order 5, § 314-24-030, filed 8/7/69, effective 9/8/69; Resolution No. 6, Rule 61, filed 4/7/66; Resolution No. 5, filed 9/22/65; Rule 61, filed 6/13/63.] Repealed by Order 14, filed 12/1/70, effective 1/1/71.

314-24-095 Fortified wine—Exception to definition when affidavit on file. [Statutory Authority: RCW 66.08.030, 15.88.030, 19.126.020, 66.04.010, 66.08.180, 66.16.100, 66.20.010, 66.20.300, 66.20.310, 66.24.150, 66.24.170, 66.24.185, 66.24.200, 66.24.206, 66.24.210, 66.24.230, 66.24.240, 66.24.244, 66.24.250, 66.24.375, 66.24.380, 66.24.395, 66.24.400, 66.24.420, 66.24.425, 66.24.440, 66.24.450, 66.24.455, 66.24.495, 66.24.540, 66.28.010, 66.28.040, 66.28.050, 66.28.170, 66.28.180, 66.28.190, 66.28.200, 66.28.310, 66.44.190, 66.44.310, 66.98.060 and 82.08.150. WSR 98-18-097, § 314-24-095, filed 9/2/98, effective 10/3/98. Statutory Authority: RCW 66.08.030. WSR 93-11-028, § 314-24-095, filed 5/10/93, effective 6/10/93. Statutory Authority: 1987 c 386. WSR 87-15-016 (Order 224, Resolution No. 233), § 314-24-095, filed 7/7/87.] Repealed by WSR 00-17-065, filed 8/9/00, effective 9/9/00. Statutory Authority: RCW 66.08.030, 66.24.210, 66.24.230, 66.24.290, 66.24.305, 66.24.270, 66.24.215, 66.24.580, 66.24.206.

314-24-110 Domestic wineries, wine distributors, wine importers—Monthly reports—Bonds required—Payment of tax. [Statutory Authority: RCW 66.08.030, 15.88.030, 19.126.020, 66.04.010, 66.08.180, 66.16.100, 66.20.010, 66.20.300, 66.20.310, 66.24.150, 66.24.170, 66.24.185, 66.24.200, 66.24.206, 66.24.210, 66.24.230, 66.24.240, 66.24.244, 66.24.250, 66.24.375, 66.24.380, 66.24.395, 66.24.400, 66.24.420, 66.24.425, 66.24.440, 66.24.450, 66.24.455, 66.24.495, 66.24.540, 66.28.010, 66.28.040, 66.28.050, 66.28.170, 66.28.180, 66.28.190, 66.28.200, 66.28.310, 66.44.190, 66.44.310, 66.98.060 and 82.08.150. WSR 98-18-097, § 314-24-110, filed 9/2/98, effective 10/3/98. Statutory Authority: RCW 66.08.030. WSR 87-15-111 (Order 222, Resolution No. 231), § 314-24-110, filed 7/22/87. Statutory Authority: RCW 66.08.030 and 66.24.185. WSR 85-24-042 (Order 170, Resolution No. 179), § 314-24-110, filed 11/27/85. Statutory Authority: RCW 66.08.030. WSR 84-09-023 (Order 138, Resolution No. 147), § 314-24-110, filed 4/11/84. Statutory Authority: RCW 66.08.030 and 66.98.070. WSR 81-22-026 (Order 85, Resolution No. 94), § 314-24-110, filed 10/28/81; Order 40, § 314-24-110, filed 8/21/75; Order 26, § 314-24-110, filed 8/14/73; Order 5, § 314-24-110, filed 8/7/69, effective 9/8/69; Rule 69, filed 6/13/63.] Repealed by WSR 00-17-065, filed 8/9/00, effective 9/9/00. Statutory Authority: RCW 66.08.030, 66.24.210, 66.24.230, 66.24.290, 66.24.305, 66.24.270, 66.24.215, 66.24.580, 66.24.206.

314-24-170 Cash sales. [Statutory Authority: RCW 66.08.030, 15.88.030, 19.126.020, 66.04.010, 66.08.180, 66.16.100, 66.20.010, 66.20.300, 66.20.310, 66.24.150, 66.24.170, 66.24.185, 66.24.200, 66.24.206, 66.24.210, 66.24.230, 66.24.240, 66.24.244, 66.24.250, 66.24.375, 66.24.380, 66.24.395, 66.24.400, 66.24.420, 66.24.425, 66.24.440, 66.24.450, 66.24.455, 66.24.495, 66.24.540, 66.28.010, 66.28.040, 66.28.050, 66.28.170, 66.28.180, 66.28.190, 66.28.200, 66.28.310, 66.44.190, 66.44.310, 66.98.060 and 82.08.150. WSR 98-18-097, § 314-24-170, filed 9/2/98, effective 10/3/98. Statutory Authority: RCW 66.08.030. WSR 88-23-101 (Order 270, Resolution No. 279), § 314-24-170, filed 11/22/88; Order 24, § 314-24-170, filed 6/28/73; Order 5, § 314-24-170, filed 8/7/69, effective 9/8/69; Rule 77, filed 6/13/63.] Repealed by WSR 01-06-015, filed 2/26/01, effective 3/29/01. Statutory Authority: RCW 66.08.030, 66.08.010, 66.16.040.

314-24-200 Wine suppliers' price filings, contracts and memoranda. [Statutory Authority: RCW 66.08.030, 15.88.030, 19.126.020, 66.04.010, 66.08.180, 66.16.100, 66.20.010, 66.20.300, 66.20.310, 66.24.150, 66.24.170, 66.24.185, 66.24.200, 66.24.206, 66.24.210, 66.24.230, 66.24.240, 66.24.244, 66.24.250, 66.24.375, 66.24.380, 66.24.395, 66.24.400, 66.24.420, 66.24.425, 66.24.440, 66.24.450, 66.24.455, 66.24.495, 66.24.540, 66.28.010, 66.28.040, 66.28.050, 66.28.170, 66.28.180, 66.28.190, 66.28.200, 66.28.310, 66.44.190, 66.44.310, 66.98.060 and 82.08.150. WSR 98-18-097, § 314-24-200, filed 9/2/98, effective 10/3/98. Statutory Authority: RCW 66.08.030. WSR 87-15-111 (Order 222, Resolution No. 231), § 314-24-200, filed 7/22/87; WSR 87-01-014 (Order 207, Resolution No. 216), § 314-24-200, filed 12/9/86. Statutory Authority: RCW 66.08.030, 66.98.070 and 66.08.060. WSR 86-16-060 (Order 173, Resolution No. 182), § 314-24-200, filed 8/5/86. Statutory Authority: RCW 66.08.030. WSR 82-16-069 (Order 91, Resolution No. 100), § 314-24-200, filed 8/2/82. Statutory Authority: RCW 66.08.030 and 66.98.070. WSR 81-22-026 (Order 85, Resolution No. 94), § 314-24-200, filed 10/28/81; Order 54, § 314-24-200, filed 5/24/77, effective 7/1/77; Order 51, § 314-24-200, filed 12/15/76; Order 26, § 314-24-200, filed 8/14/73; Order 15, § 314-24-200, filed 5/13/71, effec-

tive 7/1/71; Order 5, § 314-24-200, filed 8/7/69, effective 9/8/69; Rule 82, filed 6/13/63.] Repealed by WSR 04-19-155, filed 9/22/04, effective 10/23/04. Statutory Authority: RCW 66.08.030, 66.28.180, and 2004 c 160.

314-24-230 Wine shipper's license. [Statutory Authority: RCW 66.08.030, 15.88.030, 19.126.020, 66.04.010, 66.08.180, 66.16.100, 66.20.010, 66.20.300, 66.20.310, 66.24.150, 66.24.170, 66.24.185, 66.24.200, 66.24.206, 66.24.210, 66.24.230, 66.24.240, 66.24.244, 66.24.250, 66.24.375, 66.24.380, 66.24.395, 66.24.400, 66.24.420, 66.24.425, 66.24.440, 66.24.450, 66.24.455, 66.24.495, 66.24.540, 66.28.010, 66.28.040, 66.28.050, 66.28.170, 66.28.180, 66.28.190, 66.28.200, 66.28.310, 66.44.190, 66.44.310, 66.98.060 and 82.08.150. WSR 98-18-097, § 314-24-230, filed 9/2/98, effective 10/3/98. Statutory Authority: RCW 66.08.030. WSR 94-10-034, § 314-24-230, filed 4/29/94, effective 5/30/94. Statutory Authority: RCW 66.08.030 and 1991 c 149. WSR 91-21-132, § 314-24-230, filed 10/23/91, effective 11/23/91.] Repealed by WSR 06-11-050, filed 5/11/06, effective 6/11/06. Statutory Authority: RCW 66.08.030, 2006 c 49.

314-24-240 Conditions on delivery. [Statutory Authority: RCW 66.08.030 and 1991 c 149. WSR 91-21-132, § 314-24-240, filed 10/23/91, effective 11/23/91.] Repealed by WSR 06-11-050, filed 5/11/06, effective 6/11/06. Statutory Authority: RCW 66.08.030, 2006 c 49.

314-24-250 Labeling requirements for private wine shippers. [Statutory Authority: RCW 66.08.030, 15.88.030, 19.126.020, 66.04.010, 66.08.180, 66.16.100, 66.20.010, 66.20.300, 66.20.310, 66.24.150, 66.24.170, 66.24.185, 66.24.200, 66.24.206, 66.24.210, 66.24.230, 66.24.240, 66.24.244, 66.24.250, 66.24.375, 66.24.380, 66.24.395, 66.24.400, 66.24.420, 66.24.425, 66.24.440, 66.24.450, 66.24.455, 66.24.495, 66.24.540, 66.28.010, 66.28.040, 66.28.050, 66.28.170, 66.28.180, 66.28.190, 66.28.200, 66.28.310, 66.44.190, 66.44.310, 66.98.060 and 82.08.150. WSR 98-18-097, § 314-24-250, filed 9/2/98, effective 10/3/98. Statutory Authority: RCW 66.08.030 and 1991 c 149. WSR 91-21-132, § 314-24-250, filed 10/23/91, effective 11/23/91.] Repealed by WSR 06-11-050, filed 5/11/06, effective 6/11/06. Statutory Authority: RCW 66.08.030, 2006 c 49.

WAC 314-24-001 Definitions. Per RCW 66.04.010(2), an "authorized representative" means a person who:

(1) Is required to have a federal basic permit issued by the alcohol and tobacco tax and trade bureau;

(2) Has its business located in the United States outside of the state of Washington;

(3) Acquires ownership of wine that is produced anywhere outside Washington by a winery which does not distribute those brands for transportation into and resale in the state of Washington;

(4) Is appointed by the winery referenced in subsection (3) of this section as its authorized representative for marketing and selling its products within the United States or within Washington state, in accordance with a written agreement between the authorized representative and the winery.

[Statutory Authority: RCW 66.08.030 and 66.28.320. WSR 10-01-090, § 314-24-001, filed 12/16/09, effective 1/16/10. Statutory Authority: RCW 66.08.030, 2004 c 160. WSR 04-24-097, § 314-24-001, filed 12/1/04, effective 1/1/05.]

WAC 314-24-003 Standards of identity for wine. (1) Application of standards. The standards of identity for the several classes and types of wine set forth herein shall be applicable to all wines produced, imported, bottled, offered for sale, or sold within this state for beverage use or any other purpose, except as hereinafter prescribed. The standards herein established are minimum standards for wines of the several classes and types defined.

(2) Standards of identity. The several classes and types of wine set forth herein shall be as follows:

(a) Wine (or grape wine). "Wine" is the product of the normal alcoholic fermentation of the juice of sound, ripe grapes (including pure condensed must), with or without added grape brandy or other spirits derived from grapes or grape products, and containing not to exceed 24 percent alcohol by volume, but without any other addition or abstraction whatsoever except such as may occur in normal cellar treatment: Provided, That the product may be ameliorated before, during or after fermentation by the use of pure dry sugar, a combination of water and pure dry sugar, liquid sugar, invert sugar syrup, grape juice or concentrated must, but only in accordance with federal regulations 27 C.F.R. part 240, and the total solids of the wine shall in no case exceed 21 percent by weight. The maximum volatile acidity, calculated as acetic acid and exclusive of sulphur dioxide, shall not be, for red table wine, more than 0.14 gram, and for all other wine, more than 0.12 gram in both cases per 100 cubic centimeters (20 degrees C.). The maximum sulphur dioxide content of any wine shall not be greater than 350 parts per million of total sulphur dioxide or sulphites expressed as sulphur dioxide.

Pure condensed must. "Pure condensed must" means the dehydrated juice or must of sound, ripe grapes, or other fruit or agricultural products, concentrated to not more than 80° Brix, the composition thereof remaining unaltered except for removal of water; the term "restored pure condensed must" means pure condensed must to which has been added an amount of water not exceeding the amount removed in the dehydration process; and the term "sugar" means pure cane, beet, or dextrose sugar in dry form containing, respectively, not less than 95 percent of actual sugar calculated on a dry basis.

(b) Natural wine is the product of the juice of sound, ripe grapes, or the product of the juice of sound ripe fruit or berries other than grapes, produced in accordance with section 5381, I.R.C., and federal regulations 27 C.F.R. part 240, as applicable.

(c) Red and white wine. Red wine is wine which contains the red coloring matter of the skins, juice, or pulp of grapes; pink, amber or rose wine is wine which contains partial red coloring of the skins, juice, or pulp of grapes; and white wine is wine which does not contain the red coloring matter of the skins, juice, or pulp of grapes.

(d) Table wine (including light wine, light grape wine, light red wine, light white wine, and natural wine) is wine containing not to exceed 14 percent alcohol by volume. The maximum Balling or Brix saccharometer test for any table wine shall not be more than 14 percent (at 20 degrees C. using a saccharometer calibrated at this temperature) when the test is made in the presence of the alcoholic content provided herein.

(e) Dessert wine (including appetizer wine) is wine containing more than 14 percent alcohol by volume, and not to exceed 24 percent alcohol by volume. Angelica, madeira, malaga, marsala, muscatel, port, white port, sherry, and tokay are types of dessert wine containing added grape brandy or other spirits derived from grapes or grape products, possessing the taste, aroma and other characteristics generally attributed to these products, and having an alcoholic content of not less than 17 percent by volume in the case of sherry, and not

less than 18 percent in the case of all other types named in this paragraph.

(f) Aperitif wine is grape wine, containing added grape brandy or other spirits derived from grapes or grape products and having an alcoholic content of not less than 15 percent by volume flavored with herbs and other natural aromatic flavoring materials and possessing the taste, aroma and other characteristics generally attributed to wine of this class.

(g) Vermouth is a type of aperitif wine made from grape wine and possessing the taste, aroma and other characteristics generally attributed to vermouth.

(h) The term vintage wine means a wine produced wholly from (i) grapes gathered and (ii) the juice therefrom fermented, in the same calendar year and in the same viticultural area (e.g., county, state, department, province, or equivalent geographic area, or subdivision thereof), as identified on the label of such wine.

(i) Sacramental wine. Wine used solely for sacramental purposes may possess such alcoholic content not exceeding 24 percent by volume as required by ecclesiastical codes.

(j) Sparkling grape wine (including sparkling wine, sparkling red wine, and sparkling white wine) is grape wine made effervescent with carbon dioxide resulting solely from the fermentation of the wine within a closed container, tank or bottle.

(k) Champagne is a type of sparkling light white wine which derives its effervescence solely from the secondary fermentation of the wine within glass containers of not greater than one gallon capacity, and which possesses the taste, aroma, and other characteristics attributed to champagne as made in the Champagne District of France.

(l) A sparkling light wine having the taste, aroma, and characteristics generally attributed to champagne but not otherwise conforming to the standard for champagne may, in addition to but not in lieu of the class designation sparkling wine, be further designated as champagne style, or champagne type or American (or New York state, California, etc.) champagne —bulk process; all the words in such further designation shall appear in lettering of substantially the same size and such lettering shall not be substantially larger than the words "sparkling wine."

(m) Pink (or rose) champagne is a type of sparkling pink wine otherwise conforming to the definition of champagne, and shall be labeled in the same manner as champagne except that the designation pink (or rose) champagne shall be used in lieu of the designation champagne.

(n) Sparkling burgundy and sparkling moselle are types of sparkling wine possessing the taste, aroma and characteristics attributed to these products.

(o) Carbonated wine (including carbonated grape wine, carbonated red wine, carbonated pink (or rose) wine and carbonated white wine) is wine made effervescent with carbon dioxide other than that resulting solely from the secondary fermentation of the wine within a closed container, tank, or bottle.

(p) Fruit wine is wine produced by the normal alcoholic fermentation of the juice of sound, ripe fruit (other than grape), including pure condensed fruit must, with or without added fruit brandy or fruit spirits distilled from the same type of fruit or fruit products as the wine to which such fruit brandy or fruit spirits is added, and containing not to exceed 24 percent of alcohol by volume but without any other addition or abstraction whatsoever except such as may occur in normal cellar treatment: Provided, That the product may be ameliorated before, during, or after fermentation by the addition of water, pure dry sugar, a combination of water and pure dry sugar, liquid sugar, invert sugar syrup and concentrated and unconcentrated juice of the same fruit, but, only in accordance with federal regulations and the total solids of the wine shall in no case exceed 21 percent by weight.

The maximum volatile acidity, calculated as acetic acid and exclusive of sulphur dioxide, shall not be for natural fruit wine, more than 0.14 gram, and for other fruit wine, more than 0.12 gram, per 100 cubic centimeters (20 degrees C.).

(q) Light fruit wine (including natural fruit wine) is fruit wine containing not to exceed 14 percent alcohol by volume.

(r) Fruit wine derived wholly (except for sugar, water, or added fruit brandy or fruit spirits) from one kind of fruit shall be designated by the word wine, qualified by the name of such fruit; e.g., peach wine, orange wine, blackberry wine, etc. Fruit wine not derived wholly from one kind of fruit shall be designated as fruit wine or berry wine, as the case may be, qualified by a truthful and adequate statement of composition appearing in direct conjunction therewith. Fruit wines derived wholly (except for sugar, water, or added fruit brandy or fruit spirits) from apples or pears may if desired be designated cider, and perry, respectively, and shall be so designated if lacking in vinous taste, aroma, and other characteristics. Fruit wine rendered effervescent by carbon dioxide resulting solely from the secondary fermentation of the wine within a closed container, tank, or bottle shall be further designated as sparkling, and fruit wine rendered effervescent by carbon dioxide otherwise derived shall be further designated as carbonated.

(s) Berry wine is fruit wine produced from berries.

(t) Citrus wine or citrus fruit wine is fruit wine produced from citrus.

(u) Wine from other agricultural products. Sake is wine produced from rice in accordance with the commonly accepted method of producing such product.

(v) Other agricultural wines (such as honey wine), the production or sale of which is not prohibited by these regulations, shall be made in accordance with the commonly accepted standards of such product.

(w) Specialty wine is wine not otherwise herein defined, produced in accordance with commercial standards for such wines. Such wines may bear a fanciful proprietary designation and shall be labeled with a truthful and adequate statement of composition or with any commonly accepted trade designation indicative of such composition.

(x) Specially sweetened natural wine (a wine such as Kosher wine) is wine produced in accordance with federal regulation 27 C.F.R. part 240.

(y) High fermentation wine is a grape or fruit wine made within the limitations of regulation (57)(2)(a) for grape wine, and regulation (57)(2)(p) for fruit wine, except that the alcohol content after complete fermentation or complete fermentation and sweetening is more than 14 percent and that wine spirits may not be added, produced in accordance with federal regulation 27 C.F.R. part 240.

(z) Special natural wine is a flavored wine made on bonded wine cellar premises from a base of natural wine, in conformity with federal regulation 27 C.F.R. part 240.

(3) Grape-type designations. A name indicative of variety of grape may be employed as the type designation of a wine if the wine derives its predominate taste, aroma, and other characteristics, and at least 51 percent of its volume, from that variety of grape.

(4) Appellations of origin. A wine shall be entitled to an appellation of origin if:

(a) At least 75 percent of its volume is derived from both fruit or other agricultural products grown in the place or region indicated by such appellation; and

(b) It conforms to the requirements of the laws and regulations of such place or region governing the composition, method of production and designation of wines for consumption within such place or region of origin.

(5) Conformance to state standards required. Wines of any defined class or type labeled or advertised under appellation of origin such as Spanish, New York, Ohio, Finger Lakes, California, etc., shall meet the requirements of standards herein prescribed applicable to such wines and shall, in addition, contain the minimum percentage of alcohol and conform as to composition in all other respects with all standards of identity, quality and purity applicable to wines of such classes or types marketed for consumption in the place or region of origin.

For example, all grape wines bearing labels showing California as the origin of such wine, shall be derived one hundred percent from grapes grown and wine from such grapes fermented within the state of California, shall contain no sugar or material containing sugar, other than pure condensed grape must; and any type of grape dessert wine (except sherry) shall contain not less than 18 percent of alcohol by volume; any type of sherry shall contain not less than 17 percent alcohol by volume; except as hereinbefore provided. Wines subjected to cellar treatment outside the place or region of origin, and blends of wine of the same origin, blended together outside the place or region of origin (if all the wines, in the blend have a common class, type, or other designation which is employed as the designation of the blend), shall be entitled to the same appellation of origin to which they would be entitled if such cellar treatment of blending took place within the place or region of origin.

(6) Grape-type designations, generic, semi-generic and nongeneric designations of geographic significance, are subject to the same requirements as set forth under Title 27, Code of Federal Regulations, Part 4.

[Statutory Authority: RCW 66.08.030. WSR 85-19-030 (Order 164, Resolution No. 173), § 314-24-003, filed 9/12/85. Statutory Authority: RCW 66.08.030 and 66.98.070. WSR 81-22-026 (Order 85, Resolution No. 94), § 314-24-003, filed 10/28/81; Order 14, § 314-24-003, filed 12/1/70, effective 1/1/71; Order 5, § 314-24-003, filed 8/7/69, effective 9/8/69.]

WAC 314-24-006 Substandard wines prohibited. Application of this regulation. The production, importation or sale of, wine, which fails to conform to the standards prescribed in regulation (57) hereof, or of any wine fermented from raisins, dried fruits, or dried berries, or of any imitation or substandard wine as hereinafter defined, is hereby prohibited.

(1) Imitation wine shall include:

(a) Any wine containing synthetic materials;

(b) Any wine made from a mixture of water with residues remaining after thorough pressing of grapes, fruit or other agricultural products;

(c) Any class or type of wine, the taste, aroma, color or other characteristics of which have been acquired in whole or in part by treatment with methods or materials of any kind, if the taste, aroma, color or other characteristics of normal wines of such class or type are acquired without such treatment; or

(d) Any wine made from "must" concentrated at any time to more than 80 degrees (Balling).

(2) Substandard wine shall include:

(a) Any wine having a volatile acidity in excess of the maximum prescribed therefor in these regulations;

(b) Any wine for which no maximum volatile acidity is prescribed in these regulations having a volatile acidity, calculated as acetic acid and exclusive of sulphur dioxide, in excess of 0.14 gram per 100 cubic centimeters (20 degrees C.);

(c) Any wine for which a standard of identity is prescribed in these regulations which, through disease, decomposition, or otherwise, fails to have the composition, color, and clean vinous taste and aroma of normal wines conforming to such standard; or

(d) Wine of any class or type containing added water, or sugar and water solution, in excess of the quantities expressly authorized for standard wine made from the same kind or kinds of materials as prescribed in regulation (57).

(3) Coined names:

(a) The sale in this state of wines, identified on labels or in advertisements by a type of brand designation which implies mixtures of wines for which standards of identity are established in these regulations, or which identifying type or brand designation resembles an established wine type name such as Angelica, Madeira, Muscatel, Port, White Port, Sherry, Tokay, Sauterne, Claret, Burgundy, etc., is hereby prohibited.

(b) The sale in this state of wine or combinations of wine and other alcoholic beverages which contain on the label statements such as whiskey wine, rum and wine, gin and wine, beer and wine, etc., or simulations of such combinations, is hereby prohibited.

(4) Containers:

(a) The sale of wine in any container originally designed for a product other than wine or in any container the design or shape of which would tend to mislead the consumer as to the nature of the contents, is hereby prohibited.

(b) The sale of wine in containers which have blown, branded or burned therein the name or other distinguishing mark of any person engaged in business as a wine producer, importer, distributor, or bottler or any other person different from the person whose name is required to appear on the brand label, is hereby prohibited.

[Statutory Authority: RCW 66.08.030, 15.88.030, 19.126.020, 66.04.010, 66.08.180, 66.16.100, 66.20.010, 66.20.300, 66.20.310, 66.24.150, 66.24.170, 66.24.185, 66.24.200, 66.24.206, 66.24.210, 66.24.230, 66.24.240, 66.24.244, 66.24.250, 66.24.375, 66.24.380, 66.24.395, 66.24.400, 66.24.420, 66.24.425, 66.24.440, 66.24.450, 66.24.455, 66.24.495, 66.24.540, 66.28.010, 66.28.040, 66.28.050, 66.28.170, 66.28.180, 66.28.190, 66.28.200, 66.28.310, 66.44.190, 66.44.310,

66.98.060 and 82.08.150. WSR 98-18-097, § 314-24-006, filed 9/2/98, effective 10/3/98; Order 5, § 314-24-006, filed 8/7/69, effective 9/8/69.]

WAC 314-24-020 Sanitation. Domestic winery premises shall be constructed, kept and maintained in a clean and sanitary condition, and in accordance with such rules and regulations as shall be prescribed by the state department of agriculture through the dairy and food division, for the sanitation thereof and applicable to the sanitation of such winery premises.

[Order 5, § 314-24-020, filed 8/7/69, effective 9/8/69; Rule 60, filed 6/13/63.]

WAC 314-24-040 Wine labels—Federal certificate of label approval required—Labels to be submitted. (1) No wine shall be imported or sold within the state of Washington until the certificate of approval holder, or domestic winery, or United States importer of foreign wine, shall have submitted to the board:

(a) The federal certificate of label approval for such wine which has been issued by the Tax and Trade Bureau, U.S. Treasury Department; and

(b) One label of the brand and type for which tracking is requested for wines under seven percent alcohol by volume.

(2) Any change in label or product which requires reissuance of federal approval under the provisions of 27 C.F.R. Part 4, must also be submitted to the board in accordance with the foregoing provisions of this regulation.

(3) Every producer, importer, bottler, distributor, or wine certificate of approval holder shall, upon request of the board or its authorized representative, furnish without cost to the board, samples of any brand of wine upon its premises for the purpose of analysis in order to determine whether the wine conforms to the quality standards set by the board in WAC 314-24-060 and conforms with commercial standards.

(4) No label shall be used that is misleading.

(5) No label shall be used that is designed to be appealing to children or other persons under legal age to consume. Persons who appear to be under legal age to consume may be depicted on a label when, in the discretion of the board, the depiction is dignified and does not promote illegal consumption of liquor.

(6) Wineries are not required to submit labels for tracking to the board for wine sold directly to Washington consumers under a direct shipper's permit. Wine labels may not be misleading and may not be designed to appeal especially to persons under the age of twenty-one.

[Statutory Authority: RCW 66.08.030 and 66.08.050. WSR 12-17-006, § 314-24-040, filed 8/1/12, effective 9/1/12. Statutory Authority: RCW 66.08.030, 66.20.360 through [66.20].380, 66.20.390, 66.24.170, 66.24.206, 66.24.210, 66.24.240, 66.24.244, 66.24.270, 66.24.290, 66.28.170, 66.28.180, and 42.56.270. WSR 07-02-076, § 314-24-040, filed 12/29/06, effective 1/29/07. Statutory Authority: RCW 66.08.030, 2004 c 160. WSR 04-24-097, § 314-24-040, filed 12/1/04, effective 1/1/05. Statutory Authority: RCW 66.08.030, 15.88.030, 19.126.020, 66.04.010, 66.08.180, 66.16.100, 66.20.010, 66.20.300, 66.20.310, 66.24.150, 66.24.170, 66.24.185, 66.24.200, 66.24.206, 66.24.210, 66.24.230, 66.24.240, 66.24.244, 66.24.250, 66.24.375, 66.24.380, 66.24.395, 66.24.400, 66.24.420, 66.24.425, 66.24.440, 66.24.450, 66.24.455, 66.24.495, 66.24.540, 66.28.010, 66.28.040, 66.28.050, 66.28.170, 66.28.180, 66.28.190, 66.28.200, 66.28.310, 66.44.190, 66.44.310, 66.98.060 and 82.08.150. WSR 98-18-097, § 314-24-040, filed 9/2/98, effective 10/3/98. Statutory Authority: RCW 66.08.030. WSR 92-03-110, § 314-24-040, filed 1/21/92, effective 2/21/92; WSR 89-02-014 (Order 274, Resolution No. 283), § 314-24-040, filed 12/28/88. Statutory Authority: RCW 66.08.030 and 66.28.110. WSR 88-17-095 (Order 254, Resolution No. 263), § 314-24-040, filed 8/23/88; Order 57, § 314-24-040, filed 7/28/77, effective 9/1/77; Order 42, § 314-24-040, Rule 62, filed 11/6/75; Order 19, § 314-24-040, filed 8/10/72; Order 5, § 314-24-040, filed 8/7/69, effective 9/8/69; Rule 62, filed 6/13/63.]

WAC 314-24-050 Alcoholic content. No wine shall exceed twenty-four percent of alcohol by volume at 60 degrees Fahrenheit, calculated from the distillate.

Label tolerance:

(1) The alcoholic content of wines containing in excess of fourteen percent of alcohol by volume shall be within one percent plus or minus of the label claim, but not to exceed the prescribed 24% limitation. In the event a maximum range of two percent is stated on the label, the alcoholic content must be within the stated range.

(2) The alcoholic content of wines containing less than fourteen percent of alcohol by volume shall be within one and one-half percent plus or minus of the label claim. In the event a maximum range of three percent is stated on the label, the alcoholic content must be within the stated range.

[Statutory Authority: RCW 66.08.030 and 66.98.070. WSR 81-22-026 (Order 85, Resolution No. 94), § 314-24-050, filed 10/28/81; Order 5, § 314-24-050, filed 8/7/69, effective 9/8/69; Rule 63, filed 6/13/63.]

WAC 314-24-060 Quality standards. All wines of the types and classes hereinafter set forth sold in the state of Washington shall meet the following requirements.

Acid content:

(1) Volatile acids:

(a) Red table wines . . . . Not over 0.14%, exclusive of sulfur dioxide, calculated as acetic acid.

(b) All other wines . . . . Not over 0.12%, exclusive of sulfur dioxide, calculated as acetic acid.

(c) Exception . . . . A higher volatile acidity level is permitted of 0.15 grams per 100 milliliters for white wine and 0.17 grams per 100 milliliters for red wine produced from unameliorated juice having a minimum solids content of 28 degrees Brix.

(2) Fixed acids:

(a) Grape wine:

(i) Table wine . . . . Not less than 0.4% calculated as tartaric acid.

(ii) Dessert wine . . . . Not less than 0.25% calculated as tartaric acid.

(b) Apple wine . . . . Not less than 0.15% calculated as malic acid.

(c) Fruit wine . . . . Not less than 0.5% calculated as citric acid.

(d) Berry wine . . . . Not less than 0.5% calculated as citric acid.

(3) Brix (balling):

(a) Port wine . . . . Minimum of 5.5 Brix at 20 degrees centigrade.

(b) White port wine . . . . Minimum of 5.5 Brix at 20 degrees centigrade.

(c) Muscatel wine . . . . Minimum of 5.5 Brix at 20 degrees centigrade.

(d) Tokay wine . . . . Minimum of 3.5 Brix at 20 degrees centigrade.

(e) Dry sherry wine . . . . Under 0.5 Brix at 20 degrees centigrade.

(f) Sherry wine . . . . Under 3 Brix at 20 degrees centigrade.

(g) Creme or sweet sherry wine . . . . Above 3 Brix at 20 degrees centigrade.

(4) Sulfur dioxide: Maximum of 350 parts per million total.

(5) Preservatives: No wines shall contain preservatives such as benzoic acid, salicylic acid or monochloracetic acid, or their derivatives except that wines classified as specialty wine in accordance with WAC 314-24-003 (2)(w) may use benzoic acid or its derivatives if such use has been approved by the United States Food and Drug Administration.

(6) Stability: All wines shall be free from precipitates, colloidal matter, metallic casse, haze due to yeast, bacteria, tartrates, or other causes as determined by usual stability tests: Provided, however, That sediment may be allowed at the discretion of the board when it occurs in accordance with commercial standards commonly accepted by trade designations as normal and indicative of the wine's composition.

[Statutory Authority: RCW 66.08.030. WSR 88-11-009 (Order 250, Resolution No. 259), § 314-24-060, filed 5/10/88; WSR 86-24-030 (Order 205, Resolution No. 214), § 314-24-060, filed 11/25/86; WSR 85-24-041 (Order 169, Resolution No. 178), § 314-24-060, filed 11/27/85; Order 14, § 314-24-060, filed 12/1/70, effective 1/1/71; Order 5, § 314-24-060, filed 8/7/69, effective 9/8/69; Rule 64, filed 6/13/63.]

WAC 314-24-070 Domestic wineries—Purchase and use of bulk wines, brandy or wine spirits—Import permit required—Records—Wine returned to Washington. (1) Domestic wineries may purchase and receive under federal bond from any holder of a domestic winery license, holder of the fruit and/or wine distillery license provided in RCW 66.24.140, or out-of-state holder of a federal winery or fruit distillery basic permit, bulk wine, brandy or bulk wine spirits manufactured or produced by such holder, and use the same in the manufacture or production of wines: Provided, That every domestic winery which imports wine, brandy or wine spirits manufactured outside the state of Washington for use as authorized in this section must first be in possession of a permit issued by the board, in accordance with RCW 66.20.010(5) of the Washington State Liquor Act. Applications for such permits must be submitted to the board in writing. Such permits expire at the end of the board's fiscal year, and are subject to renewal at that time upon written request and remittance of said annual fee. Wine manufactured or produced from one kind of fruit or berry may not receive wine, brandy or wine spirits manufactured or produced from another kind of fruit or berry. Such brandy or wine spirits so purchased shall be used exclusively and only for the purpose of adding wine spirits to wines. In those cases where the holder of a domestic winery license shall also hold such fruit and/or wine distillery license, then, and in such cases, such domestic winery may use brandy or wine spirits manufactured or produced under such distillery license as a wine spirits addition in the manufacture or production of wine by such holder of the domestic winery license.

(2) Any domestic winery using wine, brandy or wine spirits as provided in subsection (1) of this section, shall make and file with the board, not later than the tenth day of each month upon forms prescribed and furnished by the board, a report showing all transactions of such domestic winery in the purchase and/or use of wine, brandy or wine spirits as provided in said subsection (1), and shall retain one copy of such report in its own files, and shall keep and preserve for a period of not less than two years any bills of lading or other documents supporting such report. One copy of the bill of lading covering such sale and shipment to a domestic winery is to be forwarded to the board by the shipping winery or fruit distillery, at the time of such shipment.

(3) A domestic winery may ship Washington wine out of and may return such wine to Washington state for ultimate sale. The following conditions apply:

(a) The wine is produced and bottled in Washington by a licensed winery.

(b) The export shall be from the licensed winery and returned to the same entity, a licensed wine distributor or bonded wine warehouse.

(c) The returned wine must not have been altered in any way, with the exception of sparkling wine.

(d) A domestic winery, a licensed wine distributor, or bonded wine warehouse directly receiving previously exported Washington wine must comply with tax collection and tracking requirements initiated by the liquor control board.

(e) A domestic winery, a licensed wine distributor, or bonded wine warehouse directly receiving previously exported Washington wine must keep on file for audit purposes clear source records (shipping documents, etc.) with reporting documents. Records need to indicate what wine was returned to the state that was previously reported as an export (including number of cases and gallons).

[Statutory Authority: RCW 66.08.030. WSR 14-06-109, § 314-24-070, filed 3/5/14, effective 4/5/14; WSR 12-24-091, § 314-24-070, filed 12/5/12, effective 1/5/13. Statutory Authority: RCW 66.08.030 and 66.08.050. WSR 12-17-006, § 314-24-070, filed 8/1/12, effective 9/1/12. Statutory Authority: RCW 66.08.030 and 66.28.320. WSR 10-01-090, § 314-24-070, filed 12/16/09, effective 1/16/10. Statutory Authority: RCW 66.08.030. WSR 86-11-014 (Order 184, Resolution No. 193), § 314-24-070, filed 5/13/86; Order 14, § 314-24-070, filed 12/1/70, effective 1/1/71; Order 5, § 314-24-070, filed 8/7/69, effective 9/8/69; Rule 65, filed 6/13/63.]

WAC 314-24-080 Containers—Sizes and types permitted. (1) All wine sold for consumption in the state shall be sold in packages or container sizes approved by the Bureau of Alcohol, Tobacco, and Firearms, U.S. Treasury Department for Marketing within the United States. A copy of the federal certificate of label approval must be submitted with each such request for authorization.

(2) No domestic winery or wine distributor, or wine importer shall adopt or use any packages for wine differing in sizes and case capacities from: Manufacturer's original full cases. The board may, in its discretion, authorize other container and/or keg size packages it deems appropriate.

(3) Wine referred to in subsections (1) and (2) of this regulation may also be packaged and sold in metric standards of fill and in case sizes as are established in 27 Code of Federal Regulations, to wit: 3 liters (101 fl. oz.) 4 bottles per case; 1.5 liters (50.7 fl. oz.) 6 bottles p/c; one liter (33.8 fl. oz.) 12 bottles p/c; 750 milliliters (25.4 fl. oz.) 12 bottles p/c; 375 milliliters (12.7 fl. oz.) 24 bottles p/c; 187 milliliters (6.3 fl. oz.) 48 bottles p/c; 100 milliliters (3.4 fl. oz.) 60 bottles p/c. Wine may be bottled or packed in containers of four liters or larger if the containers are filled and labeled in quantities of even liters.

(4) Wine imported from foreign countries may be packaged and container sizes approved by the Bureau of Alcohol, Tobacco, and Firearms, U.S. Treasury Department for marketing within the United States. A copy of the federal certificate of label approval must be submitted with each such request for authorization.

(5) For taxing purposes and in all reports to the board, the above enumerated designations of package sizes, and no others, shall be used.

[Statutory Authority: RCW 66.08.030, 15.88.030, 19.126.020, 66.04.010, 66.08.180, 66.16.100, 66.20.010, 66.20.300, 66.20.310, 66.24.150, 66.24.170, 66.24.185, 66.24.200, 66.24.206, 66.24.210, 66.24.230, 66.24.240, 66.24.244, 66.24.250, 66.24.375, 66.24.380, 66.24.395, 66.24.400, 66.24.420, 66.24.425, 66.24.440, 66.24.450, 66.24.455, 66.24.495, 66.24.540, 66.28.010, 66.28.040, 66.28.050, 66.28.170, 66.28.180, 66.28.190, 66.28.200, 66.28.310, 66.44.190, 66.44.310, 66.98.060 and 82.08.150. WSR 98-18-097, § 314-24-080, filed 9/2/98, effective 10/3/98. Statutory Authority: RCW 66.08.030. WSR 86-07-022 (Order 172, Resolution No. 181), § 314-24-080, filed 3/13/86. Statutory Authority: RCW 66.08.030, 66.08.050 and 66.98.070. WSR 78-09-012 (Order 67, Resolution No. 76), § 314-24-080, filed 8/8/78; Order 49, § 314-24-080, filed 8/26/76; Order 37, § 314-24-080, filed 7/17/75; Order 19, § 314-24-080, filed 8/10/72; Order 14, § 314-24-080, filed 12/1/70, effective 1/1/71; Order 5, § 314-24-080, filed 8/7/69, effective 9/8/69; Resolution No. 3, filed 9/8/64; Rule 66, filed 6/13/63.]

WAC 314-24-090 Wine labels. (1) Every package or container of wine intended for sale within the state of Washington shall bear a label in compliance with RCW 66.28.110. Such label shall show:

(a) The brand name of the wine.

(b) Class, type or other designation.

(c) The name and address of the bottler or packager, which shall be stated as follows "Bottled by . . . . . " Where a bottler or packager has made not less than 75% of the wine in a particular package or container by crushing the grapes or other materials, fermenting the must and clarifying the resulting wine, there may be stated in lieu of the words "bottled by" the words "manufactured and bottled by" or "produced and bottled by." In addition to the name and address of the bottler or packager, but not in lieu thereof, there may be stated the name and address of the manufacturer or producer.

(d) The alcoholic content of the wine by volume, stated as provided in either (i) or (ii) of this subsection:

(i) "Alcohol . . . . . % by volume."

(ii) "Alcohol . . . . . % to . . . . . % by volume."

(e) The net contents of the package or container: Provided, That the net contents need not be stated on any label if the net contents are displayed by having the same blown or branded in the package or container as the brand label, in letters or figures in such manner as to be plainly legible under ordinary circumstances, and such statement is not obscured in any manner in whole or in part.

(2) No label shall be used until after the same has been submitted to, and has received a written approval of, the board (see WAC 314-24-040).

(3) No label shall be used that is misleading.

[Statutory Authority: RCW 66.28.120 and 66.28.110. WSR 87-21-036 (Order 230, Resolution No. 239), § 314-24-090, filed 10/13/87. Statutory Authority: RCW 66.28.110. WSR 87-08-016 (Order 216, Resolution No. 225), § 314-24-090, filed 3/24/87; Order 5, § 314-24-090, filed 8/7/69, effective 9/8/69; Rule 67, filed 6/13/63.]

WAC 314-24-100 Domestic wineries—Responsibility for fruits used—Records. Every domestic winery shall keep proper records as required by the Bureau of Alcohol, Tobacco and Firearms, United States Treasury Department, in a form approved by the board showing the place of origin and/or purchase of all fruits and fruit products used by such winery in the manufacture of wine, which records shall be kept at the office of such winery and available at all times for inspection by the board.

[Statutory Authority: RCW 66.08.030. WSR 86-11-014 (Order 184, Resolution No. 193), § 314-24-100, filed 5/13/86; Order 5, § 314-24-100, filed 8/7/69, effective 9/8/69; Rule 68, filed 6/13/63.]

WAC 314-24-105 Application procedure—Wine distributor's or importer's license. Any person making application for a new wine distributor's or importer's license shall submit to the board, as a condition precedent to the board considering the application, such information as may be requested by the board and shall additionally submit a written commitment from a manufacturer or importer that the product the applicant proposes to distribute is available to him should a license be issued.

The decision as to whether a license will or will not be issued in a particular case is, pursuant to RCW 66.24.010, a matter of board discretion. The submission of the above information and written commitment shall not be construed as creating a vested right in the applicant to have a license issued.

[Statutory Authority: RCW 66.08.030, 15.88.030, 19.126.020, 66.04.010, 66.08.180, 66.16.100, 66.20.010, 66.20.300, 66.20.310, 66.24.150, 66.24.170, 66.24.185, 66.24.200, 66.24.206, 66.24.210, 66.24.230, 66.24.240, 66.24.244, 66.24.250, 66.24.375, 66.24.380, 66.24.395, 66.24.400, 66.24.420, 66.24.425, 66.24.440, 66.24.450, 66.24.455, 66.24.495, 66.24.540, 66.28.010, 66.28.040, 66.28.050, 66.28.170, 66.28.180, 66.28.190, 66.28.200, 66.28.310, 66.44.190, 66.44.310, 66.98.060 and 82.08.150. WSR 98-18-097, § 314-24-105, filed 9/2/98, effective 10/3/98; Order 55, § 314-24-105, filed 5/31/77, effective 7/1/77.]

WAC 314-24-107 Winery warehouse license. (1) A licensee holding a domestic winery license under RCW 66.24.170 and acting as a distributor of its own products may apply for a winery warehouse license. There is no fee for this license.

(2) A winery warehouse is a premises located off the winery premises that is used for the storage of bulk wine and the distribution of the winery's own products. Storage of bulk wine may require a federal registry number.

(3) No part of the production process may take place at the winery warehouse premises.

(4) There may be no retail sales from the winery warehouse premises.

(5) The winery warehouse must be approved by the board under RCW 66.24.010 and the number of warehouses off the winery premises may not exceed one.

[Statutory Authority: RCW 66.08.030 and 66.28.320. WSR 10-01-090, § 314-24-107, filed 12/16/09, effective 1/16/10.]

WAC 314-24-115 Wine importers—Requirements. (1) Principal office: Each wine importer shall keep the board informed at all times of the location of the principal office required by the Washington State Liquor Act and shall, not less than two days prior thereto notify the board in writing or by telegraph of any change in the location of such office.

(2) Warehouses: Wine importers maintaining warehouses at which wine imported by such importer is stored shall at all times keep the board advised of the location of such warehouses.

(3) Certain duties: No wine importer shall import or transport or cause to be transported into the state of Washington any brand of wine manufactured within the United States but outside the state of Washington, unless such importer shall have first filed with the board a notice of his intention so to do, and shall have ascertained from the board that the winery manufacturing such wine has obtained from the Washington state liquor control board a certificate of approval as provided in the Washington State Liquor Act (section 10, chapter 21, Laws of 1969 ex. sess.).

[Order 26, § 314-24-115, filed 8/14/73; Order 5, § 314-24-115, filed 8/7/69, effective 9/8/69; Rule 69, filed 6/13/63.]

WAC 314-24-117 Wine certificate of approval fee. (1) The fee for a wine certificate of approval license is $200 per year. The certificate of approval holder must pay the $200 fee for each privilege as described below:

(a) Manufacturer of wine produced in the United States but outside of Washington state, shipping wine to licensed Washington wine distributors or importers.

(b) Authorized representative for wine produced in the United States but outside of Washington state, shipping wine to licensed Washington wine distributors or importers.

(c) Authorized representative for wine produced outside of the United States, shipping wine to licensed Washington wine distributors or importers.

(2) A certificate of approval holder under RCW 66.24.206 (1)(a) may add an endorsement to the certificate of approval that allows the holder to ship wine of the holder's own production directly to licensed liquor retailers. The fee for this endorsement is $100 and is in addition to the fee required for a certificate of approval license.

[Statutory Authority: RCW 66.08.030, 2006 c 302. WSR 06-11-051, § 314-24-117, filed 5/11/06, effective 6/11/06. Statutory Authority: RCW 66.08.030, 2004 c 160. WSR 04-24-097, § 314-24-117, filed 12/1/04, effective 1/1/05.]

WAC 314-24-120 Importation of foreign wine—United States wineries—Reports—Records. (1) Foreign wine. Wine manufactured outside of the United States may be imported by a wine importer or distributor under the following conditions:

(a) The wine importer or distributor importing such wine must obtain label approval in accordance with WAC 314-24-040. Such wine shall be imported and delivered directly to either the warehouse of the importer or distributor or to some other warehouse previously designated by the importer or distributor and approved by the board.

(b) All matters pertaining to the importation, transportation, storage, keeping of records, and all other matters pertaining to the importation of wine manufactured outside the United States shall be subject at all times to such orders, rules and regulations as the board may from time to time prescribe, and the board reserves the right to make orders applicable to individual and particular cases in addition to general orders, rules and regulations applicable generally.

(2) Holders of certificate of approval—United States wineries, located outside of Washington state. Each winery holding a certificate of approval may ship wine to licensed wine importers and/or distributors only. As required by section 10, chapter 21, Laws of 1969 ex. sess., and by the written agreement embodied in the application for certificate of approval, each winery holding a certificate of approval shall file the report(s) required by WAC 314-19-015.

[Statutory Authority: RCW 66.08.030. WSR 12-24-091, § 314-24-120, filed 12/5/12, effective 1/5/13. Statutory Authority: RCW 66.08.030, 66.24.210, 66.24.230, 66.24.290, 66.24.305, 66.24.270, 66.24.215, 66.24.580, 66.24.206. WSR 00-17-065, § 314-24-120, filed 8/9/00, effective 9/9/00. Statutory Authority: RCW 66.08.030, 15.88.030, 19.126.020, 66.04.010, 66.08.180, 66.16.100, 66.20.010, 66.20.300, 66.20.310, 66.24.150, 66.24.170, 66.24.185, 66.24.200, 66.24.206, 66.24.210, 66.24.230, 66.24.240, 66.24.244, 66.24.250, 66.24.375, 66.24.380, 66.24.395, 66.24.400, 66.24.420, 66.24.425, 66.24.440, 66.24.450, 66.24.455, 66.24.495, 66.24.540, 66.28.010, 66.28.040, 66.28.050, 66.28.170, 66.28.180, 66.28.190, 66.28.200, 66.28.310, 66.44.190, 66.44.310, 66.98.060 and 82.08.150. WSR 98-18-097, § 314-24-120, filed 9/2/98, effective 10/3/98. Statutory Authority: RCW 66.08.030 and 66.98.070. WSR 82-04-035 (Order 95, Resolution No. 104), § 314-24-120, filed 1/28/82; WSR 81-22-026 (Order 85, Resolution No. 94), § 314-24-120, filed 10/28/81; Order 26, § 314-24-120, filed 8/14/73; Order 5, § 314-24-120, filed 8/7/69, effective 9/8/69; Rule 71, filed 6/13/63.]

WAC 314-24-130 Case lot sales. No domestic winery, wine distributor, wine importer, or certificate of approval holder shall sell or otherwise deliver wine to another domestic winery, wine distributor, and wine importer except in whole case lots, nor shall any such licensee receive from any other such licensee wine except in whole case lots.

[Statutory Authority: RCW 66.08.030, 15.88.030, 19.126.020, 66.04.010, 66.08.180, 66.16.100, 66.20.010, 66.20.300, 66.20.310, 66.24.150, 66.24.170, 66.24.185, 66.24.200, 66.24.206, 66.24.210, 66.24.230, 66.24.240, 66.24.244, 66.24.250, 66.24.375, 66.24.380, 66.24.395, 66.24.400, 66.24.420, 66.24.425, 66.24.440, 66.24.450, 66.24.455, 66.24.495, 66.24.540, 66.28.010, 66.28.040, 66.28.050, 66.28.170, 66.28.180, 66.28.190, 66.28.200, 66.28.310, 66.44.190, 66.44.310, 66.98.060 and 82.08.150. WSR 98-18-097, § 314-24-130, filed 9/2/98, effective 10/3/98; Order 5, § 314-24-130, filed 8/7/69, effective 9/8/69; Rule 72, filed 6/13/63.]

WAC 314-24-140 Sales to vessels. Tax paid wine may be sold direct by wine distributors to:

(1) Vessels engaged in foreign commerce and operating on regular schedules.

(2) Vessels engaged in interstate commerce and operating on regular schedules.

(3) Vessels commonly known as "tramps," engaged in interstate and/or foreign commerce but not operating on regular schedules and taking cargo when and where it offers and to any port.

Wine may not be sold direct by wine distributors to any other class of boat or vessel unless the boat or vessel is in possession of a proper retail license.

[Statutory Authority: RCW 66.08.030, 15.88.030, 19.126.020, 66.04.010, 66.08.180, 66.16.100, 66.20.010, 66.20.300, 66.20.310, 66.24.150, 66.24.170, 66.24.185, 66.24.200, 66.24.206, 66.24.210, 66.24.230, 66.24.240, 66.24.244, 66.24.250, 66.24.375, 66.24.380, 66.24.395, 66.24.400, 66.24.420, 66.24.425, 66.24.440, 66.24.450, 66.24.455, 66.24.495, 66.24.540, 66.28.010, 66.28.040, 66.28.050, 66.28.170, 66.28.180, 66.28.190, 66.28.200, 66.28.310, 66.44.190, 66.44.310, 66.98.060 and 82.08.150. WSR 98-18-097, § 314-24-140, filed 9/2/98, effective 10/3/98; Order 5, § 314-24-140, filed 8/7/69, effective 9/8/69; Rule 73, filed 6/13/63.]

WAC 314-24-150 Wine records—Preservation. (1) Every domestic winery, wine distributor, wine certificate of approval holder, wine shipper permit holder, and wine importer shall keep wine accounts separate from other accounts, and maintain proper records in a form approved by the board showing all transactions in wine.

(2) Every domestic winery, wine distributor, and wine importer, shall, in the case of sales of wine within the state, keep and preserve all invoices, bills of lading, sales slips, and other evidence of sale, in the office of the domestic winery, wine distributor or wine importer for at least three years after each sale.

(3) Every domestic winery, wine distributor, and wine importer, shall, in the case of wine exported from the state, keep and preserve all bills of lading and other evidence of shipment in the office of the domestic winery, wine distributor, or wine importer for at least three years after each shipment.

(4) Both the shipping and receiving licensees and permittees, as the case may be, shall keep and preserve all invoices, bills of lading, sales slips, and other evidence of sale, transfer or shipment in their respective offices for at least three years after each sale, transfer or shipment.

(5) Licensees and permittees may maintain microfilm records containing reproductions (including microfiche) of any record, document, or report if first approved by the board. Request for approval shall be directed to the financial division of the Washington state liquor control board and must include the following information:

(a) Records proposed to be reproduced.

(b) Reproduction process.

(c) Manner of preserving the reproduction.

(d) Facilities provided for examining or viewing such reproduction.

If the request is approved, the licensee or permittee shall provide for the examining, viewing, and reproduction of such records the same as if they were the original records.

(6) If the licensee or permittee keeps records within an automated data processing (ADP) system, the system must include a method for producing legible records that will provide the same information required of that type of record within this section. The ADP system is acceptable if it complies with the following guidelines:

(a) Provides an audit trail so that details (invoices and vouchers) underlying the summary accounting data may be identified and made available upon request.

(b) Provides the opportunity to trace any transaction back to the original source or forward to a final total. If printouts of transactions are not made when they are processed, the system must have the ability to reconstruct these transactions.

(c) Has available a full description of the ADP portion of the accounting system. This should show the applications being performed, the procedures employed in each application, and the controls used to ensure accurate and reliable processing.

(7) The provisions contained in subsections (5) and (6) of this section do not eliminate the requirement to maintain source documents, but they do allow the source documents to be maintained in some other location.

[Statutory Authority: RCW 66.08.030 and 66.28.320. WSR 10-01-090, § 314-24-150, filed 12/16/09, effective 1/16/10. Statutory Authority: RCW 66.08.030, 66.20.360 through [66.20].380, 66.20.390, 66.24.170, 66.24.206, 66.24.210, 66.24.240, 66.24.244, 66.24.270, 66.24.290, 66.28.170, 66.28.180, and 42.56.270. WSR 07-02-076, § 314-24-150, filed 12/29/06, effective 1/29/07. Statutory Authority: RCW 66.08.030, 15.88.030, 19.126.020, 66.04.010, 66.08.180, 66.16.100, 66.20.010, 66.20.300, 66.20.310, 66.24.150, 66.24.170, 66.24.185, 66.24.200, 66.24.206, 66.24.210, 66.24.230, 66.24.240, 66.24.244, 66.24.250, 66.24.375, 66.24.380, 66.24.395, 66.24.400, 66.24.420, 66.24.425, 66.24.440, 66.24.450, 66.24.455, 66.24.495, 66.24.540, 66.28.010, 66.28.040, 66.28.050, 66.28.170, 66.28.180, 66.28.190, 66.28.200, 66.28.310, 66.44.190, 66.44.310, 66.98.060 and 82.08.150. WSR 98-18-097, § 314-24-150, filed 9/2/98, effective 10/3/98. Statutory Authority: RCW 66.08.030. WSR 87-20-013 (Order 229, Resolution No. 238), § 314-24-150, filed 9/29/87; Order 5, § 314-24-150, filed 8/7/69, effective 9/8/69; Rule 75, filed 6/13/63.]

WAC 314-24-160 Domestic wineries—Retail sales of wine on winery premises—Wine served without charge on premises—Spirit, beer and wine restaurant operation. (1) A domestic winery holding a proper retail license, pursuant to chapter 66.24 RCW, may sell wine of its own production at retail on the winery premises.

(2) In selling wine of its own production at retail on its premises as provided in subsection (1) of this regulation, a domestic winery shall conduct such operation in conformity with the statutes and regulations which apply to holders of such wine retailers' licenses. The winery shall maintain records of its retail operation separate from other winery operation records.

(3) Upon written authorization of the board, pursuant to RCW 66.04.011, wine of a domestic winery's own production and/or liquor products other than wine of a licensee's own production may be consumed in designated parks and picnic areas adjacent to and held by the same ownership as the domestic winery.

(4) A domestic winery or a lessee of a licensed domestic winery operating a spirit, beer and wine restaurant, licensed pursuant to RCW 66.28.295, shall conduct such operation in conformity with the statutes and regulations which apply to holders of such spirit, beer and wine restaurant licenses.

(5) A domestic winery may serve its own wine and wine not of its own production without charge on the winery premises as authorized by RCW 66.28.295.

(6) No retail license or fee is required for the holder of a domestic winery license to serve wine without charge on the winery premises as set forth in subsection (5) of this regulation. Before exercising this privilege, however, such winery shall obtain approval of the proposed service area and facilities. Such winery shall maintain a separate record of all wine so served.

(7) A domestic winery may sell for off-premises consumption wine of its own production in kegs or sanitary containers brought to the premises by the purchaser or furnished by the licensee and filled at the tap at the time of sale.

(8) A winery is required to obtain the appropriate retail license to sell beer, wine, or spirits on the winery premises that is not of its own production.

[Statutory Authority: RCW 66.08.030, 66.24.371, and 66.24.590. WSR 15-01-001, § 314-24-160, filed 12/3/14, effective 1/3/15. Statutory Authority: RCW 66.08.030 and 66.08.050. WSR 12-17-006, § 314-24-160, filed 8/1/12, effective 9/1/12. Statutory Authority: RCW 66.08.030, 66.24.210, 66.24.230, 66.24.290, 66.24.305, 66.24.270, 66.24.215, 66.24.580, 66.24.206. WSR 00-17-065, § 314-24-160, filed 8/9/00, effective 9/9/00. Statutory Authority: RCW 66.08.030, 15.88.030, 19.126.020, 66.04.010, 66.08.180, 66.16.100, 66.20.010, 66.20.300, 66.20.310, 66.24.150, 66.24.170, 66.24.185, 66.24.200, 66.24.206, 66.24.210, 66.24.230, 66.24.240, 66.24.244, 66.24.250, 66.24.375, 66.24.380, 66.24.395, 66.24.400, 66.24.420, 66.24.425, 66.24.440, 66.24.450, 66.24.455, 66.24.495, 66.24.540, 66.28.010, 66.28.040, 66.28.050, 66.28.170, 66.28.180, 66.28.190, 66.28.200, 66.28.310, 66.44.190, 66.44.310, 66.98.060 and 82.08.150. WSR 98-18-097, § 314-24-160, filed 9/2/98, effective 10/3/98. Statutory Authority: RCW 66.08.030. WSR 93-11-028, § 314-24-160, filed 5/10/93, effective 6/10/93; WSR 86-12-023 (Order 190, Resolution No. 199), § 314-24-160, filed 5/28/86; Order 61, § 314-24-160, filed 12/6/77; Order 40, § 314-24-160, filed 8/21/75; Order 5, § 314-24-160, filed 8/7/69, effective 9/8/69; Rule 76, filed 6/13/63.]

WAC 314-24-161 Domestic winery—Additional locations for retail sales only. A licensee holding a domestic winery license under RCW 66.24.170 may apply for two additional location licenses.

(1) Wine-related retail activities allowed at an additional location include:

(a) Serving of samples provided with or without charge to customers (must be wine of the winery's own production). Samples are subject to taxes under WAC 314-19-015 (4)(b);

(b) Selling wine of the winery's own production for either on-premises or off-premises consumption;

(c) Selling for off-premises consumption wine of its own production in kegs or sanitary containers brought to the premises by the purchaser or furnished by the licensee and filled at the tap at the time of sale; and

(d) Renting space for public and private events, such as catered events (subject to all of the provisions of this section, to Title 66 RCW covering the "tied house" restrictions, and to RCW 66.24.320 and 66.24.420).

(2) A licensee may request approval for an outside designated area. For the purpose of this section, an "outside designated area" means a specific area located on an outside track of land where alcohol consumption is allowed.

(a) An outside designated area must have prior written approval from the board's licensing division.

(b) The outside designated area shall be marked as such, and shall be enclosed in accordance with WAC 314-02-130(1).

(c) The outside designated area shall be on the licensed premises.

(3) Anyone involved in the selling or serving of wine, including the pouring of samples, at an additional location for on-premises consumption must obtain a Class 12 or Class 13 alcohol server permit.

(4) A winery additional location may hold a beer and wine restaurant license at the additional location premises under the following conditions:

(a) The licensee must apply for a beer and wine restaurant license with fees for the additional location:

(i) If a location is shared with multiple wineries not of the same entity, violations will be addressed per the requirements of RCW 66.24.170(4).

(ii) Where the location is shared with multiple wineries, the applicant will include in their application a list of other license holders at that location as well as a sketch illustrating the location of each licensee.

(b) The licensee must abide by all laws and rules of the retail license; and

(c) No free samples are allowed on the retail portion of the premises.

[Statutory Authority: RCW 66.08.030, 66.24.371, and 66.24.590. WSR 15-01-001, § 314-24-161, filed 12/3/14, effective 1/3/15. Statutory Authority: RCW 66.08.030. WSR 09-02-010, § 314-24-161, filed 12/29/08, effective 1/29/09.]

WAC 314-24-175 Farmer's market beer and wine sampling. (1) To conduct beer and wine tasting at a farmer's market, the following criteria must be met:

(a) The farmer's market must be authorized to allow breweries, microbreweries, and wineries to sell bottled wine and/or beer at retail.

(b) The farmer's market must hold an endorsement to allow sampling of beer and wine or both.

(c) A brewery, microbrewery, or winery offering samples at a farmer's market must have an endorsement from the board to sell beer or wine of its own production at a farmer's market (see RCW 66.24.170, 66.24.240, and 66.24.244).

(d) No more than three breweries, microbreweries, or wineries combined may offer samples at a qualifying farmer's market per day.

(e) A brewery, microbrewery, or winery may advertise that it offers samples only at its designated booth, stall, or anywhere within the farmer's market.

(2) Samples of beer or wine may be offered only under the following conditions:

(a) Each sample must be two ounces or less, up to a total of two ounces per customer per day.

(b) Beer and wine samples are to be conducted at the booth or stall of the brewery, microbrewery, or winery with a barrier at least forty-two inches in height, where licensees are able to observe and control customers participating in the samples. The barriers may be moveable (an example would be ropes and stanchions).

(c) A brewery, microbrewery, or winery must have food available for customers to consume while sampling beer or wine, or must be adjacent to a vendor offering prepared food.

(d) Customers must remain in the designated sampling area while sampling beer or wine.

(e) Brewery, microbrewery, or winery employees serving beer or wine during sampling events must hold a valid MAST permit.

(f) The brewery, microbrewery, or winery is required to send a list of scheduled beer and wine samplings to the liquor control board at MIWenforce@liq.wa.gov at the beginning of each month. The date for each beer and wine sampling must be included.

(g) The farmer's market is also required to send a list of scheduled beer and wine samplings to the liquor control

board at MIWenforce@liq.wa.gov at the beginning of each month. The date for each beer and wine sampling, and the names of the brewery, microbrewery, and winery providing the samples must be included.

(h) The farmer's market is required to provide a sketch to the licensing division of the area where beer and wine samples will be conducted and to any adjacent food booths.

[Statutory Authority: RCW 66.24.170, 66.24.240, and 66.24.244. WSR 14-03-084, § 314-24-175, filed 1/16/14, effective 2/16/14.]

WAC 314-24-180 Wine distributors, wine importers—Certain rights granted. (1) Wine distributors may sell to retailers, export wine from the state, and purchase wine from or sell wine to another wine distributor.

(2) Wine distributors must sell and deliver product from their licensed premises.

(3) Wine importers may sell to the board, export wine from the state, or sell to wine distributors, but may not sell to another wine importer or to retailers.

[Statutory Authority: RCW 66.08.030 and 66.08.050. WSR 12-17-006, § 314-24-180, filed 8/1/12, effective 9/1/12. Statutory Authority: RCW 66.08.030, 15.88.030, 19.126.020, 66.04.010, 66.08.180, 66.16.100, 66.20.010, 66.20.300, 66.20.310, 66.24.150, 66.24.170, 66.24.185, 66.24.200, 66.24.206, 66.24.210, 66.24.230, 66.24.240, 66.24.244, 66.24.250, 66.24.375, 66.24.380, 66.24.395, 66.24.400, 66.24.420, 66.24.425, 66.24.440, 66.24.450, 66.24.455, 66.24.495, 66.24.540, 66.28.010, 66.28.040, 66.28.050, 66.28.170, 66.28.180, 66.28.190, 66.28.200, 66.28.310, 66.44.190, 66.44.310, 66.98.060 and 82.08.150. WSR 98-18-097, § 314-24-180, filed 9/2/98, effective 10/3/98; Order 5, § 314-24-180, filed 8/7/69, effective 9/8/69; Rule 78, filed 6/13/63.]

WAC 314-24-190 Wine suppliers and distributors. (1) **Definitions -** For the purposes of this chapter:

(a) A "wine supplier" means a domestic winery, certificate of approval holder, wine importer, wine distributor acting as the first United States importer, or a distributor selling wine to another distributor.

(b) A "wine distributor" means a distributor selling to a retailer, a domestic winery acting as a distributor, or a certificate of approval holder with a direct shipping to Washington retailer endorsement selling wine of its own production to a retailer.

(2) **Products -** All products must be made available to all retail licensees to the extent it is reasonably practical to do so.

(3) **Distributor changes:**

(a) The following guidelines apply when a wine supplier makes a distributor change outside of the regular distributor appointment timelines. The supplier must notify the board in writing that he/she wishes to change his/her current distributor and appoint a new distributor to be effective immediately.

(b) A wine supplier must notify the board if any of the contracts or agreements listed in this rule are revised or terminated by either party.

(4) **Accommodation sales -** The provisions of this rule do not apply when a wine distributor makes an accommodation sale to another wine distributor and this sale is made at a selling price that does not exceed the laid-in cost of the wine being sold. Accommodation sales may only be made when the distributor purchasing the wine is an appointed distributor of the supplier, when the distributor is an authorized purchaser of the brand and product being sold, and when the supplying distributor is appointed by the supplier.

[Statutory Authority: RCW 66.08.030 and 66.08.050. WSR 12-17-006, § 314-24-190, filed 8/1/12, effective 9/1/12. Statutory Authority: RCW 66.08.030 and 66.28.320. WSR 10-01-090, § 314-24-190, filed 12/16/09, effective 1/16/10. Statutory Authority: RCW 66.08.030, 66.20.360 through [66.20].380, 66.20.390, 66.24.170, 66.24.206, 66.24.210, 66.24.240, 66.24.244, 66.24.270, 66.24.290, 66.28.170, 66.28.180, and 42.56.270. WSR 07-02-076, § 314-24-190, filed 12/29/06, effective 1/29/07. Statutory Authority: RCW 66.08.030, 66.28.180, and 2004 c 160. WSR 04-19-155, § 314-24-190, filed 9/22/04, effective 10/23/04. Statutory Authority: RCW 66.08.030, 15.88.030, 19.126.020, 66.04.010, 66.08.180, 66.16.100, 66.20.010, 66.20.300, 66.20.310, 66.24.150, 66.24.170, 66.24.185, 66.24.200, 66.24.206, 66.24.210, 66.24.230, 66.24.240, 66.24.244, 66.24.250, 66.24.375, 66.24.380, 66.24.395, 66.24.400, 66.24.420, 66.24.425, 66.24.440, 66.24.450, 66.24.455, 66.24.495, 66.24.540, 66.28.010, 66.28.040, 66.28.050, 66.28.170, 66.28.180, 66.28.190, 66.28.200, 66.28.310, 66.44.190, 66.44.310, 66.98.060 and 82.08.150. WSR 98-18-097, § 314-24-190, filed 9/2/98, effective 10/3/98. Statutory Authority: RCW 66.08.030. WSR 87-15-111 (Order 222, Resolution No. 231), § 314-24-190, filed 7/22/87. Statutory Authority: RCW 66.08.030, 66.98.070 and 66.08.060. WSR 86-16-060 (Order 173, Resolution No. 182), § 314-24-190, filed 8/5/86. Statutory Authority: RCW 66.08.030. WSR 82-16-069 (Order 91, Resolution No. 100), § 314-24-190, filed 8/2/82. Statutory Authority: RCW 66.08.030 and 66.98.070. WSR 81-22-026 (Order 85, Resolution No. 94), § 314-24-190, filed 10/28/81. Statutory Authority: RCW 66.08.030, 66.08.060 and 66.98.070. WSR 78-02-056 (Order 62), § 314-24-190, filed 1/20/78, effective 7/1/78; Order 54, § 314-24-190, filed 5/24/77, effective 7/1/77; Order 51, § 314-24-190, filed 12/15/76; Order 26, § 314-24-190, filed 8/14/73; Order 18, § 314-24-190, filed 1/13/72, effective 2/14/72; Order 15, § 314-24-190, filed 5/13/71, effective 7/1/71; Order 5, § 314-24-190, filed 8/7/69, effective 9/8/69; Rule 81, filed 6/13/63.]

WAC 314-24-210 Return of wine by retailer—Replacement—Conditions. No wine shall be returned by any retail licensee to any wine distributor except as herein provided.

(1) Wine which is not in a salable condition may be returned by a retail licensee to the wine distributor from whom purchased, provided it is immediately replaced by the wine distributor with an identical quantity, type and brand of wine: Provided, That if the brand of wine is not presently in the wine distributor's stock and is not available to the distributor in the immediate future, a cash refund may be made to the retail licensee upon the approval of the board first being obtained.

(a) Every wine distributor shall maintain on the licensed premises for a period of three years complete records of all refunds and exchanges made under this section including an inventory of unsalable wine returned to such distributor by any retail licensee.

(b) Such unsalable wine which requires reconditioning or destruction shall be returned by the wine distributor to the domestic winery which manufactured or produced the same, or to the importer who imported such wine. When wine which has been returned to a domestic winery by any person for reconditioning or destruction has been assembled at the winery, a complete inventory in duplicate of unsalable wine shall be filed with the board by the winery with a request that inspection be made of the returned wine before the reconditioning process or destruction is started. When wine has been returned by the distributor to the importer who imported such wine, a complete inventory of said wine shall be filed in duplicate with the board by the importer with a request that inspection be made of the returned wine before the wine is destroyed or returned to the out-of-state manufacturer.

(c) Wine which is not in a salable condition and has been returned to a domestic winery or importer by a distributor may be replaced by the supplier with an identical quantity,

type, and brand of wine: Provided, That if the brand of wine is not presently in the winery or importer's stock and is not available to the supplier in the immediate future, a cash refund or credit may be made to the distributor by the supplier. Credit extended for the return of product should be noted on a separate document from the original invoice. Except as provided herein, no other adjustment, by way of a cash refund or otherwise, shall be made by the winery or wine distributor.

(2) Wine may be returned by a retail licensee or by a governmental agency who has seized the same to the wine distributor selling such wine in the event the retailer goes out of the business of selling wine at retail or has their license changed to a wine restricted license, and in such case a cash refund may be made upon return of the wine, provided that consent of the board is first had and obtained.

(3) Wine different from that ordered which has been delivered in error to a retail licensee may be returned to a wine distributor and either replaced with that wine which was ordered or a cash refund may be made upon the approval of the board first being obtained: Provided, That the error in delivery shall be discovered and corrected within eight days of the date the delivery was made.

(4) A distributor may return salable wine to a Washington winery provided the winery reimburses the distributor for the cost of the wine plus the wine tax which was paid by the distributor. The winery will then put any wine returned from a distributor into their tax paid area at the winery.

[Statutory Authority: RCW 66.08.030 and 66.28.320. WSR 10-01-090, § 314-24-210, filed 12/16/09, effective 1/16/10. Statutory Authority: RCW 66.08.030, 15.88.030, 19.126.020, 66.04.010, 66.08.180, 66.16.100, 66.20.010, 66.20.300, 66.20.310, 66.24.150, 66.24.170, 66.24.185, 66.24.200, 66.24.206, 66.24.210, 66.24.230, 66.24.240, 66.24.244, 66.24.250, 66.24.375, 66.24.380, 66.24.395, 66.24.400, 66.24.420, 66.24.425, 66.24.440, 66.24.450, 66.24.455, 66.24.495, 66.24.540, 66.28.010, 66.28.040, 66.28.050, 66.28.170, 66.28.180, 66.28.190, 66.28.200, 66.28.310, 66.44.190, 66.44.310, 66.98.060 and 82.08.150. WSR 98-18-097, § 314-24-210, filed 9/2/98, effective 10/3/98. Statutory Authority: RCW 66.08.030. WSR 87-16-003 (Order 227, Resolution No. 236), § 314-24-210, filed 7/23/87; WSR 86-24-029 (Order 204, Resolution No. 213), § 314-24-210, filed 11/25/86. Statutory Authority: RCW 66.08.030 and 66.98.070. WSR 82-17-022 (Order 109, Resolution No. 118), § 314-24-210, filed 8/9/82; Order 5, § 314-24-210, filed 8/7/69, effective 9/8/69; Rule 83, filed 6/13/63.]

WAC 314-24-220 Licensing and operation of bonded wine warehouses. (1) There shall be a license for bonded wine warehouses pursuant to RCW 66.24.185, and this type of license shall be known as a bonded wine warehouse licensee. Applications for a bonded wine warehouse license shall be on forms prescribed by the board and shall be accompanied by such information as the board may request including, but not limited to, a written description of the proposed method of shipping, receiving, inventory control, and security.

(2) The bonded wine warehouse shall be physically separated from any other use in such manner as prescribed by the board, and as a condition of license approval, the applicant must furnish the board appropriate documentation indicating the location of the bonded wine warehouse is properly zoned for the intended use.

(3) A bonded wine warehouse may provide storage for a domestic winery, for another bonded wine warehouse, and for a certificate of approval holder. The Washington wine tax provided in RCW 66.24.210 shall not be due until the wine is removed from bond and shipped to a licensed Washington wine distributor or, pursuant to RCW 66.12.020, to the liquor control board who will be responsible to pay the tax based on their purchases.

(4) Every bonded wine warehouse licensee shall have on file and available for inspection records of all wine transactions, including receipts and shipments of wine and the total inventory on hand at the bonded warehouse.

(5) Removals of wine from a bonded wine warehouse may be made only for shipment (a) to a licensed independent Washington wine distributor; (b) to another licensed bonded wine warehouse; (c) to the liquor control board; (d) out of state; (e) for return to the producing winery; (f) to a producing domestic winery licensee; or (g) directly to a consumer. For purposes of this section, "producing domestic winery licensee" means the licensed Washington winery that produced the wine and its licensed agents. For purposes of this section, a "licensed agent" shall be an accredited representative, licensed pursuant to chapter 314-44 WAC, of only one producing domestic winery at the time of removal by such agent. A producing domestic winery licensee may take possession of wine from a bonded wine warehouse, after accepting an order therefor, and deliver the wine to a purchasing retail or special occasion licensee only by transporting the wine directly from the bonded wine warehouse to the licensed premises of the purchasing retail or special occasion licensee; provided, however, that in no event may a producing domestic winery licensee remove, in the aggregate, during any one calendar year, more than two thousand cases of wine for delivery directly to retail and special occasion licensees. Producing domestic winery licensees shall maintain records of removals and deliveries of wine from bonded wine warehouses and shall file with the liquor control board annually reports of the quantity of wine removed and delivered directly to retail and special occasion licensees. Invoicing shall be by the titleholder. The titleholder shall report shipments to, and returns from the bonded wine warehouse and sales to Washington wine distributors, and/or the liquor control board on the twentieth day of the month following the month of shipment and/or sale on forms furnished by, or acceptable to, the board.

(6) At no time shall title to wine stored at the bonded wine warehouse pass to the operator of the bonded wine warehouse.

(7) "Storage and handling of bottled wine" as used in RCW 66.24.185(1) shall mean the storage and handling of wine packaged for sale at retail (i.e., other than in bulk form).

(8) Any winery contracting with a bonded wine warehouse for direct shipments to consumers must accept and process the orders and payments. This includes, but is not limited to, in-person, mail, telephone, and internet orders and payments. Only a winery licensee or a winery licensee's employees may accept and process such orders and payments. A contractor may not do so on behalf of a winery licensee.

(9) A bonded wine warehouse may not accept orders and payments from consumers for direct shipments.

[Statutory Authority: RCW 66.08.030. WSR 09-02-010, § 314-24-220, filed 12/29/08, effective 1/29/09. Statutory Authority: RCW 66.08.030, 2004 c 160. WSR 04-24-097, § 314-24-220, filed 12/1/04, effective 1/1/05. Statu-

tory Authority: RCW 66.08.030, 15.88.030, 19.126.020, 66.04.010, 66.08.180, 66.16.100, 66.20.010, 66.20.300, 66.20.310, 66.24.150, 66.24.170, 66.24.185, 66.24.200, 66.24.206, 66.24.210, 66.24.230, 66.24.240, 66.24.244, 66.24.250, 66.24.375, 66.24.380, 66.24.395, 66.24.400, 66.24.420, 66.24.425, 66.24.440, 66.24.450, 66.24.455, 66.24.495, 66.24.540, 66.28.010, 66.28.040, 66.28.050, 66.28.170, 66.28.180, 66.28.190, 66.28.200, 66.28.310, 66.44.190, 66.44.310, 66.98.060 and 82.08.150. WSR 98-18-097, § 314-24-220, filed 9/2/98, effective 10/3/98. Statutory Authority: RCW 66.08.030 and 66.24.185. WSR 96-11-076, § 314-24-220, filed 5/13/96, effective 6/13/96; WSR 85-24-042 (Order 170, Resolution No. 179), § 314-24-220, filed 11/27/85. Statutory Authority: RCW 66.24.185, 66.08.030 and 66.98.070. WSR 85-10-029 (Order 158, Resolution No. 167), § 314-24-220, filed 4/24/85.]

WAC 314-24-231 What is a wine shipper's permit and who may hold this permit? (1) A wine shipper's permit may be issued to a winery located in another state and licensed by that state to manufacture wine.

(2) A wine shipper's permit authorizes the permittee to ship wine of its own production to Washington residents who are over the age of twenty-one years.

[Statutory Authority: RCW 66.08.030, 66.20.360 through [66.20].380, 66.20.390, 66.24.170, 66.24.206, 66.24.210, 66.24.240, 66.24.244, 66.24.270, 66.24.290, 66.28.170, 66.28.180, and 42.56.270. WSR 07-02-076, § 314-24-231, filed 12/29/06, effective 1/29/07.]

WAC 314-24-232 What is the cost of a wine shipper's permit? A wine shipper's permit is an annual permit. The fee is one hundred dollars per year.

[Statutory Authority: RCW 66.08.030, 2006 c 49. WSR 06-11-050, § 314-24-232, filed 5/11/06, effective 6/11/06.]

Chapter 314-25 WAC
SHIPS CHANDLER'S LICENSE

WAC

314-25-010	Definition and limitations.
314-25-020	Purchase and receipt of beer and wine.
314-25-030	Location—Auxiliary location—Inspection.
314-25-040	Delivery of beer and wine—Records.
314-25-050	Sales limits.

WAC 314-25-010 Definition and limitations. (1) The holder of a duty free exporter's license RCW 66.24.530 and ships chandler's license WAC 314-22-010(7) shall be referred to as a "ships chandler" for the purposes of this section.

(2) A ships chandler is considered to be a distributor of beer and wine for the purposes of RCW 66.28.010.

(3) A ships chandler is authorized to sell beer and wine and is not authorized to sell, possess, deliver or transfer any spirituous liquor without an additional liquor importers license.

[Statutory Authority: RCW 66.08.030, 15.88.030, 19.126.020, 66.04.010, 66.08.180, 66.16.100, 66.20.010, 66.20.300, 66.20.310, 66.24.150, 66.24.170, 66.24.185, 66.24.200, 66.24.206, 66.24.210, 66.24.230, 66.24.240, 66.24.244, 66.24.250, 66.24.375, 66.24.380, 66.24.395, 66.24.400, 66.24.420, 66.24.425, 66.24.440, 66.24.450, 66.24.455, 66.24.495, 66.24.540, 66.28.010, 66.28.040, 66.28.050, 66.28.170, 66.28.180, 66.28.190, 66.28.200, 66.28.310, 66.44.190, 66.44.310, 66.98.060 and 82.08.150. WSR 98-18-097, § 314-25-010, filed 9/2/98, effective 10/3/98. Statutory Authority: RCW 66.08.030. WSR 94-08-032, § 314-25-010, filed 3/30/94, effective 4/30/94.]

WAC 314-25-020 Purchase and receipt of beer and wine. (1) As authorized by RCW 66.24.530, a ships chandler may purchase beer and wine, from:

(a) A licensed Washington brewery or winery;

(b) A licensed Washington beer or wine distributor;

(c) A licensed beer or wine importer located within the state of Washington;

(d) Breweries and wineries located within the United States who hold a certificate of approval to ship their product into Washington as authorized by chapter 66.24 RCW;

(e) A ships chandler who is currently licensed by the state of Washington.

(2) A ships chandler may not purchase beer or wine from any source other than those listed above.

(3) All beer and/or wine purchased by a ships chandler must be delivered to the licensed address of the ships chandler, unless an auxiliary location has been authorized by the board.

[Statutory Authority: RCW 66.08.030, 15.88.030, 19.126.020, 66.04.010, 66.08.180, 66.16.100, 66.20.010, 66.20.300, 66.20.310, 66.24.150, 66.24.170, 66.24.185, 66.24.200, 66.24.206, 66.24.210, 66.24.230, 66.24.240, 66.24.244, 66.24.250, 66.24.375, 66.24.380, 66.24.395, 66.24.400, 66.24.420, 66.24.425, 66.24.440, 66.24.450, 66.24.455, 66.24.495, 66.24.540, 66.28.010, 66.28.040, 66.28.050, 66.28.170, 66.28.180, 66.28.190, 66.28.200, 66.28.310, 66.44.190, 66.44.310, 66.98.060 and 82.08.150. WSR 98-18-097, § 314-25-020, filed 9/2/98, effective 10/3/98. Statutory Authority: RCW 66.08.030. WSR 94-08-032, § 314-25-020, filed 3/30/94, effective 4/30/94.]

WAC 314-25-030 Location—Auxiliary location—Inspection. (1) A ships chandler may distribute beer and wine from their licensed location to ships doing business in foreign commerce, to other licensees, and to Interstate Common Carriers ships chandler licensed under RCW 66.24.395 with no additional notification.

(2) The ships chandler must notify the board of every auxiliary distribution location, its secondary business name, if applicable, the street address and mailing address.

(3) No distribution of beer and wine shall be made to a ship except from an authorized location.

(4) All ships chandlers license holders, their auxiliary locations and any vehicle used to transport beer and wine will be open to inspection by employees of the board.

[Statutory Authority: RCW 66.08.030, 15.88.030, 19.126.020, 66.04.010, 66.08.180, 66.16.100, 66.20.010, 66.20.300, 66.20.310, 66.24.150, 66.24.170, 66.24.185, 66.24.200, 66.24.206, 66.24.210, 66.24.230, 66.24.240, 66.24.244, 66.24.250, 66.24.375, 66.24.380, 66.24.395, 66.24.400, 66.24.420, 66.24.425, 66.24.440, 66.24.450, 66.24.455, 66.24.495, 66.24.540, 66.28.010, 66.28.040, 66.28.050, 66.28.170, 66.28.180, 66.28.190, 66.28.200, 66.28.310, 66.44.190, 66.44.310, 66.98.060 and 82.08.150. WSR 98-18-097, § 314-25-030, filed 9/2/98, effective 10/3/98. Statutory Authority: RCW 66.08.030. WSR 94-08-032, § 314-25-030, filed 3/30/94, effective 4/30/94.]

WAC 314-25-040 Delivery of beer and wine—Records. (1) Sales made by a ships chandler of beer and wine to an approved recipient may only be delivered to another ships chandler, a vessel for use in foreign commerce, a contracted Interstate Common Carrier, or employees thereof.

(2) Beer and wine may only be delivered when the ships chandler has on file a signed statement, in a format approved by the board, which indicates the captain of the ship or manager of the authorized purchasing business understands and agrees that:

(a) No beer or wine purchased will be consumed in Washington waters or territory or within three miles of the shores of the state of Washington;

(b) No beer or wine purchased will be consumed while the ship is docked in a Washington port; and

(c) Local law enforcement officers and board enforcement officers have the right to board and inspect the vessel while in Washington waters.

(3) Every statement will be notarized and remain valid for twelve calendar months after the date of signing and be signed by the master of the ship or his/her agent with the ships stamp affixed and countersigned by the ships chandler or their employee.

(4) A ships chandler or their employee must deliver any beer and wine directly to an authorized recipient purchasing the alcoholic beverage and it must be immediately placed into a locked storage area. The ships chandler must obtain the signature and printed name of the master or agent of the ship, ships chandler licensee or contracted Interstate Common Car-

rier on the delivery document which will contain the following information:

(a) Name of ship;

(b) Country of registry, if known;

(c) Type and amount of product delivered;

(d) Date of delivery;

(e) Name and address of ships chandler making the sale; and

(f) Signature and printed name of crew member receiving the liquor.

(5) The ships chandler will maintain records of all sales to ships, ships chandler licensees and Interstate Common Carrier approved licensees doing business in foreign commerce to include all federally mandated documents including order forms, bills of lading, affidavits, delivery to auxiliary location, etc., for a period of two years. Such records, or their computerized equivalent, will be available for inspection and copying by employees of the board upon request.

(6) Board employees have the right to enter and inspect, without warrant, any business, ship, aircraft, vessel, or transport vehicle from which beer and wine is delivered to or from a licensed ships chandler.

[Statutory Authority: RCW 66.08.030, 15.88.030, 19.126.020, 66.04.010, 66.08.180, 66.16.100, 66.20.010, 66.20.300, 66.20.310, 66.24.150, 66.24.170, 66.24.185, 66.24.200, 66.24.206, 66.24.210, 66.24.230, 66.24.240, 66.24.244, 66.24.250, 66.24.375, 66.24.380, 66.24.395, 66.24.400, 66.24.420, 66.24.425, 66.24.440, 66.24.450, 66.24.455, 66.24.495, 66.24.540, 66.28.010, 66.28.040, 66.28.050, 66.28.170, 66.28.180, 66.28.190, 66.28.200, 66.28.310, 66.44.190, 66.44.310, 66.98.060 and 82.08.150. WSR 98-18-097, § 314-25-040, filed 9/2/98, effective 10/3/98. Statutory Authority: RCW 66.08.030. WSR 94-08-032, § 314-25-040, filed 3/30/94, effective 4/30/94.]

WAC 314-25-050 Sales limits. (1) The per voyage quantity of beer and wine sold by a ships chandler to a vessel in foreign commerce or employees thereof is as follows: (a) Nine liters of beer per crew member per week, or (b) one liter of wine per crew member per week.

(2) Additional per voyage quantities of beer and wine may be substituted for the U.S. Customs per liter spirits allotment as follows: (a) Nine liters of beer per crew member per week, or (b) one liter of wine per crew member per week.

(3) The combined sale of tax paid and tax free liquor products shall not exceed the amounts set forth in Section 1 and 2 of this rule.

[Statutory Authority: RCW 66.08.030. WSR 94-13-126, § 314-25-050, filed 6/20/94, effective 7/21/94.]

Chapter 314-27 WAC

INTERSTATE COMMERCIAL COMMON PASSENGER CARRIERS

WAC

314-27-010 Liquor purchases by Interstate Common Carrier licensees—Reports.

WAC 314-27-010 Liquor purchases by Interstate Common Carrier licensees—Reports. (1) Any licensee authorized by the board to sell liquor may sell liquor to the holder of an Interstate Common Carrier license upon presentation of a special permit issued by the board to such licensee.

(2) Sales of liquor to such properly licensed interstate commercial common passenger carriers shall be treated as sales for export.

(3) Every federally licensed interstate commercial common passenger carrier, holding an Interstate Common Carrier license shall, on or before the twentieth day of each month, make a report to the board, upon forms approved by the board, of all spirituous liquor, beer and wine served or sold at retail for passenger consumption by such common carrier within or over the territorial limits of the state of Washington during the preceding calendar month.

(4) Licensed beer and wine importers and distributors who sell beer or wine to such properly licensed interstate commercial common passenger carriers shall treat such sales as exports from the state.

[Statutory Authority: RCW 66.08.030 and 66.08.050. WSR 12-17-006, § 314-27-010, filed 8/1/12, effective 9/1/12. Statutory Authority: RCW 66.08.030, 15.88.030, 19.126.020, 66.04.010, 66.08.180, 66.16.100, 66.20.010, 66.20.300, 66.20.310, 66.24.150, 66.24.170, 66.24.185, 66.24.200, 66.24.206, 66.24.210, 66.24.230, 66.24.240, 66.24.244, 66.24.250, 66.24.375, 66.24.380, 66.24.395, 66.24.400, 66.24.420, 66.24.425, 66.24.440, 66.24.450, 66.24.455, 66.24.495, 66.24.540, 66.28.010, 66.28.040, 66.28.050, 66.28.170, 66.28.180, 66.28.190, 66.28.200, 66.28.310, 66.44.190, 66.44.310, 66.98.060 and 82.08.150. WSR 98-18-097, § 314-27-010, filed 9/2/98, effective 10/3/98. Statutory Authority: RCW 66.08.030 and 66.98.070. WSR 82-17-022 (Order 109, Resolution No. 118), § 314-27-010, filed 8/9/82; Order 42, § 314-27-010, Rule 83.6, filed 11/6/75.]

Chapter 314-28 WAC
DISTILLERS

WAC

314-28-005	Definitions.
314-28-010	Records.
314-28-030	What does a distillery allow?
314-28-050	What does a craft distillery license allow?
314-28-055	What are the requirements for contract production by craft distilleries?
314-28-060	What are the general requirements for a craft distillery license?
314-28-070	What are the monthly reporting and payment requirements for a distillery and craft distillery license?
314-28-080	What if a distillery or craft distillery licensee fails to report or pay, or reports or pays late?
314-28-090	Distilleries or craft distilleries—Selling out-of-state.
314-28-200	Adoption of federal laws.

WAC 314-28-005 Definitions. The following definition applies to distilleries.

"Craft distillery" means any distillery licensed under RCW 66.24.145 and located in the state of Washington.

"Domestic distillery" means any distillery licensed under RCW 66.24.140 and located in the state of Washington.

[Statutory Authority: RCW 66.24.145, and 66.08.030. WSR 14-20-047, § 314-28-005, filed 9/24/14, effective 10/25/14. Statutory Authority: RCW 66.08.030 and 66.28.320. WSR 10-01-090, § 314-28-005, filed 12/16/09, effective 1/16/10.]

WAC 314-28-010 Records. (1) All distilleries licensed under RCW 66.24.140 and 66.24.145, including craft, fruit, and laboratory distillers must:

(a) Keep records regarding any spirits, whether produced or purchased, for three years after each sale. A distiller is required to report on forms approved by the board;

(b) In the case of spirits exported or sold, preserve all bills of lading and other evidence of shipment;

(c) Submit duplicate copies of transcripts, notices, or other data that is required by the federal government to the board if requested, within thirty days of the notice of such request. A distiller shall also furnish copies of the bills of lading, covering all shipments of the products of the licensee, to the board within thirty days of notice of such request;

(d) Preserve all sales records to spirits retail licensees, sales to spirits distributors, and exports from the state; and

(e) Submit copies of its monthly records to the board upon request.

(2) In addition to the above, a craft distiller must:

(a) Preserve all sales records of retail sales to consumers; and

(b) Submit its monthly records to the board upon request.

[Statutory Authority: RCW 66.08.030, 66.24.055, 66.24.160, 66.24.630, and 66.24.640. WSR 12-12-065, § 314-28-010, filed 6/5/12, effective 7/6/12. Statutory Authority: RCW 66.24.145 and 66.08.030. WSR 10-19-066, § 314-28-010, filed 9/15/10, effective 10/16/10; WSR 09-02-011, § 314-28-010, filed 12/29/08, effective 1/29/09. Statutory Authority: RCW 66.08.030. WSR 86-07-022 (Order 172, Resolution No. 181), § 314-28-010, filed 3/13/86; Order 14, § 314-28-010, filed 12/1/70, effective 1/1/71; Rule 84, filed 6/13/63.]

WAC 314-28-030 What does a distillery allow? (1) A distillery license allows the licensee to:

(a) Sell spirits of their own production directly to a licensed spirits distributor in the state of Washington and to a licensed spirits retailer in the state of Washington;

(b) Sell spirits of its own production for consumption off the premises. A distiller selling spirits under this subsection must comply with the applicable laws and rules relating to retailers;

(c) Provide free or for a charge one-half ounce or less samples of spirits of its own production to persons on the premises of the distillery.

(i) Samples may be altered with ice or water only.

(ii) The maximum total per person per day is two ounces.

(iii) Every person who participates in any manner in the service of samples must obtain a class 12 alcohol server permit.

(d) Contract distilled spirits for, and sell contract distilled spirits to, holders of distillers' or manufacturers' licenses, including licenses issued under RCW 66.24.520, or for export.

(2) Contract production is when one distillery, referred to as the "contractor," produces distilled spirits for and sells contract distilled spirits to holders of a distillery license, or manufacturers' license including licenses issued under RCW 66.24.520, referred to as "contractee," and for export from the state. This distilled spirit is referred to as the "product."

(a) The contractee is the product owner. The contractee may handle the product under its license as the Revised Code of Washington and the Washington Administrative Code allow.

(b) The contractor is required to physically transport all contracted product to the contractee. The contractor is not allowed to distribute or retail the product.

(3) The contractor must submit a copy of the contract to the board prior to production. Any changes in the contract must also be submitted to the board prior to subsequent production. The board may require additional information.

(4) The contractor and contractee are required to obtain any federal approvals.

[Statutory Authority: RCW 66.24.145, and 66.08.030. WSR 14-20-047, § 314-28-030, filed 9/24/14, effective 10/25/14. Statutory Authority: RCW 66.08.030, 66.24.055, 66.24.160, 66.24.630, and 66.24.640. WSR 12-12-065, § 314-28-030, filed 6/5/12, effective 7/6/12.]

WAC 314-28-050 What does a craft distillery license allow? (1) A craft distillery license allows a licensee to:

(a) Produce one hundred fifty thousand proof gallons or less of spirits per calendar year. A "proof gallon" is one liquid gallon of spirits that is fifty percent alcohol at sixty degrees Fahrenheit;

(b) Sell spirits of its own production directly to a customer for off-premises consumption, provided that the sale occurs when the customer is physically present on the

licensed premises. A craft distiller may not sell liquor products of someone else's production;

(c) Sell spirits of its own production to a licensed spirits distributor;

(d) Sell spirits of its own production to a licensed spirits retailer in the state of Washington;

(e) Sell to out-of-state entities;

(f) Provide, free or for a charge, samples of spirits of its own production to persons on the distillery premises.

(i) Each sample must be one-half ounce or less, with no more than two ounces of samples provided per person per day.

(ii) Samples may be altered with ice or water only.

(iii) Anyone involved in the serving of such samples must have a valid Class 12 alcohol server permit.

(iv) Samples must be in compliance with RCW 66.28.040;

(g) Provide samples of spirits of its own production to retailers. Samples must be unaltered, and in compliance with RCW 66.28.040, 66.24.310 and WAC 314-64-08001. Samples are considered sales and are subject to taxes;

(h) Contract produce spirits for holders of a distiller or manufacturer license.

(2) A craft distillery licensee may add a spirits, beer, and wine restaurant license at the craft distillery premises. The licensee must complete an application and submit the application and applicable fees to the board for processing.

[Statutory Authority: RCW 66.24.145, and 66.08.030. WSR 14-20-047, § 314-28-050, filed 9/24/14, effective 10/25/14. Statutory Authority: RCW 66.08.030, 66.24.055, 66.24.160, 66.24.630, and 66.24.640. WSR 12-12-065, § 314-28-050, filed 6/5/12, effective 7/6/12. Statutory Authority: RCW 66.24.145 and 66.08.030. WSR 10-19-066, § 314-28-050, filed 9/15/10, effective 10/16/10; WSR 09-02-011, § 314-28-050, filed 12/29/08, effective 1/29/09.]

WAC 314-28-055 What are the requirements for contract production by craft distilleries? (1) This section clarifies the language for contract production found in RCW 66.24.145. For the purposes of this section, contract production is when one craft distillery, referred to as the "contractor," produces distilled spirits for and sells contract distilled spirits to holders of distillers' or manufacturers' licenses including licenses issued under RCW 66.24.520, referred to as "contractee," and for export from the state. This distilled spirit is referred to as the "product."

(a) The contractee is the product owner. The contractee may handle the product under its license as RCW and WAC allow.

(b) The contractor is required to physically transport all contracted product to the contractee. The contractor is not allowed to distribute or retail the product.

(2) The contractor must submit a copy of the contract to the board prior to production. Any changes in the contract must also be submitted to the board prior to subsequent production. The board may require additional information.

(3) The contractor and contractee are required to obtain any federal approvals.

(4) Maintaining qualification as a craft distillery. Each craft distillery, whether in the capacity of a contractor or contractee, is allowed to produce one hundred fifty thousand gallons or less of total product per year. Total product, in this instance, includes:

(a) Product owned and produced by the craft distillery;

(b) Product owned and produced by the craft distillery for export from the state;

(c) Product owned by the craft distillery but produced by another craft distillery;

(d) Product produced by the craft distillery on behalf of another craft distillery;

(e) Product produced by the craft distillery under contract for another distillery, manufacturer, or grower.

(5) Reporting and recordkeeping.

(a) The contractor must include all product produced including contract production when it reports its monthly production to the board.

(b) The contractee must include the product contract produced by another craft distillery when the contractee reports its monthly production to the board.

(c) The contractor's and the contractee's recordkeeping documents must include the product information for each contract. The information must show the quantities produced.

[Statutory Authority: RCW 66.24.145, and 66.08.030. WSR 14-20-047, § 314-28-055, filed 9/24/14, effective 10/25/14; WSR 10-19-066, § 314-28-055, filed 9/15/10, effective 10/16/10.]

WAC 314-28-060 What are the general requirements for a craft distillery license? Per RCW 66.24.140 and 66.24.145, a craft distillery licensee is required to:

(1) Submit copies of all permits required by the federal government;

(2) Submit other licensing documents as determined by the board;

(3) Ensure a minimum of fifty percent of all raw materials (including any neutral grain spirits and the raw materials that go into making mash, wort or wash) used in the production of the spirits product are grown in the state of Washington. Water is not considered a raw material grown in the state of Washington.

[Statutory Authority: RCW 66.08.030, 66.24.055, 66.24.160, 66.24.630, and 66.24.640. WSR 12-12-065, § 314-28-060, filed 6/5/12, effective 7/6/12. Statutory Authority: RCW 66.24.145 and 66.08.030. WSR 10-19-066, § 314-28-060, filed 9/15/10, effective 10/16/10; WSR 09-02-011, § 314-28-060, filed 12/29/08, effective 1/29/09.]

WAC 314-28-070 What are the monthly reporting and payment requirements for a distillery and craft distillery license? (1) A distiller or craft distiller must submit monthly reports and payments to the board.

The required monthly reports must be:

(a) On a form furnished by the board;

(b) Filed every month, including months with no activity or payment due;

(c) Submitted, with payment due, to the board on or before the twentieth day of each month, for the previous month. (For example, a report listing transactions for the month of January is due by February 20th.) When the twentieth day of the month falls on a Saturday, Sunday, or a legal holiday, the filing must be postmarked by the U.S. postal service no later than the next postal business day; and

(d) Filed separately for each liquor license held.

(2) For reporting purposes, production is the distillation of spirits from mash, wort, wash or any other distilling material. After the production process is completed, a production

gauge shall be made to establish the quantity and proof of the spirits produced. The designation as to the kind of spirits shall also be made at the time of the production gauge. A record of the production gauge shall be maintained by the distiller. The completion of the production process is when the product is packaged for distribution. Production quantities are reportable within thirty days of the completion of the production process.

(3) On sales on or after March 1, 2012, a distillery or craft distillery must pay ten percent of their gross spirits revenue to the board on sales to a licensee allowed to sell spirits for on- or off-premises consumption during the first two years of licensure and five percent of their gross spirits revenues to the board in year three and thereafter.

(a) On sales after June 1, 2012, a distillery or craft distillery must pay seventeen percent of their gross spirits revenue to the board on sales to customers for off-premises consumption.

(b) Payments must be submitted, with monthly reports, to the board on or before the twentieth day of each month, for the previous month. (For example, payment for a report listing transactions for the month of January is due by February 20th.) When the twentieth day of the month falls on a Saturday, Sunday, or a legal holiday, payment must be postmarked by the U.S. postal service no later than the next postal business day.

[Statutory Authority: RCW 66.08.030, 66.24.055, 66.24.160, 66.24.630, and 66.24.640. WSR 12-12-065, § 314-28-070, filed 6/5/12, effective 7/6/12. Statutory Authority: RCW 66.24.145 and 66.08.030. WSR 10-19-066, § 314-28-070, filed 9/15/10, effective 10/16/10; WSR 09-02-011, § 314-28-070, filed 12/29/08, effective 1/29/09.]

WAC 314-28-080 What if a distillery or craft distillery licensee fails to report or pay, or reports or pays late? Failure of a distillery or craft distiller to submit its monthly reports and payment to the board as required in WAC 314-28-070(1) will be sufficient grounds for the board to suspend or revoke the liquor license.

Penalties. A penalty of two percent per month will be assessed on any payments postmarked after the twentieth day of the month following the month of sale. When the twentieth day of the month falls on a Saturday, Sunday, or a legal holiday, the filing must be postmarked by the U.S. Postal Service no later than the next postal business day.

Absent a postmark, the date received at the Washington state liquor control board, or designee, will be used to determine if penalties are to be assessed.

[Statutory Authority: RCW 66.08.030. WSR 14-12-101, § 314-28-080, filed 6/4/14, effective 7/5/14. Statutory Authority: RCW 66.24.630, 66.24.055, 66.24.145 and 66.08.030. WSR 13-07-085, § 314-28-080, filed 3/20/13, effective 4/20/13. Statutory Authority: RCW 66.08.030, 66.24.055, 66.24.160, 66.24.630, and 66.24.640. WSR 12-12-065, § 314-28-080, filed 6/5/12, effective 7/6/12. Statutory Authority: RCW 66.08.030, 66.24.145. WSR 09-02-011, § 314-28-080, filed 12/29/08, effective 1/29/09.]

WAC 314-28-090 Distilleries or craft distilleries—Selling out-of-state. What are the requirements for a craft distillery licensee to sell its spirits product outside the state of Washington?

(1) A distillery or craft distillery licensee shall include, in its monthly report to the board, information on the product it produces in-state and sells out-of-state. Information includes, but is not limited to, the amount of proof gallons sold, and for a craft distillery, the composition of raw materials used in production of the product.

(2) Product produced in-state and sold out-of-state counts toward a craft distillery licensee's sixty thousand proof gallons per calendar year production limit (see WAC 314-28-050).

(3) Product produced in-state and sold out-of-state is subject to the fifty percent Washington grown raw materials requirement for a craft distillery.

(4) A distillery or craft distillery licensee is not subject to Washington state liquor taxes on any product the licensee sells out-of-state.

[Statutory Authority: RCW 66.08.030, 66.24.055, 66.24.160, 66.24.630, and 66.24.640. WSR 12-12-065, § 314-28-090, filed 6/5/12, effective 7/6/12. Statutory Authority: RCW 66.24.145 and 66.08.030. WSR 10-19-066, § 314-28-090, filed 9/15/10, effective 10/16/10; WSR 09-02-011, § 314-28-090, filed 12/29/08, effective 1/29/09.]

WAC 314-28-200 Adoption of federal laws. All laws, rules and regulations of the federal government, or any subsequent modification thereof, applicable to the distillation of spirits, wines, cordials, liquors, etc., are by reference hereby adopted and promulgated as the rules and regulations of this board, unless the board implements different procedures by rule or policy.

[Statutory Authority: RCW 66.08.030, 66.24.145. WSR 09-02-011, § 314-28-200, filed 12/29/08, effective 1/29/09.]

Chapter 314-29 WAC
VIOLATIONS AND PENALTIES

WAC

314-29-003	Purpose.
314-29-005	What are the procedures for notifying a licensee or a mandatory alcohol server training permit holder of an alleged violation of a board statute or regulation?
314-29-006	What is the process once the board summarily suspends a liquor license?
314-29-007	How may a licensee challenge the summary suspension of his or her liquor license?
314-29-008	Review of orders on stay.
314-29-010	What options does a licensee or permit holder have once he/she receives a notice of an administrative violation?
314-29-015	What are the penalties if a liquor license holder violates a liquor law or rule?
314-29-020	Group 1 violations against public safety.
314-29-025	Group 2 regulatory violations.
314-29-030	Group 3 license violations.
314-29-035	Group 4 nonretail violations.
314-29-040	Information about liquor license suspensions.

WAC 314-29-003 Purpose. The purpose of chapter 314-29 WAC is to outline what a liquor licensee or a mandatory alcohol server training permit holder can expect if a licensee or permit holder receives an administrative violation notice alleging a violation of a liquor control board statute or regulation.

[Statutory Authority: RCW 66.08.030. WSR 08-17-056, § 314-29-003, filed 8/15/08, effective 9/15/08. Statutory Authority: RCW 66.08.030, 66.24.010, 66.24.120. WSR 03-09-015, § 314-29-003, filed 4/4/03, effective 5/5/03.]

WAC 314-29-005 What are the procedures for notifying a licensee or a mandatory alcohol server training permit holder of an alleged violation of a board statute or regulation? (1) When an enforcement officer believes that a licensee or a mandatory alcohol server training permit holder has violated a board statute or regulation, the officer may prepare an administrative violation notice (AVN) and mail or deliver the notice to the licensee, licensee's agent or permit holder.

(2) The AVN notice will include:

(a) A brief narrative description of the violation(s) the officer is charging;

(b) The date(s) of the violation(s);

(c) A copy of the law(s) and/or regulation(s) allegedly violated;

(d) An outline of the licensee's or permit holder's options as outlined in WAC 314-29-010; and

(e) The recommended penalty.

(i) If the recommended penalty is the standard penalty, see WAC 314-29-020 through 314-29-035 for licensees, and WAC 314-17-100 and 314-17-105 for mandatory alcohol server training permit holders.

(ii) For cases in which there are aggravating or mitigating circumstances, the penalty may be adjusted from the standard penalty. See WAC 314-29-015 for licensees, and WAC 314-17-110 for mandatory alcohol server training permit holders.

[Statutory Authority: RCW 66.08.030. WSR 08-17-056, § 314-29-005, filed 8/15/08, effective 9/15/08. Statutory Authority: RCW 66.08.030, 66.44.010. WSR 01-03-086, § 314-29-005, filed 1/17/01, effective 2/17/01.]

WAC 314-29-006 What is the process once the board summarily suspends a liquor license? (1) The board may summarily suspend any license or permit after the board's enforcement division has completed a preliminary staff investigation of the violation and upon a determination that immediate cessation of the licensed or permitted activities is necessary for the protection or preservation of the public health, safety or welfare.

(2) Suspension of any license or permit under this provision shall take effect immediately upon personal service on the licensee or employee thereof of the summary suspension order unless otherwise provided in the order.

(3) When a license or permit has been summarily suspended by the board, an adjudicative proceeding for revocation or other action must be promptly instituted before an administrative law judge assigned by the office of administrative hearings. If a request for an administrative hearing is timely filed by the licensee or permit holder, then a hearing shall be held within ninety days of the effective date of the summary suspension ordered by the board.

[Statutory Authority: RCW 66.08.030 and 66.08.150. WSR 08-17-038, § 314-29-006, filed 8/14/08, effective 9/14/08.]

WAC 314-29-007 How may a licensee challenge the summary suspension of his or her liquor license? (1) Upon summary suspension of a license or permit by the board pursuant to WAC 314-29-006, an affected licensee or permit holder may petition the board for a stay of suspension pursuant to RCW 34.05.467 and 34.05.550(1). A petition for a stay of suspension must be received by the board within fifteen days of service of the summary suspension order. The petition for stay shall state the basis on which the stay is sought.

(2) A hearing shall be held before an administrative law judge within fourteen days of receipt of a timely petition for stay. The hearing shall be limited to consideration of whether a stay should be granted, or whether the terms of the suspension may be modified to allow the conduct of limited activities under current licenses or permits.

(3) Any hearing conducted pursuant to subsection (2) of this section shall be a brief adjudicative proceeding under RCW 34.05.485. The agency record for the hearing shall consist of the documentary information upon which the summary suspension was based. The licensee or permit holder shall have the burden of demonstrating by clear and convincing evidence that:

(a) The licensee or permit holder is likely to prevail upon the merits at hearing;

(b) Without relief, the licensee or permit holder will suffer irreparable injury. For purposes of this section, elimina-

tion of income from licensed or permitted activities shall not be deemed irreparable injury;

(c) The grant of relief will not substantially harm other parties to the proceedings; and

(d) The threat to the public health, safety, or welfare is not sufficiently serious to justify continuation of the suspension, or that modification of the terms of the suspension will adequately protect the public interest.

(4) The initial order on stay shall be effective immediately upon service unless another date is specified in the order.

[Statutory Authority: RCW 66.08.030 and 66.08.150. WSR 08-17-038, § 314-29-007, filed 8/14/08, effective 9/14/08.]

WAC 314-29-008 Review of orders on stay. (1) The licensee, permit holder, or agency may petition the board for review of an initial order on stay. Any petition for review must be in writing and received by the board within ten days of service of the initial order. If neither party has requested review within ten days of service, the initial order shall be deemed the final order of the board for purposes of RCW 34.05.467.

(2) If the board receives a timely petition for review, the board shall consider the petition within fifteen days of service of the petition for review. Consideration on review shall be limited to the record of the hearing on stay.

(3) The order of the board on the petition for review shall be effective upon personal service unless another date is specified in the order and is final pursuant to RCW 34.05.467. Final disposition of the petition for stay shall not affect subsequent administrative proceedings for suspension or revocation of a license or permit.

[Statutory Authority: RCW 66.08.030 and 66.08.150. WSR 08-17-038, § 314-29-008, filed 8/14/08, effective 9/14/08.]

WAC 314-29-010 What options does a licensee or permit holder have once he/she receives a notice of an administrative violation? (1) A licensee or a mandatory alcohol server training permit holder has twenty days from receipt of the notice to:

(a) Accept the recommended penalty; or

(b) Request a settlement conference in writing; or

(c) Request an administrative hearing in writing.

A response must be submitted on a form provided by the agency.

(2) **What happens if a licensee or mandatory alcohol server training permit holder does not respond to the administrative violation notice within twenty days?** If a licensee or permit holder does not respond to the administrative violation notice within twenty days, the recommended suspension penalty will go into effect.

(3) **What are the procedures when a licensee or mandatory alcohol server training permit holder requests a settlement conference?**

(a) If the licensee or permit holder requests a settlement conference, the hearing examiner or captain will contact the licensee or permit holder to discuss the violation.

(b) Both the licensee or permit holder and the hearing examiner or captain will discuss the circumstances surrounding the charge, the recommended penalty, and any aggravating or mitigating factors.

(c) If a compromise is reached, the hearing examiner or captain will prepare a compromise settlement agreement. The hearing examiner or captain will forward the compromise settlement agreement, authorized by both parties, to the board for approval.

(i) If the board approves the compromise, a copy of the signed settlement agreement will be sent to the licensee or permit holder, and will become part of the licensing history.

(ii) If the board does not approve the compromise, the licensee or permit holder will be notified of the decision. The licensee or permit holder will be given the option to renegotiate with the hearings examiner or captain, of accepting the originally recommended penalty, or of requesting an administrative hearing on the charges.

(d) If the licensee or permit holder and the hearing examiner or captain cannot reach agreement on a settlement proposal, the licensee may accept the originally recommended penalty, or the hearing examiner or captain will forward a request for an administrative hearing to the board's hearings coordinator.

[Statutory Authority: RCW 66.08.030. WSR 09-13-037, § 314-29-010, filed 6/10/09, effective 7/11/09; WSR 08-17-056, § 314-29-010, filed 8/15/08, effective 9/15/08. Statutory Authority: RCW 66.08.030, 66.44.010. WSR 01-03-086, § 314-29-010, filed 1/17/01, effective 2/17/01.]

WAC 314-29-015 What are the penalties if a liquor license holder violates a liquor law or rule? (1) The purpose of WAC 314-29-015 through 314-29-040 is to outline what penalty a liquor licensee can expect if a licensee or employee violates a liquor control board law or rule (the penalty guidelines for mandatory alcohol server training permit holders are in WAC 314-17-100 through 314-17-110). WAC rules listed in the categories provide reference areas, and may not be all inclusive.

(2) Penalties for violations by liquor licensees or employees are broken down into four categories:

(a) Group One—Public safety violations, WAC 314-29-020.

(b) Group Two—Regulatory violations, WAC 314-29-025.

(c) Group Three—License violations, WAC 314-29-030.

(d) Group Four—Nonretail violations involving the manufacture, supply, and/or distribution of liquor by nonretail licensees and prohibited practices between nonretail licensees and retail licensees, WAC 314-29-035.

(3) For the purposes of chapter 314-29 WAC, a two year window for violations is measured from the date one violation occurred to the date a subsequent violation occurred.

(4) The following schedules are meant to serve as guidelines. Based on mitigating or aggravating circumstances, the liquor control board may impose a different penalty than the standard penalties outlined in these schedules. Based on mitigating circumstances, the board may offer a monetary option in lieu of suspension during a settlement conference as outlined in WAC 314-29-010(3).

(a) Mitigating circumstances	(b) Aggravating circumstances
Mitigating circumstances that may result in fewer days of suspension and/or a lower monetary option may include demonstrated business policies and/or practices that reduce the risk of future violations. Examples include: • Having a signed acknowledgment of the business' alcohol policy on file for each employee; • Having an employee training plan that includes annual training on liquor laws.	Aggravating circumstances that may result in increased days of suspension, and/or increased monetary option, and/or cancellation of a liquor license may include business operations or behaviors that create an increased risk for a violation and/or intentional commission of a violation. Examples include: • Failing to call 911 for local law enforcement or medical assistance when requested by a customer, a liquor control board officer, or when people have sustained injuries; • Not checking to ensure employees are of legal age or have appropriate work permits.
(c) In addition to the examples in (a) and (b) of this subsection, the liquor control board will provide and maintain a list of business practices for reference as examples where business policies and/or practices may influence mitigating and/or aggravating circumstances. The established list will not be all inclusive for determining mitigating and/or aggravating circumstances, and may be modified by the liquor control board. The list shall be accessible to all stakeholders and the general public via the internet.	

[Statutory Authority: RCW 66.08.030. WSR 09-21-050, § 314-29-015, filed 10/14/09, effective 11/14/09. Statutory Authority: RCW 66.08.030, 66.24.010, 66.24.120. WSR 03-09-015, § 314-29-015, filed 4/4/03, effective 5/5/03.]

WAC 314-29-020 Group 1 violations against public safety. Group 1 violations are considered the most serious because they present a direct threat to public safety. Violations beyond the first violation do not have a monetary option upon issuance of a violation notice. The liquor control board may offer a monetary option in lieu of suspension days based on mitigating circumstances as outlined in WAC 314-29-015(4).

Violation Type	1st Violation	2nd Violation in a two-year window	3rd Violation in a two-year window	4th Violation in a two-year window
Violations involving minors: **Sale or service to minor:** Sale or service of alcohol to a person under 21 years of age. **Minor frequenting** a tavern, lounge, or other restricted area. RCW 66.44.270 RCW 66.44.310 WAC 314-11-020 WAC 314-16-150	5 day suspension or $500 monetary option	7 day suspension	30 day suspension	Cancellation of license
Sale or service to apparently intoxicated person: Sale or service of alcohol to, or permitting consumption or possession by, an apparently intoxicated person. RCW 66.44.200 WAC 314-16-150	5 day suspension or $500 monetary option	7 day suspension	30 day suspension	Cancellation of license
Conduct violations: **Disorderly conduct** by licensee or employee, or permitting on premises. **Licensee and/or employee** intoxicated on the licensed premises and/or drinking on duty. **Criminal conduct:** Permitting or engaging in criminal conduct. WAC 314-11-015	5 day suspension or $500 monetary option	7 day suspension	30 day suspension	Cancellation of license

Violation Type	1st Violation	2nd Violation in a two-year window	3rd Violation in a two-year window	4th Violation in a two-year window
Lewd conduct: Engaging in or permitting conduct in violation of WAC 314-11-050.	5 day suspension or $500 monetary option	7 day suspension	30 day suspension	Cancellation of license
Refusal to allow an inspection and/or obstructing a law enforcement officer from performing their official duties. RCW 66.28.090 RCW 66.44.370 WAC 314-11-090	5 day suspension or $500 monetary option	7 day suspension	30 day suspension	Cancellation of license
Condition of suspension violation: Failure to follow any suspension restriction while liquor license is suspended. WAC 314-29-040	Original penalty plus 10 day suspension with no monetary option	Cancellation of license		

[Statutory Authority: RCW 66.08.030. WSR 09-21-050, § 314-29-020, filed 10/14/09, effective 11/14/09. Statutory Authority: RCW 66.08.030, 66.24.010, 66.24.120. WSR 03-09-015, § 314-29-020, filed 4/4/03, effective 5/5/03.]

WAC 314-29-025 Group 2 regulatory violations. Group 2 violations are violations involving general regulation and administration of retail or nonretail licenses.

Violation Type	1st Violation	2nd Violation in a two-year window	3rd Violation in a two-year window	4th Violation in a two-year window
Club liquor to the public. WAC 314-40-010	5 day suspension or $500 monetary option	5 day suspension or $1,500 monetary option	10 day suspension or $3,000 monetary option	Cancellation of license
Employee under legal age or without required mandatory alcohol server training permit. RCW 66.44.316 RCW 66.44.318 RCW 66.44.340 RCW 66.44.350 WAC 314-11-040 WAC 314-11-045 Chapter 314-17 WAC	5 day suspension or $500 monetary option	5 day suspension or $1,500 monetary option	10 day suspension or $3,000 monetary option	Cancellation of license
Failure to follow 11:00 p.m. entertainment rules. WAC 314-02-025(2)	5 day suspension or $500 monetary option	5 day suspension or $1,500 monetary option	10 day suspension or $3,000 monetary option	Cancellation of license
Hours of service: Sales, service, removal, or consumption of alcohol between 2:00 a.m. and 6:00 a.m. WAC 314-11-070	5 day suspension or $500 monetary option	5 day suspension or $1,500 monetary option	10 day suspension or $3,000 monetary option	Cancellation of license
Keg registration: Failure to properly register kegs. RCW 66.28.200 RCW 66.28.210 WAC 314-02-115	5 day suspension or $500 monetary option	5 day suspension or $1,500 monetary option	10 day suspension or $3,000 monetary option	Cancellation of license
Spirituous liquor not sold by the individual drink. RCW 66.24.400 WAC 314-02-015 (1)(a)	5 day suspension or $500 monetary option	5 day suspension or $1,500 monetary option	10 day suspension or $3,000 monetary option	Cancellation of license

Violation Type	1st Violation	2nd Violation in a two-year window	3rd Violation in a two-year window	4th Violation in a two-year window
Food service: Required food service not available. WAC 314-02-035 WAC 314-02-0411 WAC 314-02-065 WAC 314-02-075	5 day suspension or $250 monetary option	5 day suspension or $1,500 monetary option	10 day suspension or $3,000 monetary option	Cancellation of license
Hours of operation: Failure to meet required hours of operation. WAC 314-02-015(2)	5 day suspension or $250 monetary option	5 day suspension or $1,500 monetary option	10 day suspension or $3,000 monetary option	Cancellation of license
NSF check: Payment by a retail licensee for alcohol purchases. WAC 314-13-020	5 day suspension or $250 monetary option	5 day suspension or $1,500 monetary option	10 day suspension or $3,000 monetary option	Cancellation of license
Premises not open to the general public while liquor is sold, served, or consumed. WAC 314-11-072	5 day suspension or $250 monetary option	5 day suspension or $1,500 monetary option	10 day suspension or $3,000 monetary option	Cancellation of license
Sampling and/or cooking class violations. WAC 314-02-105	5 day suspension or $250 monetary option	5 day suspension or $1,500 monetary option	10 day suspension or $3,000 monetary option	Cancellation of license
Substituting, tampering, improper labeling, unlawful removal, possession, or unauthorized sale of liquor. WAC 314-11-065 WAC 314-11-080 WAC 314-16-020	5 day suspension or $250 monetary option	5 day suspension or $1,500 monetary option	10 day suspension or $3,000 monetary option	Cancellation of license
Advertising: Advertising violations other than those involving prohibited practices between a nonretail and a retail licensee. Chapter 314-52 WAC.	5 day suspension or $100 monetary option	5 day suspension or $500 monetary option	10 day suspension or $1,000 monetary option	20 day suspension
Hotel/motel honor bar violation. WAC 314-02-080	5 day suspension or $100 monetary option	5 day suspension or $500 monetary option	10 day suspension or $1,000 monetary option	20 day suspension
Inventory: Inventory below required amount. WAC 314-02-100 WAC 314-02-105	5 day suspension or $100 monetary option	5 day suspension or $500 monetary option	10 day suspension or $1,000 monetary option	20 day suspension
Lighting: Inadequate lighting. WAC 314-11-055	5 day suspension or $100 monetary option	5 day suspension or $500 monetary option	10 day suspension or $1,000 monetary option	20 day suspension
Liquor purchased from unauthorized source or sale below cost in violation of liquor law or rule. WAC 314-11-085 WAC 314-13-010 WAC 314-13-040	5 day suspension or $100 monetary option	5 day suspension or $500 monetary option	10 day suspension or $1,000 monetary option	20 day suspension
Private club violations: Club regulations other than club liquor to the public. Chapter 314-40 WAC	5 day suspension or $100 monetary option	5 day suspension or $500 monetary option	10 day suspension or $1,000 monetary option	20 day suspension

Violation Type	1st Violation	2nd Violation in a two-year window	3rd Violation in a two-year window	4th Violation in a two-year window
Records: Improper recordkeeping. WAC 314-11-090 WAC 314-11-095 WAC 314-12-135	5 day suspension or $100 monetary option	5 day suspension or $500 monetary option	10 day suspension or $1,000 monetary option	20 day suspension
Retailer/nonretailer violation: Violation on the part of a retail licensee that involves a nonretail licensee, other than group four violations.	5 day suspension or $100 monetary option	5 day suspension or $500 monetary option	10 day suspension or $1,000 monetary option	20 day suspension
Signs: Failure to post required signs. WAC 314-11-060	5 day suspension or $100 monetary option	5 day suspension or $500 monetary option	10 day suspension or $1,000 monetary option	20 day suspension
Unauthorized alterations, change of trade name, or added activity. WAC 314-02-025 WAC 314-02-125 WAC 314-02-130	5 day suspension or $100 monetary option	5 day suspension or $500 monetary option	10 day suspension or $1,000 monetary option	20 day suspension

[Statutory Authority: RCW 66.08.030. WSR 09-21-050, § 314-29-025, filed 10/14/09, effective 11/14/09. Statutory Authority: RCW 66.08.030, 66.24.010, 66.24.120. WSR 03-09-015, § 314-29-025, filed 4/4/03, effective 5/5/03.]

WAC 314-29-030 Group 3 license violations. Group 3 violations are violations involving licensing requirements, license classification, and special restrictions.

Violation Type	1st Violation	2nd Violation in a two-year window	3rd Violation in a two-year window	4th Violation in a two-year window
True party of interest violation. RCW 66.24.010(1) WAC 314-12-030	Cancellation of license			
Failure to furnish required documents. WAC 314-12-035	Cancellation of license			
Misrepresentation of fact. WAC 314-12-010	Cancellation of license			
Misuse or unauthorized use of liquor license (operating outside of license class, lending or contracting license to another person/entity). Chapter 66.24 RCW WAC 314-02-015 WAC 314-02-041 WAC 314-02-045 WAC 314-02-065 WAC 314-02-070 WAC 314-02-075 WAC 314-02-090 WAC 314-02-095 WAC 314-02-100 WAC 314-02-105 WAC 314-02-110 WAC 314-12-030	5 day suspension or $1,500 monetary option	Cancellation of license		

Violation Type	1st Violation	2nd Violation in a two-year window	3rd Violation in a two-year window	4th Violation in a two-year window
Operating plan: Violations of a board-approved operating plan. WAC 314-16-270 WAC 314-16-275	5 day suspension or $500 monetary option	7 day suspension or $1,500 monetary option	10 day suspension with no monetary option	Cancellation of license
Sale of alcohol in violation of a board-approved local authority restriction. Chapter 66.24 RCW	5 day suspension or $500 monetary option	7 day suspension or $1,500 monetary option	10 day suspension with no monetary option	Cancellation of license
Sale of alcohol in violation of a board-approved alcohol impact area restriction. WAC 314-12-215	5 day suspension or $500 monetary option	7 day suspension or $1,500 monetary option	10 day suspension with no monetary option	Cancellation of license
Catering endorsement violation. WAC 314-02-060 WAC 314-02-061	5 day suspension or $250 monetary option	5 day suspension or $1,500 monetary option	10 day suspension or $3,000 monetary option	Cancellation of license

[Statutory Authority: RCW 66.08.030. WSR 09-21-050, § 314-29-030, filed 10/14/09, effective 11/14/09. Statutory Authority: RCW 66.08.030, 66.24.010, 66.24.120. WSR 03-09-015, § 314-29-030, filed 4/4/03, effective 5/5/03.]

WAC 314-29-035 Group 4 nonretail violations. Group 4 violations are violations involving the manufacture, supply, and/or distribution of liquor by nonretail licensees and prohibited practices between a nonretail licensee and a retail licensee.

Violation type	1st Violation	2nd Violation in a two-year window	3rd Violation in a two-year window	4th Violation in a two-year window
Providing credit to a retail licensee. RCW 66.28.010 WAC 314-12-140 WAC 314-12-145 WAC 314-13-015 WAC 314-13-020	3 day suspension or $500 monetary option	5 day suspension or $2,500 monetary option	10 day suspension or $5,000 monetary option	20 day suspension or $10,000 monetary option
Quantity discount. RCW 66.28.170 RCW 66.28.180	3 day suspension or $500 monetary option	5 day suspension or $2,500 monetary option	10 day suspension or $5,000 monetary option	20 day suspension or $10,000 monetary option
Giving away liquor in violation of liquor law or rule. RCW 66.28.040 WAC 314-64-080 WAC 314-64-08001	3 day suspension or $500 monetary option	5 day suspension or $2,500 monetary option	10 day suspension or $5,000 monetary option	20 day suspension or $10,000 monetary option
Consignment sales/return of product in violation of liquor law or rule. RCW 66.28.010 WAC 314-12-140 WAC 314-13-015 WAC 314-20-070 WAC 314-20-090 WAC 314-24-210	3 day suspension or $500 monetary option	5 day suspension or $2,500 monetary option	10 day suspension or $5,000 monetary option	20 day suspension or $10,000 monetary option

Violation type	1st Violation	2nd Violation in a two-year window	3rd Violation in a two-year window	4th Violation in a two-year window
Advertising violations involving prohibited practices between a nonretail and a retail licensee. RCW 66.28.010 RCW 66.24.570 WAC 314-05-030 WAC 314-52-040 WAC 314-52-070 WAC 314-52-080 WAC 314-52-090 WAC 314-52-113	3 day suspension or $500 monetary option	5 day suspension or $2,500 monetary option	10 day suspension or $5,000 monetary option	20 day suspension or $10,000 monetary option
Price lists/labeling/ packaging violations. RCW 66.24.145 RCW 66.28.100 RCW 66.28.110 RCW 66.28.120 RCW 66.28.180 WAC 314-20-020 WAC 314-20-030 WAC 314-20-100 WAC 314-20-130 WAC 314-24-003 WAC 314-24-006 WAC 314-24-040 WAC 314-24-080 WAC 314-24-090 WAC 314-24-190 WAC 314-28-090	3 day suspension or $500 monetary option	5 day suspension or $2,500 monetary option	10 day suspension or $5,000 monetary option	20 day suspension or $10,000 monetary option
Agents violations: Nonretail licensee employing an unlicensed agent. RCW 66.24.310 RCW 66.28.050 WAC 314-44-005	3 day suspension or $500 monetary option	5 day suspension or $2,500 monetary option	10 day suspension or $5,000 monetary option	20 day suspension or $10,000 monetary option

Violation type	1st Violation	2nd Violation in a two-year window	3rd Violation in a two-year window	4th Violation in a two-year window
Unauthorized product/unapproved storage or delivery. RCW 66.24.140 RCW 66.24.160 RCW 66.24.170 RCW 66.24.185 RCW 66.24.200 RCW 66.24.203 RCW 66.24.206 RCW 66.24.240 RCW 66.24.244 RCW 66.24.250 RCW 66.24.261 RCW 66.24.395 RCW 66.28.010 RCW 66.44.140 RCW 66.44.150 RCW 66.44.160 RCW 66.44.170 WAC 314-20-015 WAC 314-20-017 WAC 314-20-055 WAC 314-20-095 WAC 314-20-120 WAC 314-20-160 WAC 314-20-170 WAC 314-24-070 WAC 314-24-115 WAC 314-24-120 WAC 314-24-140 WAC 314-24-160 WAC 312-24-161 [WAC 314-24-161] WAC 314-24-220 WAC 314-25-020 WAC 314-25-030 WAC 314-25-040 WAC 314-28-050	3 day suspension or $500 monetary option	5 day suspension or $2,500 monetary option	10 day suspension or $5,000 monetary option	20 day suspension or $10,000 monetary option
Sampling/tasting violations. RCW 66.20.010 RCW 66.24.145 RCW 66.24.170 RCW 66.28.040 RCW 66.28.150 WAC 314-20-015 WAC 314-24-160 WAC 314-45-010 Chapter 314-64 WAC	3 day suspension or $500 monetary option	5 day suspension or $2,500 monetary option	10 day suspension or $5,000 monetary option	20 day suspension or $10,000 monetary option

Violation type	1st Violation	2nd Violation in a two-year window	3rd Violation in a two-year window	4th Violation in a two-year window
Entertainment/ instruction/meeting/ trade show violations. RCW 66.20.010 RCW 66.28.010 RCW 66.28.042 RCW 66.28.043 RCW 66.28.150 RCW 66.28.155 WAC 314-45-010	3 day suspension or $500 monetary option	5 day suspension or $2,500 monetary option	10 day suspension or $5,000 monetary option	20 day suspension or $10,000 monetary option
Providing/accepting money or money's worth: Goods or services worth up to $1,500. RCW 66.28.010 WAC 314-12-140 WAC 314-44-005	3 day suspension or $500 monetary option	5 day suspension or $2,500 monetary option	10 day suspension or $5,000 monetary option	20 day suspension or $10,000 monetary option
Providing/accepting money or money's worth: Goods or services worth over $1,500. RCW 66.28.010 WAC 314-12-140 WAC 314-44-005	Cost of item or service provided plus: 3 day suspension or $1,000 monetary option	Cost of item or service provided plus: 5 day suspension or $2,500 monetary option	Cost of item or service provided plus: 10 day suspension or $5,000 monetary option	Cost of item or service provided plus: 20 day suspension or $10,000 monetary option
Providing/accepting exclusive or contingency agreements. RCW 66.28.010 RCW 66.24.570 WAC 314-12-140 WAC 314-05-030	3 day suspension or $1,000 monetary option	10 day suspension or $6,000 monetary option	20 day suspension or $12,000 monetary option	30 day suspension or $20,000 monetary option
Unauthorized interest or ownership in retail license. RCW 66.28.010 WAC 314-12-030	3 day suspension or $1,000 monetary option	30 day suspension or $20,000 monetary option	Cancellation of license	
Failure to obtain surety bond/savings account, if required by the board. RCW 66.24.210 RCW 66.24.290 WAC 314-19-020	Immediate suspension of license until surety bond has been obtained and all missing reports are filed and late taxes are paid.			
Failure to file tax/shipment report. RCW 66.24.210 RCW 66.24.290 WAC 314-19-005 WAC 314-19-010 WAC 314-19-020	3 day suspension or $250 monetary option	5 day suspension or $500 monetary option	10 day suspension or $1,000 monetary option	20 day suspension or $2,000 monetary option

Violation type	1st Violation	2nd Violation in a two-year window	3rd Violation in a two-year window	4th Violation in a two-year window
Certificate of approval (COA) and/or authorized representative violations. RCW 66.24.206 WAC 314-19-005 WAC 314-19-010 WAC 314-19-020	15 day suspension or $100 monetary option	30 day suspension or $500 monetary option	180 day suspension or $1,000 monetary option	Cancellation of license

[Statutory Authority: RCW 66.08.030. WSR 09-21-050, § 314-29-035, filed 10/14/09, effective 11/14/09. Statutory Authority: RCW 66.08.030, 66.24.010, 66.24.120. WSR 03-09-015, § 314-29-035, filed 4/4/03, effective 5/5/03.]

WAC 314-29-040 Information about liquor license suspensions. (1) On the date a liquor license suspension goes into effect, a liquor control agent will post a suspension notice in a conspicuous place on or about the licensed premises. This notice will state that the license has been suspended by order of the liquor control board due to a violation of a board law or rule.

(2) During the period of liquor license suspension, the licensee and employees:

(a) Are required to maintain compliance with all applicable liquor laws and rules;

(b) May not remove, alter, or cover the posted suspension notice, and may not permit another person to do so;

(c) May not place or permit the placement of any statement on the licensed premises indicating that the premises have been closed for any reason other than as stated in the suspension notice (see WAC 314-01-005 for the definition of "licensed premises").

(d) May not advertise by any means that the licensed premises is closed for any reason other than as stated in the liquor control board's suspension notice.

(3) During the period of liquor license suspension:

(a) A retail liquor licensee may operate his/her business provided there is no sale, delivery, service, consumption, removal, or receipt of liquor. No banquet permit or special occasion function may be held on the premises during a period of liquor license suspension.

(b) A nonretail licensee may operate his/her business provided there is no sale, delivery, service, consumption, removal, or receipt of liquor.

(c) A manufacturer of alcohol may do whatever is necessary as a part of the manufacturing process to keep current stock that is on hand at the time of the suspension from spoiling or becoming unsaleable during a suspension, provided it does not include bottling the product. The manufacturer may not receive any agricultural products used in the production of alcohol, crush fruit, or bottle alcohol during the period of suspension.

[Statutory Authority: RCW 66.08.030, 66.24.010, 66.24.120. WSR 03-09-015, § 314-29-040, filed 4/4/03, effective 5/5/03.]

Chapter 314-30 WAC
MANUFACTURERS

WAC
314-30-010 Sales by manufacturers.

WAC 314-30-010 Sales by manufacturers. (1) Manufacturers licensed in accordance with RCW 66.24.150 may sell within the state:

(a) Spirituous liquor only to spirits distributors;

(b) Wine products only to wine distributor licensees;

(c) Beer products only to beer distributor licensees; or

(d) To permit holders as authorized by RCW 66.20.010 (7) through (10).

(2) The first spirits distributor, wine distributor, or beer distributor to receive spirits, wine, or malt beverages from a distiller, manufacturer, rectifier, or bottler shall be liable for the fees and/or taxes due.

(3) Manufacturers selling spirits, wine, or malt beverage products will be considered a supplier and will be required to meet the requirements of WAC 314-23-005, 314-24-190, and 314-20-100 respectively.

(4) Manufacturers selling spirits to a licensed spirits distributor, wine to a licensed wine distributor, or beer to a licensed beer distributor shall file monthly reports with the board on forms prescribed by the board showing the quantity of liquor shipped to each above referenced licensee during the preceding month. Such report shall be submitted on or before the twentieth day of the month following the month of sale or delivery.

(5) Failure to make such report at the time prescribed will be sufficient cause for the board to forthwith suspend or cancel the license privilege of the manufacturer. When the twentieth day of any month falls on a Sunday, or a legal holiday, the report may be filed not later than the close of business the next business day.

[Statutory Authority: RCW 66.08.030 and 66.08.050. WSR 12-17-006, § 314-30-010, filed 8/1/12, effective 9/1/12. Statutory Authority: RCW 66.08.030, 15.88.030, 19.126.020, 66.04.010, 66.08.180, 66.16.100, 66.20.010, 66.20.300, 66.20.310, 66.24.150, 66.24.170, 66.24.185, 66.24.200, 66.24.206, 66.24.210, 66.24.230, 66.24.240, 66.24.244, 66.24.250, 66.24.375, 66.24.380, 66.24.395, 66.24.400, 66.24.420, 66.24.425, 66.24.440, 66.24.450, 66.24.455, 66.24.495, 66.24.540, 66.28.010, 66.28.040, 66.28.050, 66.28.170, 66.28.180, 66.28.190, 66.28.200, 66.28.310, 66.44.190, 66.44.310, 66.98.060 and 82.08.150. WSR 98-18-097, § 314-30-010, filed 9/2/98, effective 10/3/98. Statutory Authority: RCW 66.08.030 and 66.24.150. WSR 88-20-087 (Order 265, Resolution No. 274), § 314-30-010, filed 10/5/88.]

Chapter 314-31 WAC
COMPLIANCE CHECKS

WAC

314-31-005 Liquor compliance checks.
314-31-015 What are the guidelines for liquor compliance checks?

WAC 314-31-005 Liquor compliance checks. (1) The Washington state liquor control board authorizes enforcement officers and investigative aides working with enforcement officers to conduct liquor compliance checks at any location where alcohol is sold, served or provided.

(2) Investigative aides working at the direction of enforcement officers during a liquor compliance check are considered agents of the Washington state liquor control board.

(3) Violations involving a licensee, its employee, or a member of the public that result from a liquor compliance check are subject to criminal arrest and/or administrative action by the liquor control board.

[Statutory Authority: RCW 66.08.030. WSR 12-18-002, § 314-31-005, filed 8/23/12, effective 9/23/12.]

WAC 314-31-015 What are the guidelines for liquor compliance checks? Enforcement officers conducting liquor compliance checks must comply with the following conditions:

(1) An investigative aide must:

(a) Be at least eighteen years of age and under twenty-one years of age;

(b) Transfer any physical evidence to the enforcement officer(s) at the conclusion of each compliance check during which alcohol is acquired; and

(c) Complete a written statement on a form provided by the enforcement officer(s) at the conclusion of each compliance check during which alcohol is acquired.

(2) During a compliance check, an investigative aide may not:

(a) Be directly related to the enforcement officer(s) conducting the compliance check; or

(b) Possess any funds other than the funds provided by the agency for the compliance check.

(3) An enforcement officer shall photograph the investigative aide prior to conducting a compliance check. At least one photograph shall be taken of the investigative aide's face and at least one photograph shall be taken of the investigative aide from head to toe.

(4) An investigative aide is not required to possess identification during a compliance check, provided that if identification is possessed during the compliance check, the identification must be the investigative aide's lawfully issued identification.

[Statutory Authority: RCW 66.08.030. WSR 12-18-002, § 314-31-015, filed 8/23/12, effective 9/23/12.]

Chapter 314-32 WAC
RECTIFIERS

WAC

314-32-010	Applicants—Federal permit required.
314-32-020	Duplicate records furnished board.
314-32-030	Adoption federal laws.

WAC 314-32-010 Applicants—Federal permit required. No manufacturer's (rectifier's) license shall be issued, until satisfactory evidence is furnished the board that the applicant holds all permits or authorization required by the federal government.

[Rule 85, filed 6/13/63.]

WAC 314-32-020 Duplicate records furnished board. Duplicate copies of monthly returns, transcripts, notices or other data, as required by the federal government, must be furnished the board not later than the tenth of each month. In addition thereto, such rectifiers shall furnish the board duplicate copies of the bills of lading, covering all shipments of the products of the licensee.

[Rule 86, filed 6/13/63.]

WAC 314-32-030 Adoption federal laws. All laws and rules and regulations of the federal government, or any subsequent modification thereof, applicable to the rectification of distilled spirits, wines, cordials, liquors, etc., are by reference hereby adopted and promulgated as the rules and regulations of this board.

[Rule 87, filed 6/13/63.]

Chapter 314-33 WAC

CIGARETTE AND TOBACCO PRODUCTS LICENSE PROCESS

WAC

314-33-001 Cigarette and tobacco products license qualifications and application process.

314-33-005 Reasons the board may deny a cigarette or tobacco products license application.

314-33-020 What criminal history might prevent an applicant from receiving or keeping a cigarette or tobacco products license?

314-33-025 What liquor and cigarette and tobacco products law or rule violation history might prevent an applicant from receiving a cigarette or tobacco products license?

314-33-030 What is the process if the board denies a cigarette or tobacco products license application?

WAC 314-33-001 Cigarette and tobacco products license qualifications and application process. (1) Each cigarette and tobacco products license application is unique and investigated individually. The board may inquire and request documents regarding matters in connection with the cigarette and tobacco products license application. Following is a general outline of the cigarette and tobacco products license application process:

(a) The board may require proof concerning the applicant's identity.

(b) The board may conduct an investigation of the applicants' criminal history and administrative violation history, per RCW 82.24.510 and 82.26.150.

(2) Failure to respond to the board's requests for information within the timeline provided may cause the application to be denied.

[Statutory Authority: RCW 82.24.510, 82.24.550, 82.26.150, 82.26.220. WSR 10-01-089, § 314-33-001, filed 12/16/09, effective 1/16/10.]

WAC 314-33-005 Reasons the board may deny a cigarette or tobacco products license application. The following is a list of reasons the board may deny a cigarette or tobacco products license application:

(1) Failure to meet qualifications or requirements for the specific cigarette or tobacco products license, as outlined in this chapter and chapters 82.24 and 82.26 RCW.

(2) Failure to submit information or documentation requested by the board.

(3) Misrepresentation of fact by any applicant.

(4) Willfully withholding information.

(5) Submitting false or misleading information.

(6) The applicant has failed to submit payments of the taxes imposed under chapter 82.24 or 82.26 RCW along with reports and returns to the department of revenue as required.

(7) If the applicant is a corporation and the corporation is not currently registered with the secretary of state.

(8) The applicant is currently the subject of an outstanding felony arrest warrant.

(9) The existence of disqualifying criminal history standards outlined in WAC 314-33-020.

(10) The existence of disqualifying liquor and cigarette and tobacco products law or rule violation history standards outlined in WAC 314-33-025.

[Statutory Authority: RCW 82.24.510, 82.24.550, 82.26.150, 82.26.220. WSR 10-01-089, § 314-33-005, filed 12/16/09, effective 1/16/10.]

WAC 314-33-020 What criminal history might prevent an applicant from receiving or keeping a cigarette or tobacco products license? (1) For the purpose of reviewing an application for a license and for considering the denial, suspension, or revocation of any such license, the board may consider any prior criminal conduct of the applicant and criminal history record within the previous five years.

(2) When the board processes a criminal history check on an applicant, it uses a point system to determine a person's qualification for a license. The board will not normally issue a cigarette and tobacco products license to an applicant who has accumulated eight or more points as indicated below:

Description	Time period during which points will be assigned from date of conviction	Points assigned
Felony conviction	Five years	12 points
Gross misdemeanor conviction for violation of chapters 82.24 and 82.26 RCW	Five years	12 points
Other gross misdemeanor conviction	Three years	5 points
Misdemeanor conviction	Three years	4 points
Nondisclosure of any of the above	n/a	4 points each

(3) If a case is pending for an alleged offense that would earn eight or more points, the board will hold the application for the disposition of the case. If the disposition is not settled within ninety days, the board may administratively close the application.

[Statutory Authority: RCW 82.24.510, 82.24.550, 82.26.150, 82.26.220. WSR 10-01-089, § 314-33-020, filed 12/16/09, effective 1/16/10.]

WAC 314-33-025 What liquor and cigarette and tobacco products law or rule violation history might prevent an applicant from receiving a cigarette or tobacco products license? The board will conduct an investigation of

all applicants' liquor and cigarette and tobacco products law and/or rule administrative violation history. The board will not normally issue a cigarette and tobacco products license to a person, or to an entity that has the following violation history or to any person that has demonstrated a pattern of disregard for laws or rules: Four or more violations within the last two years of the date the application is received by the board.

[Statutory Authority: RCW 82.24.510, 82.24.550, 82.26.150, 82.26.220. WSR 10-01-089, § 314-33-025, filed 12/16/09, effective 1/16/10.]

WAC 314-33-030 What is the process if the board denies a cigarette or tobacco products license application? If the board denies a cigarette or tobacco products license application, the applicant may:

(1) Request an administrative hearing per chapter 34.05 RCW; or

(2) Reapply for the license no sooner than one year from the original denial date.

[Statutory Authority: RCW 82.24.510, 82.24.550, 82.26.150, 82.26.220. WSR 10-01-089, § 314-33-030, filed 12/16/09, effective 1/16/10.]

Chapter 314-34 WAC
CIGARETTE AND TOBACCO PRODUCTS VIOLATIONS

WAC

314-34-001	Purpose of chapter.
314-34-003	Authority—Suspension or revocation of wholesale and retail cigarette and tobacco products licenses.
314-34-005	What are the procedures for notifying a licensee of an alleged violation of a cigarette or tobacco products statute or regulation?
314-34-010	What options does a licensee have once they receive a notice of administrative violation?
314-34-015	What are the penalties if a cigarette and/or tobacco products license holder violates a cigarette or tobacco products law or rule?
314-34-020	Information about cigarette and/or tobacco products license suspensions.
314-34-030	Cigarette and other tobacco products violations.

WAC 314-34-001 Purpose of chapter. The purpose of this chapter is to outline what a cigarette and/or tobacco products licensee can expect if a licensee receives an administrative violation notice alleging a violation of a statute under chapters 82.24 and 82.26 RCW, or under chapter 314-33 WAC.

[Statutory Authority: RCW 82.24.510, 82.24.550, 82.26.150, 82.26.220. WSR 10-01-089, § 314-34-001, filed 12/16/09, effective 1/16/10.]

WAC 314-34-003 Authority—Suspension or revocation of wholesale and retail cigarette and tobacco products licenses. (1) The board has full power and authority to suspend or revoke the license of any cigarette wholesale or retail licensee and tobacco products distributor or retail licensee upon sufficient showing that the license holder has violated the provisions of chapters 82.24 and 82.26 RCW or chapter 314-33 WAC.

(2) Any person possessing both a cigarette license and a tobacco products license is subject to suspension and revocation of both licenses for violation of either chapter 82.24 or 82.26 RCW or this chapter. For example, if a person has both a cigarette license and a tobacco products license, revocation of the tobacco products license will also result in revocation of the cigarette license.

(3) A person whose license has been suspended or revoked must not sell or permit the sale of tobacco products or cigarettes during the period of the suspension or revocation.

(4) For the purposes of this rule, "cigarettes" has the same meaning as in RCW 82.24.010 and "tobacco products" has the same meaning as in RCW 82.26.010.

(5) Any person whose license has been revoked must wait one year following the date of revocation before requesting a hearing for reinstatement. Reinstatement hearings are held pursuant to chapter 34.05 RCW.

[Statutory Authority: RCW 82.24.510, 82.24.550, 82.26.150, 82.26.220. WSR 10-01-089, § 314-34-003, filed 12/16/09, effective 1/16/10.]

WAC 314-34-005 What are the procedures for notifying a licensee of an alleged violation of a cigarette or tobacco products statute or regulation? When an enforcement officer believes that a cigarette and/or tobacco products licensee has violated a board statute or regulation, the officer may prepare an administrative violation notice (AVN) and mail or deliver the notice to the licensee or the licensee's agent. The AVN will include:

(1) A brief narrative description of the violation(s) the officer is charging;

(2) The date(s) of the violation(s);

(3) A copy of the law(s) and/or regulation(s) allegedly violated;

(4) An outline of the licensee's options as outlined in WAC 314-34-010; and

(5) The penalty.

[Statutory Authority: RCW 82.24.510, 82.24.550, 82.26.150, 82.26.220. WSR 10-01-089, § 314-34-005, filed 12/16/09, effective 1/16/10.]

WAC 314-34-010 What options does a licensee have once they receive a notice of administrative violation? (1) A licensee has twenty days from receipt of the notice to:

(a) Accept the recommended penalty; or

(b) Request a settlement conference in writing; or

(c) Request an administrative hearing in writing. A response must be submitted on a form provided by the board.

(2) **What happens if a licensee does not respond to the administrative violation notice within twenty days?** If a licensee does not respond to the administrative violation notice within twenty days, the recommended penalty will go into effect.

(3) **What are the procedures when a licensee requests a settlement conference?**

(a) If the licensee requests a settlement conference, the hearing examiner or captain will contact the licensee or permit holder to discuss the violation.

(b) Both the licensee and the hearing examiner or captain will discuss the circumstances surrounding the charge, the recommended penalty, and any aggravating or mitigating factors.

(c) If a compromise is reached, the hearing examiner or captain will prepare a compromise settlement agreement. The hearing examiner or captain will forward the compromise settlement agreement, authorized by both parties, to the board for approval.

(i) If the board approves the compromise, a copy of the signed settlement agreement will be sent to the licensee and will become part of the licensing history.

(ii) If the board does not approve the compromise, the licensee will be notified of the decision. The licensee will be given the option to renegotiate with the hearings examiner or captain, of accepting the originally recommended penalty, or of requesting an administrative hearing on the charges.

(d) If the licensee and the hearing examiner or captain cannot reach agreement on a settlement proposal, the licensee may accept the originally recommended penalty, or the hear-

ing examiner or captain will forward a request for an administrative hearing to the board's hearings coordinator.

[Statutory Authority: RCW 82.24.510, 82.24.550, 82.26.150, 82.26.220. WSR 10-01-089, § 314-34-010, filed 12/16/09, effective 1/16/10.]

WAC 314-34-015 What are the penalties if a cigarette and/or tobacco products license holder violates a cigarette or tobacco products law or rule? For the purposes of chapter 314-33 WAC, a two-year window for violations is measured from the date one violation occurred to the date a subsequent violation occurred.

(1) 1st offense - License suspension for not less than thirty consecutive business days.

(2) 2nd offense - License suspension for not less than ninety days - or more than twelve months.

(3) 3rd and consecutive offenses - Subject to revocation.

[Statutory Authority: RCW 82.24.510, 82.24.550, 82.26.150, 82.26.220. WSR 10-01-089, § 314-34-015, filed 12/16/09, effective 1/16/10.]

WAC 314-34-020 Information about cigarette and/or tobacco products license suspensions. (1) On the date a cigarette and/or tobacco products license suspension goes into effect, a liquor enforcement officer will post a suspension notice in a conspicuous place on or about the licensed premises. This notice will state that the license has been suspended by order of the liquor control board due to a violation of a cigarette or tobacco products law or rule.

(2) During the period of cigarette and/or tobacco products license suspension, the licensee and employees:

(a) Are required to maintain compliance with all applicable cigarette and tobacco products laws and rules;

(b) May not remove, alter, or cover the posted suspension notice, and may not permit another person to do so;

(c) May not place or permit the placement of any statement on the licensed premises indicating that the premises have been closed for any reason other than as stated in the suspension notice;

(d) May not advertise by any means that the licensed premises is closed for any reason other than as stated in the liquor control board's suspension notice.

(3) During the period of cigarette and tobacco products license suspension:

(a) A retail cigarette and/or tobacco products licensee may operate his/her business provided there is no sale, delivery, removal, or receipt of cigarette and tobacco products.

(b) A cigarette wholesaler and tobacco products distributor licensee may operate his/her business provided there is no sale, delivery, removal, or receipt of cigarette and tobacco products.

[Statutory Authority: RCW 82.24.510, 82.24.550, 82.26.150, 82.26.220. WSR 10-01-089, § 314-34-020, filed 12/16/09, effective 1/16/10.]

WAC 314-34-030 Cigarette and other tobacco products violations. (1) The following is a list of cigarette violations:

(a) Taxes - failure to pay taxes as required;

(b) Stamps - tax stamp violations to include:

(i) Failure to affix stamps;

(ii) Forgery/counterfeit; or

(iii) Possession of unstamped cigarettes.

(c) Retailer obtaining cigarettes from an unauthorized source;

(d) Records - improper recordkeeping or failure to submit reports as required;

(e) Failure to allow inspections of any of the following:

(i) Premises;

(ii) Stamps;

(iii) Vehicles;

(iv) Cigarettes;

(v) Books; or

(vi) Records.

(f) Transporting violations to include failure to notify and improper records;

(g) Operating outside the capacity of the license and failure to secure the proper license; and

(h) License suspension violations.

(2) The following is a list of other tobacco product violations:

(a) Taxes - failure to pay taxes as required;

(b) Records - improper recordkeeping or failure to submit reports as required;

(c) Failure to allow inspections of any of the following:

(i) Premises;

(ii) Vehicles;

(iii) Tobacco products;

(iv) Books; or

(v) Records.

(d) Transporting violations to include failure to notify and improper records;

(e) Operating outside of the capacity of the license or failure to secure the proper license;

(f) Retailer not licensed as a distributor and obtaining tobacco products from an unlicensed distributor;

(g) Manufacturer representative's violation; and

(h) License suspension violations.

[Statutory Authority: RCW 82.24.510, 82.24.550, 82.26.150, 82.26.220. WSR 10-01-089, § 314-34-030, filed 12/16/09, effective 1/16/10.]

Chapter 314-36 WAC

IMPORTERS, PUBLIC STORAGE WAREHOUSES AND IMPORTATION OF LIQUOR

WAC

314-36-040	Principal office—Record.
314-36-060	Public storage warehouses.
314-36-080	Authorization for private liquor storage warehouse.
314-36-090	Liquor shall be stored in original packages.
314-36-100	Removal of spirits.
314-36-130	Complete records kept.
314-36-140	Records open to inspection.

DISPOSITION OF SECTIONS FORMERLY CODIFIED IN THIS CHAPTER

314-36-010	Sales between importers. [Statutory Authority: RCW 66.08.030, chapter 66.24 RCW. WSR 10-20-085, § 314-36-010, filed 9/30/10, effective 10/31/10. Statutory Authority: RCW 66.08.030. WSR 88-07-025 (Order 238, Resolution No. 247), § 314-36-010, filed 3/9/88; Rule 88, filed 6/13/63.] Repealed by WSR 12-17-006, filed 8/1/12, effective 9/1/12. Statutory Authority: RCW 66.08.030 and 66.08.050.
314-36-020	Liquor importation—General. [Statutory Authority: RCW 66.08.030, chapter 66.24 RCW. WSR 10-20-085, § 314-36-020, filed 9/30/10, effective 10/31/10. Statutory Authority: RCW 66.08.030. WSR 88-07-025 (Order 238, Resolution No. 247), § 314-36-020, filed 3/9/88. Statutory Authority: RCW 66.08.030 (1) and (2). WSR 87-07-008 (Order 214, Resolution No. 223), § 314-36-020, filed 3/10/87; Order 5, § 314-36-020, filed 8/7/69, effective 9/8/69; Rule 89, filed 6/13/63.] Repealed by WSR 12-17-006, filed 8/1/12, effective 9/1/12. Statutory Authority: RCW 66.08.030 and 66.08.050.
314-36-030	Importation by licensed liquor importer. [Statutory Authority: RCW 66.08.030. WSR 88-07-025 (Order 238, Resolution No. 247), § 314-36-030, filed 3/9/88; Rule 90, filed 6/13/63.] Repealed by WSR 10-20-085, filed 9/30/10, effective 10/31/10. Statutory Authority: RCW 66.08.030, chapter 66.24 RCW.
314-36-050	Customs bonded locker. [Statutory Authority: RCW 66.08.030. WSR 88-07-025 (Order 238, Resolution No. 247), § 314-36-050, filed 3/9/88; Order 5, § 314-36-050, filed 8/7/69, effective 9/8/69; Rule 92, filed 6/13/63.] Repealed by WSR 10-20-085, filed 9/30/10, effective 10/31/10. Statutory Authority: RCW 66.08.030, chapter 66.24 RCW.
314-36-070	Storage of liquor. [Statutory Authority: RCW 66.08.030. WSR 88-07-025 (Order 238, Resolution No. 247), § 314-36-070, filed 3/9/88; Order 5, § 314-36-070, filed 8/7/69, effective 9/8/69; Rule 94, filed 6/13/63.] Repealed by WSR 10-20-085, filed 9/30/10, effective 10/31/10. Statutory Authority: RCW 66.08.030, chapter 66.24 RCW.
314-36-110	Release of liquor. [Statutory Authority: RCW 66.08.030. WSR 88-07-025 (Order 238, Resolution No. 247), § 314-36-110, filed 3/9/88. Statutory Authority: RCW 66.08.030 (1) and (2). WSR 87-07-008 (Order 214, Resolution No. 223), § 314-36-110, filed 3/10/87; Order 5, § 314-36-110, filed 8/7/69, effective 9/8/69; Rule 98, filed 6/13/63.] Repealed by WSR 10-20-085, filed 9/30/10, effective 10/31/10. Statutory Authority: RCW 66.08.030, chapter 66.24 RCW.
314-36-120	Perpetual inventory—Copy to board. [Rule 99, filed 6/13/63.] Repealed by WSR 88-07-025 (Order 238, Resolution No. 247), filed 3/9/88. Statutory Authority: RCW 66.08.030.
314-36-150	Special importation permit. [Statutory Authority: RCW 66.08.030 (1) and (2). WSR 87-07-008 (Order 214, Resolution No. 223), § 314-36-150, filed 3/10/87; Rule 102, filed 6/13/63.] Repealed by WSR 10-20-085, filed 9/30/10, effective 10/31/10. Statutory Authority: RCW 66.08.030, chapter 66.24 RCW.

WAC 314-36-040 Principal office—Record. (1) Each spirits, beer or wine importer shall establish and maintain a principal office within the state where full and complete records are kept for three years of:

(a) All importations;

(b) All storage;

(c) All removals; and

(d) All exportations of liquor.

(2) Records are to be kept in such manner and in such form as required by the board.

(3) Each spirits, beer or wine importer shall keep the board informed at all times of the location of such principal office.

[Statutory Authority: RCW 66.08.030 and 66.08.050. WSR 12-17-006, § 314-36-040, filed 8/1/12, effective 9/1/12. Statutory Authority: RCW 66.08.030, chapter 66.24 RCW. WSR 10-20-085, § 314-36-040, filed 9/30/10, effective 10/31/10. Statutory Authority: RCW 66.08.030. WSR 88-07-025 (Order 238, Resolution No. 247), § 314-36-040, filed 3/9/88; Rule 91, filed 6/13/63.]

WAC 314-36-060 Public storage warehouses. (1) No public storage warehouse shall accept, receive, or store or otherwise handle any spirits, beer, or wine, without first obtaining from the Washington state liquor control board a letter of authorization.

(2) No consumption of spirits, beer, or wine, is allowed at public storage warehouses.

[Statutory Authority: RCW 66.08.030 and 66.08.050. WSR 12-17-006, § 314-36-060, filed 8/1/12, effective 9/1/12. Statutory Authority: RCW 66.08.030, chapter 66.24 RCW. WSR 10-20-085, § 314-36-060, filed 9/30/10, effective 10/31/10. Statutory Authority: RCW 66.08.030. WSR 88-07-025 (Order 238, Resolution No. 247), § 314-36-060, filed 3/9/88; Order 5, § 314-36-060, filed 8/7/69, effective 9/8/69; Rule 93, filed 6/13/63.]

WAC 314-36-080 Authorization for private liquor storage warehouse. A holder of a spirits, beer or wine importer's license, who maintains a storage warehouse and who desires to store spirits, beer, or wine imported under such spirits, beer or wine importer's license, shall apply to the board for a letter of authorization. If authorization is granted, the warehouse shall be known as a private liquor storage warehouse.

[Statutory Authority: RCW 66.08.030 and 66.08.050. WSR 12-17-006, § 314-36-080, filed 8/1/12, effective 9/1/12. Statutory Authority: RCW 66.08.030, chapter 66.24 RCW. WSR 10-20-085, § 314-36-080, filed 9/30/10, effective 10/31/10. Statutory Authority: RCW 66.08.030. WSR 88-07-025 (Order 238, Resolution No. 247), § 314-36-080, filed 3/9/88; Rule 95, filed 6/13/63.]

WAC 314-36-090 Liquor shall be stored in original packages. No shipments of liquor shall be accepted or stored in an approved storage warehouse except in original packages or combinations of original packages.

[Statutory Authority: RCW 66.08.030 and 66.08.050. WSR 12-17-006, § 314-36-090, filed 8/1/12, effective 9/1/12. Statutory Authority: RCW 66.08.030, chapter 66.24 RCW. WSR 10-20-085, § 314-36-090, filed 9/30/10, effective 10/31/10. Statutory Authority: RCW 66.08.030. WSR 88-07-025 (Order 238, Resolution No. 247), § 314-36-090, filed 3/9/88; Order 5, § 314-36-090, filed 8/7/69, effective 9/8/69; Rule 96, filed 6/13/63.]

WAC 314-36-100 Removal of spirits. (1) No spirits importer or public storage warehouse shall remove spirits from any storage warehouse, except:

(a) For sale and delivery to a spirits distributor; or

(b) For export from the state.

(2) Any and all removals of spirits must be made in full compliance with the Washington state liquor laws and the rules of the board.

[Statutory Authority: RCW 66.08.030 and 66.08.050. WSR 12-17-006, § 314-36-100, filed 8/1/12, effective 9/1/12. Statutory Authority: RCW 66.08.030, chapter 66.24 RCW. WSR 10-20-085, § 314-36-100, filed 9/30/10, effective 10/31/10. Statutory Authority: RCW 66.08.030. WSR 88-07-025 (Order 238, Resolution No. 247), § 314-36-100, filed 3/9/88. Statutory Authority: RCW 66.08.030 (1) and (2). WSR 87-07-008 (Order 214, Resolution No. 223), § 314-36-100, filed 3/10/87; Order 5, § 314-36-100, filed 8/7/69, effective 9/8/69; Rule 97, filed 6/13/63.]

WAC 314-36-130 Complete records kept. (1) Each public storage warehouse shall keep full and complete records showing:

(a) All spirits received for storage; and

(b) All removals and exportations.

(2) Records shall be preserved for three years, all bills of lading or certified copies thereof.

[Statutory Authority: RCW 66.08.030 and 66.08.050. WSR 12-17-006, § 314-36-130, filed 8/1/12, effective 9/1/12. Statutory Authority: RCW 66.08.030, chapter 66.24 RCW. WSR 10-20-085, § 314-36-130, filed 9/30/10, effective 10/31/10. Statutory Authority: RCW 66.08.030. WSR 88-07-025 (Order 238, Resolution No. 247), § 314-36-130, filed 3/9/88; Rule 100, filed 6/13/63.]

WAC 314-36-140 Records open to inspection. The books and records pertaining to liquor receipts, storage and shipments, shall at all times be open for inspection by the board or its authorized representatives, who shall have access to the warehouse at any time during business hours for the purpose of inspecting records and checking inventory.

[Rule 101, filed 6/13/63.]

Chapter 314-38 WAC
PERMITS

WAC

314-38-010	Serve employees and guests permit under Title 66 RCW.
314-38-020	Permits—Fees established.
314-38-030	Fee for replacement of a lost or destroyed license or permit.
314-38-040	Beverage alcohol raffle permit—Fee.
314-38-050	Serve employees and guest permit—Purpose—Use.
314-38-060	Special permit for technical or community colleges as authorized by RCW 66.20.010(12) shall be called a class 15 permit.
314-38-070	Class 16 day spa permit.

WAC 314-38-010 Serve employees and guests permit under Title 66 RCW. (1) The special permit provided by RCW 66.20.010(4) to consume liquor on the premises of a business not licensed under Title 66 RCW shall only be issued to businesses at which the service and consumption of liquor is incidental to, and does not form a portion of, the service the business is engaged in producing or marketing. The permit shall not be used by the holder thereof for purposes of stimulating or increasing business from the general public.

(2) Each permit shall be issued for a period of twelve months from the first day of the month in which it is issued. The fee for each permit issued shall be five hundred dollars.

(3) The permit shall be issued for, and service and consumption of liquor will be limited to, specified hospitality rooms and/or dining rooms which shall be on the premises of the business applying for the permit. A separate permit is required for each business premises at which liquor is to be served or consumed. The general public shall not be permitted in the hospitality or dining room at any time during the service or consumption of liquor.

(4) The permit will authorize the service and consumption of liquor, without charge, by employees and invited guests of the business holding the permit. No sale of liquor will be authorized in any manner, whether by scrip, donation, contribution, or otherwise. No charge of any kind may be made by the permittee to invited guests for admission to the hospitality or dining room, or for any meals or other services provided to them in the hospitality or dining room.

(5) All liquor served or consumed under the permit shall be purchased from a Washington state licensed retailer at full retail price.

(6) The permit shall be issued in the name of the business applying for it, and that business shall not allow any other person, business, or organization to utilize the permit. The issuance of any permit by the board shall not be construed as granting a vested right in any of the privileges so conferred, and a misrepresentation of fact found to have been made by the applicant or permittee shall be deemed a lack of good faith and shall constitute good and sufficient cause for the disapproval of a permit application or for the revocation or suspension of any permit issued by the board.

[Statutory Authority: RCW 66.08.030 and 66.08.050. WSR 12-17-006, § 314-38-010, filed 8/1/12, effective 9/1/12. Statutory Authority: RCW 66.08.030 and 66.20.010. WSR 82-13-068 (Order 106, Resolution No. 115), § 314-38-010, filed 6/16/82.]

WAC 314-38-020 Permits—Fees established. The fees for permits authorized under RCW 66.20.010 are hereby established as follows:

(1) A fee of five dollars is established for a special permit as authorized by RCW 66.20.010(1).

(2) The fee for a special permit as authorized by RCW 66.20.010(2) for purchase of five gallons or less is established as five dollars and for purchase of over five gallons is established as ten dollars.

(3) A fee for a banquet permit, as authorized by RCW 66.20.010(3), is established in WAC 314-18-040.

(4) The fee for a special business permit, as authorized by RCW 66.20.010(4), is established in WAC 314-38-010(2).

(5) The fee of ten dollars is established for a special permit as authorized by RCW 66.20.010(5).

(6) A fee of five dollars is established for a special permit as authorized by RCW 66.20.010(6).

(7) A special permit as authorized by RCW 66.20.010(7) shall be issued without charge to those eligible entities.

(8) The fee of twenty-five dollars is established for a special permit as authorized by RCW 66.20.010(8).

(9) The fee of twenty-five dollars is established for a special permit as authorized by RCW 66.20.010(9).

(10) The fee of thirty dollars is established for a special permit as authorized by RCW 66.20.010(10).

(11) The fee of seventy-five dollars is established for a special permit as authorized by RCW 66.20.010(11).

[Statutory Authority: RCW 66.08.030, 66.20.010 and 66.98.070. WSR 84-14-028 (Order 145, Resolution No. 154), § 314-38-020, filed 6/27/84; WSR 83-23-123 (Order 133, Resolution No. 142), § 314-38-020, filed 11/23/83.]

WAC 314-38-030 Fee for replacement of a lost or destroyed license or permit. (1) A fee of five dollars is established for replacement by the board of a lost or destroyed agent's license issued pursuant to RCW 66.24.310.

(2) The fee of five dollars is established for replacement by the board of a lost or destroyed retail or wholesale liquor license of any class.

[Statutory Authority: RCW 66.08.030, 66.20.010 and 66.98.070. WSR 83-23-123 (Order 133, Resolution No. 142), § 314-38-030, filed 11/23/83.]

WAC 314-38-040 Beverage alcohol raffle permit—Fee. (1) Any organization authorized to conduct a raffle under RCW 9.46.0315 may raffle beverage alcohol upon obtaining a raffle permit from the board. The fee for a raffle permit shall be ten dollars for a one-time raffle permit or twenty-five dollars for an annual permit.

(2) An application for a raffle permit shall be on a form prescribed by the board and filed with the board at the head-

quarters office in Olympia thirty days in advance of the commencement of ticket sales.

(3) An application for a raffle permit must contain the following information:

(a) The full name of the bona fide charitable or bona fide nonprofit organization with verification of qualification as prescribed in RCW 9.46.0209;

(b) Name, address, and phone number of the organization officer in charge of the raffle

(c) The date the raffle ticket sales will commence;

(d) The date, time and exact location of the drawing;

(e) A description of the beverage alcohol being raffled including its estimated value;

(f) And the source of the alcohol to be raffled.

(4) An organization officer must certify that:

(a) Only organization members may purchase tickets or be awarded prizes;

(b) The organization meets the qualifications of a bona fide charitable or bona fide nonprofit organization as provided in RCW 9.46.0209;

(c) The organization will not sell more than $5,000 dollars worth of raffle tickets in a calendar year;

(d) The organization will not sell raffle tickets to anyone under twenty one years of age when alcohol is awarded as a prize.

(5) Alcohol to be raffled must have all applicable Washington State taxes paid and may only be:

(a) Purchased at retail or

(b) Donated by a private citizen.

(6) Upon application being filed and fee paid the board may issue a raffle permit. The raffle permit will state the:

(a) Organization name,

(b) Address,

(c) Date and time of the drawing,

(d) Effective dates of the raffle permit.

(e) And a description of the alcohol to be raffled.

(7) The raffle permit shall be posted at the location of the drawing prior to and during the drawing. The organization or person in charge of the raffle shall; when requested by any representative or agent of the board and/or any law enforcement officer; exhibit to such person the raffle permit and shall allow such person to inspect the raffle items at any time.

[Statutory Authority: RCW 66.08.030. WSR 92-01-079, § 314-38-040, filed 12/16/91, effective 1/16/92.]

WAC 314-38-050 Serve employees and guest permit—Purpose—Use. (1) The purpose of a serve employees and guests permit as authorized by RCW 66.20.010(4) is to:

(a) Allow for the consumption of liquor products in private businesses; and

(b) Not to compete with liquor licensed establishments.

(2) All liquor served by holders of a serve employees and guests permit must be purchased at retail from the board or a retail liquor licensee.

(3) Liquor may not be sold by holders of a serve employees and guests permit, but may be provided at no charge for consumption on the premises of the permit holder.

(4) The holder of a serve employees and guests permit may serve liquor for no more than twenty-four hours during any weekly (168 hour) period.

(5) While the serve employees and guests permit holder may advertise their business services, no liquor service shall be advertised.

[Statutory Authority: RCW 66.08.030 and 66.08.050. WSR 12-17-006, § 314-38-050, filed 8/1/12, effective 9/1/12. Statutory Authority: RCW 66.08.030. WSR 93-20-031, § 314-38-050, filed 9/27/93, effective 10/28/93.]

WAC 314-38-060 Special permit for technical or community colleges as authorized by RCW 66.20.010(12) shall be called a class 15 permit. (1) The class 15 permit allows tasting of alcohol by persons between eighteen and twenty years old. The requirements for a class 15 permit are as follows:

(a) The permit applicant is a technical or community college;

(b) The permit allows tasting, not consuming of alcohol as part of the class curriculum with approval of the educational provider;

(c) The student must be enrolled in a required or elective class at the college premises as part of a culinary, beer technology, wine technology, or spirituous technology-related degree program;

(d) The alcohol served to any person in the program under twenty-one years of age is tasted but not consumed for the purpose of educational training as part of the class curriculum with the approval of the educational provider;

(e) Faculty or staff of the educational provider must be at least twenty-one years of age, supervise the service and tasting, and hold a class 12 or class 13 alcohol server permit; and

(f) Students may not purchase the alcoholic beverages.

(2) There is no annual fee for this permit.

[Statutory Authority: RCW 66.08.030. WSR 14-03-078, § 314-38-060, filed 1/15/14, effective 2/15/14.]

WAC 314-38-070 Class 16 day spa permit. (1) "Day spa" is defined as a business that offers at least three of the following four service categories:

(a) Hair care (haircut, hair color, perms, etc.);

(b) Skin care (facials, makeup application);

(c) Nail care (manicure, pedicure); and

(d) Body care (massage, wraps, waxing).

(2) The holder of a Class 16 day spa permit may offer complimentary wine or beer by the individual glass under the following conditions:

(a) Customers must be at least twenty-one years of age;

(b) Spa services must last more than one hour;

(c) A customer may consume no more than one six ounce glass of wine or one twelve ounce glass of beer per day;

(d) Employees involved in the service of wine or beer must complete a board-approved limited alcohol server training program;

(e) Permit holders may not advertise the service of complimentary wine or beer;

(f) Wine and beer must be purchased from a Washington state licensed retailer;

(g) The permit must be posted in a conspicuous area at the point of sale; and

(h) At least three of the service area categories must be in separate areas of the spa.

(3) The board has the right to inspect the premises and business records at any time.

(4) The annual fee for this permit is one hundred twenty-five dollars.

(5) Where the holder of any permit issued under this title violates any provision of this title or of the regulations, or is an interdicted person, or is otherwise disqualified from holding a permit, the board, upon proof to its satisfaction of the fact or existence of such violation, interdiction, or disqualification, and in its discretion, may with or without any hearing, suspend the permit and all rights of the holder thereunder for such period as the board sees fit, or may cancel the permit.

[Statutory Authority: RCW 66.08.030. WSR 14-20-046, § 314-38-070, filed 9/24/14, effective 10/25/14.]

Chapter 314-40 WAC
CLUBS

WAC

314-40-005	Definitions.
314-40-010	Operations under retail licenses.
314-40-020	Applications.
314-40-030	Constitution—Bylaws—House rules.
314-40-040	Guest and courtesy cards—Visitors.
314-40-050	Records.
314-40-060	Club property and finances—Concessions.
314-40-070	Club roster—List of officers.
314-40-080	Designated portion of club used for service and consumption of liquor.
314-40-095	Endorsements to private club licenses.

DISPOSITION OF SECTIONS FORMERLY CODIFIED IN THIS CHAPTER

314-40-090	Soliciting advertising—Special events—Exterior signs. [Rule 111, filed 6/13/63.] Redesignated as WAC 314-52-115 by Order 10, filed 10/27/70, effective 11/27/70.

WAC 314-40-005 Definitions. "Guest" means a person who is granted access to the privileges of a club through a temporary membership card issued for fourteen consecutive days.

"Member" means a person who is approved for club membership only after having submitted a written application and been investigated and been approved by ballot.

"Visitor" means a nonmember who is granted access to the privileges of a club based on a prearranged invitation from a bona fide member. Invitations occurring at the point of entry to the premises do not qualify.

[Statutory Authority: RCW 66.08.030 and 66.24.450. WSR 10-16-056, § 314-40-005, filed 7/28/10, effective 8/28/10.]

WAC 314-40-010 Operations under retail licenses. Clubs operating under any class of retail license shall govern their operations in selling liquor in accordance with the regulations set forth in Title 66 RCW, applicable to all retail licensees, except as otherwise specifically provided in this title. Such clubs may sell liquor only to members, visitors and guests as specified in these regulations. Licensed clubs shall not be prohibited from renting, leasing or donating all or a portion of their facilities for, or making services available to, a nonclub activity where the public is invited or admitted under conditions as permitted by WAC 314-40-080.

[Statutory Authority: RCW 66.08.030 and 66.24.450. WSR 10-16-056, § 314-40-010, filed 7/28/10, effective 8/28/10. Statutory Authority: RCW 66.08.030 and 66.98.070. WSR 82-13-069 (Order 107, Resolution No. 116), § 314-40-010, filed 6/16/82; Order 23, § 314-40-010, filed 7/3/73; Rule 103, filed 6/13/63.]

WAC 314-40-020 Applications. (1) Applications for new club licenses shall be accompanied by proof that:

(a) The organization is bona fide and nonprofit;

(b) The organization has been in operation for at least one year immediately prior to the date of its application, such proof to consist of records of (i) membership, (ii) meetings of trustees or directors at least every month and membership meetings at least once a year, (iii) the location of such meetings, and (iv) such other data as is necessary to establish that the organization has been active for at least one year prior to [its] application: Provided, The minimum one year period of operation shall not be required when the applicant club is under a nationally chartered organization and there is a previously licensed club operating under the same national charter within the state. Proof of issuance of a charter to such existing club must be provided at the time of application;

(c) The application is approved by a majority of the members which approval shall be indicated by presentation to the board of a petition bearing the names of such members desiring [the] license. The president and secretary of the organization shall certify on such petition the total number of members of the organization in good standing as of the date of the application and that those signing the petition are all members in good standing on such date;

(d) The organization was not primarily formed or activated to obtain a license to sell liquor, but that the sale of liquor is incidental to the main purposes of the club.

(2) Applications for renewal of club licenses shall be made on forms prescribed by the board and accompanied by such information as the board may request.

(3) All applications must be made in the official name of the organization and be signed by either the president or the secretary and be accompanied by a certified copy of the minutes of that meeting of the governing board of the organization which authorized the president or secretary to make the application. The use of trade names shall not be permitted.

[Statutory Authority: RCW 66.08.030. WSR 90-14-004, § 314-40-020, filed 6/22/90, effective 7/23/90; Rule 104, filed 6/13/63.]

WAC 314-40-030 Constitution—Bylaws—House rules. (1) No license shall be issued to any organization or club unless its constitution, bylaws, and house rules are submitted to the board as evidence that the applicant qualifies as a bona fide club under provisions of state liquor laws and regulations.

(2) The constitution, bylaws and/or house rules shall provide, among other things:

(a) That all classifications of members must be admitted only after written application and only after investigation and ballot. Such admissions must be duly recorded in the official minutes of a regular meeting;

(b) Standards of eligibility for members;

(c) Limitation on the number of members consistent with the nature of the organization or club;

(d) That not more than twelve honorary members be admitted in any one calendar year, and that nonresident and associate members be restricted to numbers consistent with the nature of the organization or club;

(e) Reasonable initiation fees and dues consistent with the nature and purpose of the organization or club;

(f) The period for which dues shall be paid and the date upon which this period shall expire;

(g) Reasonable regulations for the dropping of members for the nonpayment of dues;

(h) Strict regulations for the government of organization or club rooms and quarters generally consistent with its nature and character;

(i) That organization or club rooms and quarters must be under the supervision of a manager and house committee, which committee shall be appointed by the governing body of the organization or club;

(j) Provisions for visitors and for the issuance and use of guest and courtesy cards in accordance with WAC 314-40-040.

[Statutory Authority: RCW 66.08.030 and 66.24.450. WSR 10-16-056, § 314-40-030, filed 7/28/10, effective 8/28/10. Statutory Authority: RCW 66.08.030. WSR 93-11-028, § 314-40-030, filed 5/10/93, effective 6/10/93; Order 19, § 314-40-030, filed 8/10/72; Rule 105, filed 6/13/63.]

WAC 314-40-040 Guest and courtesy cards—Visitors. (1) Guest cards are intended for invited guests residing outside of the immediate area.

(a) Guest cards shall be issued no more than three times per year for a period not to exceed fourteen consecutive days, and must be numbered serially, with a record of the issuance of each such card to be filed in a manner as to be readily accessible to the agents of the board;

(b) Contestants in golf or tennis tournaments conducted on the grounds of a licensed club will be considered a visitor for the day(s) of the event.

(2) Visitors may be introduced when accompanied at all times by a member, who is not an on duty employee, and may remain as long as such member is present in the club. Any such visitor may only enjoy the privileges of the club six times in any one calendar year unless a different number of times is allowed in the club by-laws.

(3) Persons who are members in good standing of a national veterans organization may enjoy the privileges of any licensed club affiliated with any national veterans organization, and persons who are members in good standing of a national fraternal organization may enjoy the privileges of any club affiliated with that particular national fraternal organization if the bylaws of such clubs authorize reciprocal privileges. Subsections (1) and (2) of this section shall not apply to members of such organizations.

(4) Persons who are members in good standing of organizations licensed as private nonfraternal clubs may enjoy the privileges of other licensed nonfraternal clubs if the bylaws of such clubs authorize reciprocal privileges. Subsections (1) and (2) of this section shall not apply to members of such clubs.

(5) Courtesy cards may be issued to the adult members of the immediate family of any member with or without charge upon application being made to the club by the member.

(6) In order to recruit new members and build club membership, a private club may hold a public membership function for two days per calendar year where club liquor may be given or sold to those attending as a part of the membership drive activities. The function must be advertised as a membership drive. Membership drives may not be held on consecutive days.

(7) A person issued a guest card by the club manager pursuant to subsection (1) of this section may introduce visitors into the club provided:

(a) The visitors are accompanied at all times by the sponsoring guest card holder;

(b) The visitors remain in the club only as long as the sponsoring guest card holder is present; and

(c) The house rules or bylaws of the club provide guest card holders the privilege of introducing visitors into the club.

[Statutory Authority: RCW 66.08.030 and 66.24.450. WSR 11-23-048, § 314-40-040, filed 11/9/11, effective 12/10/11; WSR 10-16-056, § 314-40-040, filed 7/28/10, effective 8/28/10. Statutory Authority: RCW 66.08.030. WSR 95-16-030, § 314-40-040, filed 7/21/95, effective 8/21/95; WSR 88-07-060 (Order 239, Resolution No. 248), § 314-40-040, filed 3/16/88; WSR 88-01-016 (Order 235, Resolution No. 244), § 314-40-040, filed 12/8/87; WSR 86-07-013 (Order 177, Resolution No. 186), § 314-40-040, filed 3/11/86. Statutory Authority: RCW 66.08.030 and 66.98.070. WSR 85-06-020 (Order 152, Resolution No. 161), § 314-40-040, filed 2/27/85; WSR 82-04-028 (Order 92, Resolution No. 101), § 314-40-040, filed 1/27/82; Rule 106, filed 6/13/63.]

WAC 314-40-050 Records. (1) In addition to the requirements of WAC 314-16-160, clubs shall maintain a complete system of bookkeeping covering all operations of the club, with the operations thereof pertaining to liquor being kept separate in a manner prescribed by the board. All such records shall be accessible and be available for inspection and audit by agents of the board. Board agents shall be entitled to make copies or abstracts or, upon furnishing a proper receipt, remove the originals for such purposes as the board deems necessary.

(2) After initial licensure, house rules and bylaws shall be submitted to the board whenever changes are made. A copy of the house rules and/or bylaws must be available for inspection by any law enforcement officer or agent of the board during any premises check of the club.

(3) In addition to WAC 314-40-040 visitor records with date and time and sponsoring member must be kept for a minimum of three years.

(4) In addition to WAC 314-40-040 guest records must contain the full name, date of birth, and address of the guest receiving the temporary membership card.

[Statutory Authority: RCW 66.08.030 and 66.24.450. WSR 11-23-048, § 314-40-050, filed 11/9/11, effective 12/10/11; WSR 10-16-056, § 314-40-050, filed 7/28/10, effective 8/28/10; Rule 107, filed 6/13/63.]

WAC 314-40-060 Club property and finances—Concessions. (1) All property of any club, as well as the advantages thereof, must belong to the members. Any funds advanced for the purchase or improvement of club rooms or quarters must be advanced by the membership or upon securities or properties owned by the club, and any obligations assumed in connection with the establishment or operation of club rooms or quarters must be assumed by the entire club. No club shall receive any money from any source whatever under any arrangement through or under which the person or persons advancing such funds, whether members of the club or not, are to be given control or supervision over the operation of the club. All activities of any such club, except food service and such other activities as may be specifically

approved by the board, must be conducted by the club itself and in its own right, and not upon any concession basis either to any member of the club or to any third party. No member of the club, officer, agent or employee of any such club shall be paid, or directly or indirectly receive, in the form of salary or otherwise, any revenue from the operation of the club beyond the amount of such reasonable compensation as may be fixed or voted by the proper authorities of the club and in accordance with the constitution and bylaws of the club.

[Rule 108, filed 6/13/63.]

WAC 314-40-070 Club roster—List of officers. (1) Every club shall keep and maintain on the premises a complete roster giving the names and addresses of all its members.

(2) Each club shall file with the board a complete list of its officers showing the address, occupation and name of each officer. When any change occurs in its officers by reason of election or otherwise, the club shall immediately file with the board a revised list of its officers.

[Rule 109, filed 6/13/63.]

WAC 314-40-080 Designated portion of club used for service and consumption of liquor. (1) Each club shall submit a sketch of the entire premises including the portion used for storage, sale and consumption of liquor, for approval. No change in any portion of the club premises shall be made without the consent of the board.

(2) Where the physical setup of the club rooms or quarters renders it practical so to do, such portion of the club premises shall be a room or rooms devoted solely to such service and capable of being entirely closed from the remainder of the club rooms or quarters. Bona fide members may possess and consume their own alcohol, as authorized by the club's license type, at any time and in any part of the club premises as permitted under the bylaws and/or house rules of the club, provided such bylaws and/or house rules have been filed with the board and except in those portions of the club where nonclub events or public events are occurring.

(3) Any portion of a private club must be closed to the general public when liquor is sold, served, or consumed.

During events that are open to the general public, members, guests, and/or visitors, may not possess alcohol in areas that are open to the general public.

(4) A club may conduct outside one-time events not to exceed twelve per calendar year for club members provided that:

(a) A request is submitted in writing by the licensee or designee at least five business days before the event which includes a clearly defined site plan of the outside area and the date, time, and type of event. Approval must be received prior to the event.

(b) The licensee must have lease hold rights to the outside area where the one-time event is being held. The outside area is adjacent and/or contiguous to the actual licensed premises, must not be across public right of ways, and must be enclosed with a barrier a minimum of forty-two inches in height. This area will be considered restricted and all minor restrictions under RCW 66.44.310 will apply.

(c) All liquor must be prepared, served, and consumed inside the outside service area; persons with liquor may not leave the outside service area. An employee(s) shall be stationed inside the outside service area at all times.

(d) Sufficient lighting must be maintained under WAC 314-11-055.

[Statutory Authority: RCW 66.08.030 and 66.24.450. WSR 10-16-056, § 314-40-080, filed 7/28/10, effective 8/28/10. Statutory Authority: RCW 66.08.030. WSR 88-08-056 (Order 246, Resolution No. 255), § 314-40-080, filed 4/5/88; Rule 110, filed 6/13/63.]

WAC 314-40-095 Endorsements to private club licenses. (1) Under RCW 66.24.450, the board may issue an endorsement allowing the club to hold nonclub, member-sponsored events using club liquor.

(a) Each event must have a sponsoring member from the club.

(b) Each visitor and/or guest may only attend the event by invitation of the sponsoring member(s).

(c) Event may not be open to the general public.

(d) At least seventy-two hours prior to any nonclub event, the sponsoring member, or any club officer, must provide to the board: The date, time, and location of the event, the name of the sponsor of the event, and a brief description of the purpose of the event.

(e) A list of all invited guests and visitors must be available for inspection during the nonclub event.

(2) Under RCW 66.24.450, the board may issue an endorsement allowing the holder of a spirits, beer, and wine private club license to sell bottled wine for off-premises consumption.

(a) Spirits and beer may not be sold for off-premises consumption.

(b) Bottled wine may only be sold to members, visitors, and guests defined under WAC 314-40-005. Bottled wine may not be sold to the general public.

[Statutory Authority: RCW 66.08.030 and 66.24.450. WSR 11-23-048, § 314-40-095, filed 11/9/11, effective 12/10/11; WSR 10-16-056, § 314-40-095, filed 7/28/10, effective 8/28/10.]

Chapter 314-42 WAC
LIQUOR CONTROL BOARD OPERATIONS

WAC

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DISPOSITION OF SECTIONS FORMERLY CODIFIED IN THIS CHAPTER

314-42-025 Appearance in certain proceedings may be limited to attorneys. [Statutory Authority: RCW 66.08.030, 66.44.010, 66.24.010(3), chapter 34.05 RCW. WSR 01-11-058, § 314-42-025, filed 5/11/01, effective 6/11/01.] Repealed by WSR 08-17-056, filed 8/15/08, effective 9/15/08. Statutory Authority: RCW 66.08.030.

314-42-050 Subpoenas—Fees. [Statutory Authority: RCW 66.08.030, 66.44.010, 66.24.010(3), chapter 34.05 RCW. WSR 01-11-058, § 314-42-050, filed 5/11/01, effective 6/11/01.] Repealed by WSR 08-17-056, filed 8/15/08, effective 9/15/08. Statutory Authority: RCW 66.08.030.

314-42-060 Depositions upon interrogatories—Submission of interrogatories. [Statutory Authority: RCW 66.08.030, 66.44.010, 66.24.010(3), chapter 34.05 RCW. WSR 01-11-058, § 314-42-060, filed 5/11/01, effective 6/11/01.] Repealed by WSR 08-17-056, filed 8/15/08, effective 9/15/08. Statutory Authority: RCW 66.08.030.

314-42-065 Official notice—Material facts. [Statutory Authority: RCW 66.08.030, 66.44.010, 66.24.010(3), chapter 34.05 RCW. WSR 01-11-058, § 314-42-065, filed 5/11/01, effective 6/11/01.] Repealed by WSR 08-17-056, filed 8/15/08, effective 9/15/08. Statutory Authority: RCW 66.08.030.

314-42-075 Stipulations and admissions of record. [Statutory Authority: RCW 66.08.030, 66.44.010, 66.24.010(3), chapter 34.05 RCW. WSR 01-11-058, § 314-42-075, filed 5/11/01, effective 6/11/01.] Repealed by WSR 08-17-056, filed 8/15/08, effective 9/15/08. Statutory Authority: RCW 66.08.030.

314-42-080 Form and content of decisions in contested cases and proposed orders. [Statutory Authority: RCW 66.08.030, 66.44.010, 66.24.010(3), chapter 34.05 RCW. WSR 01-11-058, § 314-42-080, filed 5/11/01, effective 6/11/01.] Repealed by WSR 08-17-056, filed 8/15/08, effective 9/15/08. Statutory Authority: RCW 66.08.030.

314-42-090 Definition of issues before hearing. [Statutory Authority: RCW 66.08.030, 66.44.010, 66.24.010(3), chapter 34.05 RCW. WSR 01-11-058, § 314-42-090, filed 5/11/01, effective 6/11/01.] Repealed by WSR 08-17-056, filed 8/15/08, effective 9/15/08. Statutory Authority: RCW 66.08.030.

314-42-100 How can a person petition the board for the adoption, amendment, or repeal of a rule? [Statutory Authority: RCW 66.08.030, 66.44.010, 66.24.010(3), chapter 34.05 RCW. WSR 01-11-058, § 314-42-100, filed 5/11/01, effective 6/11/01.] Repealed by WSR 08-17-056, filed 8/15/08, effective 9/15/08. Statutory Authority: RCW 66.08.030.

314-42-105 How can a person petition the board for a declaratory order? [Statutory Authority: RCW 66.08.030, 66.44.010, 66.24.010(3), chapter 34.05 RCW. WSR 01-11-058, § 314-42-105, filed 5/11/01, effective 6/11/01.] Repealed by WSR 08-17-056, filed 8/15/08, effective 9/15/08. Statutory Authority: RCW 66.08.030.

WAC 314-42-010 Liquor control board administrative director. (1) The purpose of this rule is to ensure efficient and consistent administration of the liquor control board through the delegation of certain administrative functions to an administrative director. The delegation of administrative functions by the board, as provided for in this section, does not alter the board's statutory responsibility to administer Title 66 RCW.

(2) The administrative director will be appointed by, and serve at the pleasure of, the board, and will perform his/her duties under the general control, management, and supervision of the board.

(3) The following duties are delegated by the board to the administrative director:

(a) Appointing authority as defined by WAC 356-05-040, 356-30-007, and 356-34-011 for all liquor control board employees, with the exception of the director and staff of the policy, legislative, and media relations division as described in subsection (4)(e) and staff that report directly to the board members;

(b) Authorize expenditures of funds from the board approved internal budget;

(c) Purchase, lease, contract, or otherwise acquire any goods, services, and products within the board approved internal budget;

(d) Approve uncontested licenses and permits (this authority may be further delegated);

(e) Assign duties, coordinate agency operations, and establish performance standards and timelines;

(f) Approve disbursements of excess funds from the liquor revolving fund; and

(g) Perform other duties of a routine administrative nature identified by the board.

(4) The following duties will not be delegated and will remain functions of the board:

(a) Final approval of agency-wide and division budgets as prepared by the administrative director;

(b) Revocation or suspension of a license or permit;

(c) Appeals of administrative actions taken against liquor and tobacco licensees;

(d) Approval of contested liquor license and permit applications; and

(e) Direct oversight of the policy, legislative, and media relations division and staff that report directly to the board members, including:

(i) Rule making actions,

(ii) Approval of agency-request legislative proposals, and

(iii) The employment, termination, and discipline of the director and staff of the policy, legislative, and media relations division and staff that report directly to the board members.

[Statutory Authority: RCW 66.08.030 and 66.08.050. WSR 12-17-006, § 314-42-010, filed 8/1/12, effective 9/1/12. Statutory Authority: RCW 66.08.030, 66.08.070(1), 66.08.130, 66.08.140, 66.08.170, 66.20.010, 66.24.010(2). WSR 01-15-049, § 314-42-010, filed 7/13/01, effective 8/13/01; WSR 00-06-016, § 314-42-010, filed 2/22/00, effective 3/24/00.]

WAC 314-42-020 Appearance and practice before the board—Who may appear. During an adjudicative proceeding, no person may appear in a representative capacity before the Washington state liquor control board or its designated hearing officer other than the following:

(1) Attorneys at law duly qualified and entitled to practice before the supreme court of the state of Washington;

(2) Attorneys at law duly qualified and entitled to practice before the highest court of record of any other state, if the attorneys at law of the state of Washington are permitted to appear in a representative capacity before administrative agencies of such other state, and if not otherwise prohibited by our state law; and/or

(3) A bona fide officer, authorized manager, partner, or full time employee of an individual firm, association, partnership, or corporation who appears for such individual firm, association, partnership, or corporation.

[Statutory Authority: RCW 66.08.030, 66.44.010, 66.24.010(3), chapter 34.05 RCW. WSR 01-11-058, § 314-42-020, filed 5/11/01, effective 6/11/01.]

WAC 314-42-030 May a former employee of board or former member of attorney general's staff appear before the board and under what circumstances? No former employee of the board or member of the attorney general's staff may appear in a representative capacity on behalf of other parties in a formal proceeding wherein he/she previously took an active part as a representative of the board unless the board grants permission in writing.

[Statutory Authority: RCW 66.08.030. WSR 08-17-056, § 314-42-030, filed 8/15/08, effective 9/15/08. Statutory Authority: RCW 66.08.030, 66.44.010, 66.24.010(3), chapter 34.05 RCW. WSR 01-11-058, § 314-42-030, filed 5/11/01, effective 6/11/01.]

WAC 314-42-040 What rules apply to the procedures used in practice before the board? The board adopts the model rules of procedure, found in chapter 10-08 WAC, promulgated by the office of administrative hearings unless the board implements a different procedure by rule.

[Statutory Authority: RCW 66.08.030. WSR 08-17-056, § 314-42-040, filed 8/15/08, effective 9/15/08. Statutory Authority: RCW 66.08.030, 66.44.010, 66.24.010(3), chapter 34.05 RCW. WSR 01-11-058, § 314-42-040, filed 5/11/01, effective 6/11/01.]

WAC 314-42-045 How do you file papers with the board? Papers required to be filed with the board are deemed filed upon actual receipt by the board during office hours at its headquarters office in Olympia.

[Statutory Authority: RCW 66.08.030. WSR 08-17-056, § 314-42-045, filed 8/15/08, effective 9/15/08. Statutory Authority: RCW 66.08.030, 66.44.010, 66.24.010(3), chapter 34.05 RCW. WSR 01-11-058, § 314-42-045, filed 5/11/01, effective 6/11/01.]

WAC 314-42-051 What are the procedures when a licensee or mandatory alcohol server training permit holder requests an administrative hearing? (1) If the licensee or permit holder requests an administrative hearing, it is conducted pursuant to chapter 34.05 RCW (Washington Administrative Procedure Act and chapter 314-42 WAC).

(2) The board's hearing coordinator will notify the assistant attorney general of the licensee's or permit holder's request for an administrative hearing.

(3) If the hearing concerns an administrative violation notice, the assistant attorney general will draft an administrative complaint and send it to the licensee or permit holder and to the office of administrative hearings.

(4) The office of administrative hearings will schedule the hearing date, and notify the licensee or permit holder and his/her attorney and the assistant attorney general in writing of the hearing date, time, and location.

(5) The hearing will be conducted by an administrative law judge assigned by the office of administrative hearings. Subpoenas may be issued by an attorney for any party, or by the assigned administrative law judge.

[Statutory Authority: RCW 66.08.030. WSR 08-17-056, § 314-42-051, filed 8/15/08, effective 9/15/08.]

WAC 314-42-070 Presumptions. Upon proof by direct, clear, and convincing evidence of the predicate facts in the following subdivisions, the board, with or without prior request and with adequate notice to all parties, may make the following presumptions. The facts may not be in substantial dispute and must be consistent with all surrounding facts and circumstances.

(1) **Identity.** Persons and objects of the same name and description are identical.

(2) **Delivery.** Mail, communications, express or freight, properly addressed, marked, billed and delivered to the post office, or authorized common carrier of property with all postage properly prepaid, is or has been delivered to the addressee or consignee in the ordinary course of business.

(3) **Spoliation.** When a party in bad faith destroys, suppresses, or withholds evidence material to the case, the administrative law judge can presume the evidence would have been unfavorable to that party's position.

[Statutory Authority: RCW 66.08.030. WSR 08-17-056, § 314-42-070, filed 8/15/08, effective 9/15/08. Statutory Authority: RCW 66.08.030, 66.44.010, 66.24.010(3), chapter 34.05 RCW. WSR 01-11-058, § 314-42-070, filed 5/11/01, effective 6/11/01.]

WAC 314-42-085 Written arguments. (1) At the conclusion of the evidentiary portion of a hearing, the administrative law judge may call for an oral legal argument on the record, or the administrative law judge may call for written arguments to be submitted to his/her office by the licensee or his/her attorney and the assistant attorney general. Such written arguments must be submitted in triplicate to the administrative law judge and may not be exchanged by opposing counsel.

(2) When both arguments have been received, the administrative law judge shall deliver one of the copies of the

licensee's argument to the assistant attorney general, and one copy of the board's argument shall be forwarded to the licensee or his/her attorney.

(3) Unless a different time is fixed at the hearing, written arguments must be filed within ten days after the conclusion of the taking of the testimony at the hearing.

(4) After the receipt of both written arguments, the administrative law judge shall issue an initial order which will be served on the licensee or his/her attorney and the assistant attorney general.

[Statutory Authority: RCW 66.08.030. WSR 08-17-056, § 314-42-085, filed 8/15/08, effective 9/15/08. Statutory Authority: RCW 66.08.030, 66.44.010, 66.24.010(3), chapter 34.05 RCW. WSR 01-11-058, § 314-42-085, filed 5/11/01, effective 6/11/01.]

WAC 314-42-095 What happens after an administrative hearing? (1) Following an administrative hearing, the administrative law judge will prepare an initial order and send it to the licensee or permit holder, the assistant attorney general, the board's offices, and any other party to the administrative hearing.

(2)(a) Either the licensee, permit holder, or the assistant attorney general may file a petition for review of the initial order with the liquor control board within twenty days of the date of service of the initial order. With notice to all parties the board may change the time for filing a petition for review of the initial order. The board may extend or shorten the filing time based on a voluntary stipulation of the parties or upon motion of a party that demonstrates a clear and convincing showing of exigent circumstances. The petition for review must:

(i) Specify the portions of the initial order to which exception is taken; and

(ii) Refer to the evidence of record which is relied upon to support the petition.

(b) Within ten days after service of the petition for review, any party may file a reply with the liquor control board and copies of the reply must be mailed to all other parties or their representatives at the time the reply is filed.

(3) The administrative record, the initial order, and any petitions for review and replies filed by the parties will be circulated to the board members for review.

(4) Following this review, the board will enter a final order which is appealable under the provisions of RCW 34.05.510 through 34.05.598 (Washington Administrative Procedure Act). The board may issue a final order that differs from the initial order even though no party has filed a petition for review or reply.

[Statutory Authority: RCW 66.08.030. WSR 08-17-056, § 314-42-095, filed 8/15/08, effective 9/15/08.]

WAC 314-42-110 Brief adjudicative proceedings. The Administrative Procedure Act provides for brief adjudicative proceedings in RCW 34.05.482 through 34.05.494. The board will conduct brief adjudicative proceedings where it does not violate any provision of law and where protection of the public interest does not require the board to give notice and an opportunity to participate to persons other than the parties. If an adjudicative proceeding is requested, a brief adjudicative proceeding will be conducted where the matter involves one or more of the following:

(1) Liquor license suspensions due to nonpayment of spirits taxes per RCW 66.24.010;

(2) Liquor license denials per WAC 314-07-065(2);

(3) Liquor license denials per WAC 314-07-040;

(4) Special occasion license application denials per WAC 314-07-040;

(5) Special occasion license application denials per WAC 314-07-065(7);

(6) MAST provider or trainer denials for noncompliance with a support order in accordance with RCW 66.20.085;

(7) MAST provider denials or revocations per WAC 314-17-070;

(8) Liquor license suspensions due to nonpayment of beer or wine taxes per WAC 314-19-015;

(9) One-time event denials for private clubs per WAC 314-40-080;

(10) Banquet permit denials per WAC 314-18-030;

(11) The restrictions recommended by the local authority on a nightclub license are denied per WAC 314-02-039 (a local authority may request a BAP);

(12) The restrictions recommended by a local authority are approved per WAC 314-02-039 (an applicant for a nightclub license may request a BAP);

(13) Liquor license suspensions due to noncompliance with a support order per RCW 66.24.010;

(14) Liquor license suspensions due to noncompliance with RCW 74.08.580(2), electronic benefits cards, per RCW 66.24.013;

(15) License suspension due to nonpayment of spirits liquor license fees per RCW 66.24.630;

(16) License suspension due to nonpayment of spirits distributor license fees per RCW 66.24.055;

(17) Tobacco license denials per WAC 314-33-005;

(18) Marijuana license denials per WAC 314-55-050(2);

(19) Marijuana license denials per WAC 314-55-050(4);

(20) Marijuana license denials per WAC 314-55-050(8);

(21) Marijuana license denials per WAC 314-55-050(10);

(22) Marijuana license suspensions per WAC 314-55-050(11);

(23) Marijuana license denials per WAC 314-55-050(12); and

(24) Marijuana license denials per WAC 314-55-050(13).

[Statutory Authority: RCW 66.08.030. WSR 14-12-102, § 314-42-110, filed 6/4/14, effective 7/5/14; WSR 12-24-032, § 314-42-110, filed 11/28/12, effective 12/29/12.]

WAC 314-42-115 Preliminary record in brief adjudicative proceedings. (1) The preliminary record with respect to a liquor license suspension due to nonpayment of spirits taxes in RCW 66.24.010 shall consist of:

(a) All correspondence from department of revenue requesting missing taxes or reports; and

(b) Request from department of revenue to the liquor control board requesting suspension of the liquor license.

(2) The preliminary record with respect to a liquor license intent to deny under WAC 314-07-065(2) where the applicant has failed to submit information or documentation shall consist of:

(a) All correspondence between the applicant and the board pertaining to requests for information or documentation; and

(b) A copy of the application report prepared by licensing division staff.

(3) The preliminary record with respect to a liquor license application intent to deny where the applicant failed to meet the criminal history standards outlined in WAC 314-07-040 shall consist of:

(a) A copy of the application report prepared by licensing division staff;

(b) The personal/criminal history statement(s) submitted by the applicant;

(c) Any interoffice correspondence reporting criminal history of applicant(s); and

(d) Copies of any correspondence submitted by the applicant explaining or rebutting the criminal history findings.

(4) The preliminary record with respect to a special occasion liquor license application (chapter 314-05 WAC) intent to deny where the applicant failed to meet the criminal history standards outlined in WAC 314-07-040 shall consist of:

(a) A copy of the application report prepared by licensing division staff;

(b) The personal/criminal history statement(s) submitted by the applicant(s);

(c) Any interoffice correspondence reporting criminal history of applicant(s); and

(d) Copies of any correspondence submitted by the applicant explaining or rebutting the criminal history findings.

(5) The preliminary record with respect to a special occasion liquor license application (chapter 314-05 WAC) intent to deny where the application was objected to by the local authority wherein the event is scheduled (WAC 314-07-065(7)) shall consist of:

(a) A copy of the special occasion license application and supporting materials;

(b) A copy of the notice sent to the local authority by licensing division staff;

(c) A copy of the objection received from the local authority; and

(d) A copy of any correspondence from the applicant rebutting the objection from the local authority.

(6) The preliminary record with respect to suspension of mandatory alcohol server, provider or trainer, for noncompliance with a support order in accordance with RCW 66.20.085 shall consist of:

(a) A copy of the license suspension certification from the department of social and health services; and

(b) A copy of all documents received from or on behalf of the permit holder rebutting the identification of the server, provider, or trainer.

(7) The preliminary record with respect to suspension of mandatory alcohol server, provider or trainer, for failing to meet the criminal history standards outlined in WAC 314-07-070(1) shall consist of:

(a) A copy of the personal/criminal history statement submitted by the applicant;

(b) Any interoffice correspondence reporting criminal history of applicant; and

(c) Copies of any correspondence submitted by the applicant, permit holder, provider or trainer explaining or rebutting the criminal history findings.

(8) The preliminary record with respect to liquor license suspensions due to nonpayment of beer or wine taxes per WAC 314-19-015 shall consist of:

(a) Copies of any correspondence requesting missing taxes, fees, or penalties when identified after processing reporting form monthly; and

(b) Copies of backup documentation including envelopes showing late filing, corrections on reporting form, and audit findings.

(9) The preliminary record with respect to one-time event denials for private clubs in WAC 314-40-080 shall consist of:

(a) A copy of the written request for a one-time event;

(b) A copy of the written denial including the reason(s) for the denial; and

(c) Copies of all correspondence.

(10) The preliminary record with respect to banquet permit denials in WAC 314-18-030 shall consist of:

(a) The application for a banquet permit;

(b) A copy of the written denial including the reason(s) for denial; and

(c) All correspondence.

(11) The preliminary record with respect to denial of restrictions requested on a nightclub license by a local authority under the provisions in WAC 314-02-039 shall consist of:

(a) A copy of the application report prepared by licensing division staff and the threshold decision by the licensing director or his/her designee;

(b) A copy of all correspondence from the local authority requesting restrictions on the nightclub premises; and

(c) Copies of any correspondence submitted by the nightclub applicant or license holder rebutting the request for restrictions.

(12) The preliminary record with respect to licensing's approval of a request for restrictions on a nightclub license under the provisions of WAC 314-02-039 shall consist of:

(a) A copy of the application report prepared by licensing division staff and the threshold decision by the licensing director or his/her designee;

(b) A copy of all correspondence from the local authority requesting restrictions on the nightclub premises; and

(c) Copies of any correspondence submitted by the nightclub applicant or license holder rebutting the request for restrictions.

(13) The preliminary record with respect to a liquor license suspension due to noncompliance with a support order from the department of social and health services under RCW 66.24.010 shall consist of:

(a) The written request from department of social and health services to suspend the liquor license;

(b) A copy of the written liquor control board suspension order; and

(c) Copies of all correspondence.

(14) The preliminary record with respect to a liquor license suspension due to noncompliance with RCW 74.08.580, electronic benefits cards, per RCW 66.24.013 shall consist of:

(a) The written request from department of social and health services to suspend the liquor license;

(b) The complete investigation from department of social and health services to support the suspension;

(c) A copy of the written liquor control board suspension order; and

(d) Copies of all correspondence.

(15) The preliminary records with respect to liquor license suspension due to nonpayment of spirits liquor license fees per RCW 66.24.630 shall consist of:

(a) All correspondence relating to discrepancies in fees and/or penalties when identified after processing reporting forms; and

(b) All backup documentation including envelopes showing late filing, corrections on reporting forms, and audit findings.

(16) The preliminary records with respect to liquor license suspensions due to nonpayment of spirits distributor license fees per RCW 66.24.055 shall consist of:

(a) All correspondence requesting missing fees and/or penalties when identified after processing reporting forms; and

(b) All backup documentation including envelopes showing late filing, corrections on reporting forms, and audit findings.

(17) The preliminary record with respect to tobacco license denials shall consist of:

(a) The license application from business license services;

(b) The personal/criminal history statement submitted by the applicant;

(c) The judicial information system criminal history and division recommendation;

(d) The letter of denial from the liquor control board;

(e) The notice of intent to deny statement to the applicant; and

(f) All correspondence.

(18) The preliminary record with respect to a marijuana license intent to deny due to failure or refusal to submit information per WAC 314-55-050(2) shall consist of:

(a) All correspondence between the applicant and the board pertaining to requests for information or documentation; and

(b) A copy of the application report prepared by licensing division staff.

(19) The preliminary record with respect to a marijuana license application intent to deny where the applicant failed to meet the criminal history standards outlined in WAC 314-55-050(4) shall consist of:

(a) A copy of the application report prepared by licensing division staff;

(b) The personal/criminal history statement(s) submitted by the applicant;

(c) Any communication from the Washington state patrol or Federal Bureau of Investigation pertaining to the criminal history of the applicant;

(d) Any interoffice correspondence reporting criminal history of applicant(s); and

(e) Copies of any correspondence submitted by the applicant explaining or rebutting the criminal history findings.

(20) The preliminary record with respect to a marijuana license intent to deny due to denial, suspension, or cancellation of a marijuana license in another jurisdiction per WAC 314-55-050(8) shall consist of:

(a) A copy of the application report prepared by licensing division staff; and

(b) Documentation from any other state or jurisdiction demonstrating the action taken against the applicant.

(21) The preliminary record with respect to a marijuana license intent to deny due to proximity to the perimeter of entities listed in WAC 314-55-050(10) shall consist of:

(a) A copy of the application report prepared by licensing division staff;

(b) Any interoffice correspondence reporting the measurement from the proposed business location to the facility within one thousand feet;

(c) Documentation of measurement data including Geographic Positioning System (GPS) and related calculations; and

(d) Correspondence from the applicant illustrating alternative measurement data and/or rebuttal of the LCB's measurement data.

(22) The preliminary record with respect to a marijuana license intent to suspension due to nonpayment of marijuana excise taxes per WAC 314-55-050(11) shall consist of:

(a) All correspondence relating to discrepancies in fees and/or penalties when identified after processing reporting forms; and

(b) All backup documentation including envelopes showing late filing, corrections on reporting forms, and audit findings.

(23) The preliminary record with respect to a marijuana license intent to deny due to failure to submit an attestation concerning current tax obligations per WAC 314-55-050(12) shall consist of:

(a) A copy of the application report prepared by licensing division staff; and

(b) All correspondence with the applicant related to the request for this information.

(24) The preliminary record with respect to a marijuana license intent to deny due to denial, suspension, or revocation of a liquor license per WAC 314-55-050(13) shall consist of:

(a) A copy of the application report prepared by licensing division staff; and

(b) Documentation from liquor control board records or any other state demonstrating the action taken against the applicant.

[Statutory Authority: RCW 66.08.030. WSR 14-12-102, § 314-42-115, filed 6/4/14, effective 7/5/14; WSR 12-24-032, § 314-42-115, filed 11/28/12, effective 12/29/12.]

WAC 314-42-120 Conduct of brief adjudicative proceedings. (1) Brief adjudicative proceedings shall be conducted by a presiding officer for brief adjudicative proceedings designated by the board. The presiding officer for brief adjudicative proceedings shall have agency expertise in the subject matter but shall not have personally participated in the decision to issue the initiating document.

(2) The parties or their representatives may present written documentation. The presiding officer for brief adjudica-

tive proceedings shall designate the date by which written documents must be submitted by the parties.

(3) The presiding officer for brief adjudicative proceedings may, in his or her discretion, entertain oral argument from the parties or their representatives.

(4) No witnesses may appear to testify.

(5) The presiding officer for brief adjudicative proceedings shall not issue an oral order. Within ten business days of the final date for submission of materials or oral argument, if any, the presiding officer for brief adjudicative proceedings shall enter an initial order.

[Statutory Authority: RCW 66.08.030. WSR 12-24-032, § 314-42-120, filed 11/28/12, effective 12/29/12.]

WAC 314-42-125 Brief adjudicative proceedings conversion to formal adjudicative proceedings. (1) At least five days before the scheduled issuance of either an initial or a final order, any party, including the agency, may file a written objection to resolution of a matter by a brief adjudicative proceeding and may request that it be converted to a formal adjudicative proceeding. Upon receiving a timely written objection, the presiding officer or reviewing officer shall determine whether the matter should be converted. Regardless of whether any party files a timely objection, the presiding officer or reviewing officer may convert any brief adjudicative proceeding to a formal adjudicative proceeding whenever it appears that a brief adjudicative proceeding is insufficient to determine the issues pending before the board.

(2) In determining whether to convert a proceeding, the presiding officer may consider the following factors:

(a) Whether witness testimony will aid the presiding or reviewing officer in resolving contested issues of fact;

(b) Whether the legal or factual issues are sufficiently complex to warrant a formal adjudicative proceeding, including whether there are multiple issues of fact or law;

(c) Whether a brief adjudicative proceeding will establish an adequate record for further agency or judicial review;

(d) Whether the legal issues involved in the proceeding present questions of legal significance or are being raised for the first time before the agency;

(e) Whether conversion of the proceeding will cause unnecessary delay in resolving the issues; and

(f) Any other factors that the presiding or reviewing officer deems relevant in reaching a determination.

[Statutory Authority: RCW 66.08.030. WSR 12-24-032, § 314-42-125, filed 11/28/12, effective 12/29/12.]

WAC 314-42-130 Appeal rights on brief adjudicatory proceeding initial order. (1) If you are dissatisfied with the order in the brief adjudicative proceeding, you may appeal to the reviewing officer, which shall be the board chair, or designee. This appeal process is called an administrative review. Your appeal must be received by the board, in writing, within twenty-one days after the brief adjudicative proceedings order is deposited in the U.S. mail.

(2) The reviewing officer considers your appeal and either upholds or overturns the brief adjudicative proceeding order. The reviewing officer's decision, also called an order, is the final agency decision. The order will be provided to you at the last address you furnished to the board.

(3) The order on review must be in writing, must include a brief statement of the reasons for the decision, and must be entered within twenty days after the date of the initial order or of the request for review, whichever is later. The order shall include a description of any further available administrative review or, if none is available, a notice that judicial review may be available.

(4) A request for administrative review is deemed to have been denied if the agency does not make a disposition of the matter within twenty days after the request is submitted.

[Statutory Authority: RCW 66.08.030. WSR 12-24-032, § 314-42-130, filed 11/28/12, effective 12/29/12.]

Chapter 314-44 WAC
LICENSED AGENTS

WAC

314-44-005 Agent's license required—Eligible employers defined—Certain classes limited—Bona fide entity defined—Prohibited practices.

314-44-015 Agent license limited authority.

DISPOSITION OF SECTIONS FORMERLY CODIFIED IN THIS CHAPTER

314-44-010 Sales to board—Registration of agents. [Rule 112, filed 6/13/63.] Repealed by Order 46, filed 6/9/76. Later promulgation, see WAC 314-44-005.

314-44-020 Salesman—Prohibited practices—Penalties. [Rule 113, filed 6/13/63.] Repealed by Order 46, filed 6/9/76. Later promulgation, see WAC 314-44-005.

WAC 314-44-005 Agent's license required—Eligible employers defined—Certain classes limited—Bona fide entity defined—Prohibited practices. (1) No person shall canvass for, solicit, receive or take orders for the purchase or sale of any liquor, or act as the agent for the purchase or sale of liquor, nor contact any licensees of the board in goodwill activities, unless such person is holder of an agent's license as provided in RCW 66.24.310, and this regulation.

(2) An agent's license may be issued to the accredited representative of a person, firm, or corporation within the state of Washington holding any of the following licenses:

(a) A beer certificate of approval license;

(b) A beer distributor's license;

(c) A brewer's license;

(d) A beer importer's license;

(e) A wine certificate of approval license;

(f) A wine distributor license;

(g) A domestic winery license;

(h) A wine importer's license;

(i) A spirits certificate of approval license;

(j) A spirits distributor license;

(k) A distiller or craft distiller license; or

(l) A spirits importer license.

(3) An agent's license may be issued to the accredited representative of a distiller, manufacturer, importer, or distributor of spirituous liquor, or foreign produced beer or wine. A person, firm, or corporation so qualified, is herein defined to be an eligible employer. Such employer shall apply to the board for such an agent's license for his accredited representatives on application forms prescribed and furnished by the board. This subsection shall not apply to drivers who deliver beer or wine or to domestic wineries or their employees. Employees of a domestic winery must have identification on them that indicates they work for the winery. Identification may be in the form of a winery's business card, employee badge, or similar identification.

(4) Any person acting as an independent contractor for a winery must have an agent's license. An independent contractor is defined as an independent business person who runs his or her own business that provides services to another individual or business. The independent contractor is a separate business entity. The earnings of a person who is working as an independent contractor are subject to self-employment tax.

(5) Every firm which applies for an agent's license under the provisions of this section shall furnish the board with satisfactory proof that such firm is in fact a bona fide business entity.

(6) Only the licensed agent of a distiller, manufacturer, importer, or distributor of spirituous liquor may contact retail licensees in goodwill activities when such contacts pertain to spirituous liquor products.

(7) No distiller, manufacturer, importer, or distributor, or agent thereof, shall allow, pay or rebate, directly or indirectly, any cash or merchandise to any retail licensee to induce or promote the sale of liquor, including the payment of tips to such licensees or their employees and the purchasing of drinks "for the house." Such persons, firms and licensees must operate in conformity with WAC 314-12-140, RCW 66.28.010, 66.28.040, and other applicable laws and rules.

(8) Upon the termination of the employment of a licensed agent, his employer shall immediately notify the board and with such notice return to the board the agent's license issued to such person.

[Statutory Authority: RCW 66.08.030 and 66.08.050. WSR 12-17-006, § 314-44-005, filed 8/1/12, effective 9/1/12. Statutory Authority: RCW 66.24.310 and 66.08.030. WSR 11-24-099, § 314-44-005, filed 12/7/11, effective 1/7/12. Statutory Authority: RCW 66.08.030, 15.88.030, 19.126.020, 66.04.010, 66.08.180, 66.16.100, 66.20.010, 66.20.300, 66.20.310, 66.24.150, 66.24.170, 66.24.185, 66.24.200, 66.24.206, 66.24.210, 66.24.230, 66.24.240, 66.24.244, 66.24.250, 66.24.375, 66.24.380, 66.24.395, 66.24.400, 66.24.420, 66.24.425, 66.24.440, 66.24.450, 66.24.455, 66.24.495, 66.24.540, 66.28.010, 66.28.040, 66.28.050, 66.28.170, 66.28.180, 66.28.190, 66.28.200, 66.28.310, 66.44.190, 66.44.310, 66.98.060 and 82.08.150. WSR 98-18-097, § 314-44-005, filed 9/2/98, effective 10/3/98. Statutory Authority: RCW 66.08.030. WSR 89-01-004 (Order 271, Resolution No. 280), § 314-44-005, filed 12/8/88. Statutory Authority: RCW 66.08.030 and 66.98.070. WSR 82-04-029 (Order 93, Resolution No. 102), § 314-44-005, filed 1/27/82; Order 46, § 314-44-005, Rule 111, filed 6/9/76. Formerly WAC 314-44-010 and 314-44-020.]

WAC 314-44-015 Agent license limited authority. (1) Agents licensed under the authority of RCW 66.24.310 may perform goodwill activities as authorized by the board.

(2) Agents licensed under RCW 66.24.310 are prohibited from using their agent's license as a means to represent their being an employee of the board for the purpose of (a) obtaining admission to liquor licensed establishments, (b) misleading anyone into thinking they are a liquor enforcement officer or (c) checking identification of patrons.

[Statutory Authority: RCW 66.08.030. WSR 94-14-023, § 314-44-015, filed 6/27/94, effective 7/28/94.]

Chapter 314-45 WAC

SERVING AND DONATING OF LIQUOR BY SUPPLIERS AT TRADE CONVENTIONS OF LICENSEES

WAC

314-45-010 Convention defined—Hospitality rooms, display booths, receptions and similar activities—Permits required—Fees—Procedures.

WAC 314-45-010 Convention defined—Hospitality rooms, display booths, receptions and similar activities—Permits required—Fees—Procedures. Activities pursuant to RCW 66.20.010 (8), (9), a manufacturer, importer, distributor, or agent thereof, may serve or donate liquor without charge to delegates and guests at a bona fide convention of a trade association composed of licensees of the board, subject to conditions set forth in this regulation.

(1) For the purposes of this section a "convention" is defined as a bona fide session or assembly of the general membership of a trade association composed of licensees of the board.

(2) Such manufacturer, importer, distributor, or agent thereof, must hold a special permit issued by the board to engage in such an activity at such convention. The fee for each such special permit shall be $25.00. A permit is required for each booth or room a manufacturer, importer, distributor, or agent thereof is serving or donating liquor. Application for such permit shall be submitted on a form prescribed by the board. The statutory permits applicable to such activities are:

(a) A special permit provided for in RCW 66.20.010(8) which authorizes the holder thereof to serve liquor without charge to delegates and guests in a hospitality room or from a booth in a board-approved suppliers' display room at such convention.

(b) A special permit provided for in RCW 66.20.010(9) which authorizes the holder thereof to donate liquor for a reception, breakfast, luncheon, or dinner for delegates and guests at such convention.

(3) Any liquor served or donated as provided herein is authorized only for consumption within a specific area designated on an application for permit and approved by the board.

(4) A special permit holder who serves or donates any beer or wine on which state taxes have not been paid, must file a report of the quantity so served or donated and remit the amount of the taxes to the board, in conformity with RCW 66.20.010 (8), (9).

(5) Any spirituous liquor served or donated shall be purchased from a licensed spirits retailer.

(6) Any licensee promoting a trade show event shall submit a list of all suppliers attending the event.

[Statutory Authority: RCW 66.08.030 and 66.08.050. WSR 12-17-006, § 314-45-010, filed 8/1/12, effective 9/1/12. Statutory Authority: RCW 66.08.030, 66.28.010, 66.20.010. WSR 10-20-086, § 314-45-010, filed 9/30/10, effective 10/31/10. Statutory Authority: RCW 66.08.030, 15.88.030, 19.126.020, 66.04.010, 66.08.180, 66.16.100, 66.20.010, 66.20.300, 66.20.310, 66.24.150, 66.24.170, 66.24.185, 66.24.200, 66.24.206, 66.24.210, 66.24.230, 66.24.240, 66.24.244, 66.24.250, 66.24.375, 66.24.380, 66.24.395, 66.24.400, 66.24.420, 66.24.425, 66.24.440, 66.24.450, 66.24.455, 66.24.495, 66.24.540, 66.28.010, 66.28.040, 66.28.050, 66.28.170, 66.28.180, 66.28.190, 66.28.200, 66.28.310, 66.44.190, 66.44.310, 66.98.060 and 82.08.150. WSR 98-18-097, § 314-45-010, filed 9/2/98, effective 10/3/98. Statutory Authority: RCW 66.08.030 and 66.98.070. WSR 85-19-031 (Order 165, Resolution No. 174), § 314-45-010, filed 9/12/85; Order 46, § 314-45-010, Rule 114, filed 6/9/76.]

Chapter 314-52 WAC
ADVERTISING

WAC

314-52-005 Purpose and application of rules.
314-52-010 Mandatory statements.
314-52-015 General.
314-52-030 Liquor advertising prohibited in school publications.
314-52-040 Contests, competitive events, premiums and coupons.
314-52-050 Sound truck advertising prohibited.
314-52-070 Outdoor advertising.
314-52-080 Novelty advertising.
314-52-085 Programs and program folders.
314-52-090 Advertising sponsored jointly by retailers and manufacturers, importers, or distributors.
314-52-097 Financial arrangements between sports entertainment facility licensees and liquor manufacturers, importers, and distributors.
314-52-110 Advertising by retail licensees.
314-52-113 Brand signs and point-of-sale displays on retail licensed premises.
314-52-115 Advertising by clubs—Signs.
314-52-130 Public and civic events.

DISPOSITION OF SECTIONS FORMERLY CODIFIED IN THIS CHAPTER

314-52-020 Use of insignia or reference to liquor control board prohibited—Exception. [Statutory Authority: RCW 66.08.060. WSR 86-07-019 (Order 175, Resolution No. 184), § 314-52-020, filed 3/12/86. Statutory Authority: RCW 66.08.030 and 66.98.070. WSR 82-17-031 (Order 108, Resolution No. 117), § 314-52-020, filed 8/11/82. Statutory Authority: RCW 66.08.030, 66.08.060 and 66.98.070. WSR 80-09-078 (Order 73, Resolution No. 82), § 314-52-020, filed 7/18/80; Order 46, § 314-52-020, Rule 117, filed 6/9/76; Order 10, § 314-52-020, filed 10/27/70, effective 11/27/70; Rule 117, filed 6/13/63.] Repealed by WSR 10-06-122, filed 3/3/10, effective 4/3/10. Statutory Authority: RCW 66.08.030, 66.08.060, and 66.28.010.

314-52-060 Picture screen advertising prohibited. [Statutory Authority: RCW 66.08.030, 66.08.060 and 66.98.070. WSR 80-09-078 (Order 73, Resolution No. 82), § 314-52-060, filed 7/18/80; Order 46, § 314-52-060, Rule 121, filed 6/9/76; 121, filed 6/13/63.] Repealed by WSR 82-17-031 (Order 108, Resolution No. 117), filed 8/11/82. Statutory Authority: RCW 66.08.030 and 66.98.070.

314-52-095 Merchandising services—Prohibited. [Order 10, § 314-52-095, L.C.B. Rule 124.5, filed 10/27/70, effective 11/27/70.] Repealed by Order 28, filed 10/11/73.

314-52-100 Direct mail advertising prohibited—Exceptions. [Rule 125, filed 6/13/63.] Repealed by Order 10, filed 10/27/70, effective 11/27/70.

314-52-111 Advertising by retail licensees—On premises. [Statutory Authority: RCW 66.08.030, 66.08.060 and 66.98.070. WSR 80-09-078 (Order 73, Resolution No. 82), § 314-52-111, filed 7/18/80; WSR 78-02-056 (Order 62), § 314-52-111, filed 1/20/78; Order 46, § 314-52-111, Rule 126.1, filed 6/9/76.] Repealed by WSR 82-17-031 (Order 108, Resolution No. 117), filed 8/11/82. Statutory Authority: RCW 66.08.030 and 66.98.070.

314-52-112 Advertising by retail licensees—Off premises. [Statutory Authority: RCW 66.08.030, 66.08.060 and 66.98.070. WSR 80-09-078 (Order 73, Resolution No. 82), § 314-52-112, filed 7/18/80; Order 46, § 314-52-112, Rule 126.2, filed 6/9/76.] Repealed by WSR 82-17-031 (Order 108, Resolution No. 117), filed 8/11/82. Statutory Authority: RCW 66.08.030 and 66.98.070.

314-52-114 Advertising by retail licensees, offering for sale, or selling beer, wine or spirituous liquor at less than cost—Prohibited—Exceptions. [Statutory Authority: RCW 66.08.030. WSR 88-07-026 (Order 242, Resolution No. 251), § 314-52-114, filed 3/9/88. Statutory Authority: RCW 66.08.060. WSR 87-04-026 (Order 213, Resolution No. 222), § 314-52-114, filed 1/29/87. Statutory Authority: RCW 66.08.030, 66.98.070 and 66.08.060. WSR 86-16-060 (Order 173, Resolution No. 182), § 314-52-114, filed 8/5/86; WSR 83-24-060 (Order 134, Resolution No. 143), § 314-52-114, filed 12/7/83.] Repealed by WSR 10-06-122, filed 3/3/10, effective 4/3/10. Statutory Authority: RCW 66.08.030, 66.08.060, and 66.28.010.

314-52-120 Advertising by holders of special occasion Class G or J retail licenses. [Statutory Authority: RCW 66.08.030, 66.08.060 and 66.98.070. WSR 80-09-078 (Order 73, Resolution No. 82), § 314-52-120, filed 7/18/80; WSR 78-02-056 (Order 62), § 314-52-120, filed 1/20/78; Order 46, § 314-52-120, Rule 126.6, filed 6/9/76.] Repealed by WSR 82-17-031 (Order 108, Resolution No. 117), filed 8/11/82. Statutory Authority: RCW 66.08.030 and 66.98.070.

Appendix Guide to advertising. [Filed 6/13/63] Repealed by Order 10, filed 10/27/70, effective 11/27/70.

WAC 314-52-005 Purpose and application of rules. (1) The liquor control board regulates alcohol advertising to promote public safety, prevent the misuse of alcohol and reduce youth exposure to alcohol advertising and marketing. These rules provide reasonable regulations as to the kind, character, size, and location of advertising of liquor, as authorized by RCW 66.08.060.

(2) No person engaged in business as a manufacturer, importer, distributor, or retailer of liquor shall publish or disseminate in any media any advertisement of liquor, unless such advertisement is in conformance with these rules.

(3) The board holds each manufacturer, importer, distributor, or retailer of liquor responsible for complying with the advertising rules of the Washington state liquor control board in any advertising material placed by them or on their behalf by their agents. If desired, advertising may be submitted prior to publication for an advisory opinion by the Washington state liquor control board, but advisory opinions will be restricted to advertising material submitted by manufacturers, importers, distributors, or retailers of liquor, or their agents.

(4) Liquor advertising materials, defined as institutional or educational advertising in WAC 314-52-015, intended for placement in retail outlets of the Washington state liquor control board shall be presented to the Washington state liquor control board for prior approval before placement. All other forms of advertising approved and accepted by the board shall not be prohibited under this rule.

[Statutory Authority: RCW 66.08.030, 66.08.060, and 66.28.010. WSR 10-06-122, § 314-52-005, filed 3/3/10, effective 4/3/10. Statutory Authority: RCW 66.08.030, 15.88.030, 19.126.020, 66.04.010, 66.08.180, 66.16.100, 66.20.010, 66.20.300, 66.20.310, 66.24.150, 66.24.170, 66.24.185, 66.24.200, 66.24.206, 66.24.210, 66.24.230, 66.24.240, 66.24.244, 66.24.250, 66.24.375, 66.24.380, 66.24.395, 66.24.400, 66.24.420, 66.24.425, 66.24.440, 66.24.450, 66.24.455, 66.24.495, 66.24.540, 66.28.010, 66.28.040, 66.28.050, 66.28.170, 66.28.180, 66.28.190, 66.28.200, 66.28.310, 66.44.190, 66.44.310, 66.98.060 and 82.08.150. WSR 98-18-097, § 314-52-005, filed 9/2/98, effective 10/3/98. Statutory Authority: RCW 66.08.060. WSR 86-15-041 (Order 191, Resolution No. 200), § 314-52-005, filed 7/16/86. Statutory Authority: RCW 66.08.030 and

66.98.070. WSR 82-17-031 (Order 108, Resolution No. 117), § 314-52-005, filed 8/11/82. Statutory Authority: RCW 66.08.030, 66.08.060 and 66.98.070. WSR 80-09-078 (Order 73, Resolution No. 82), § 314-52-005, filed 7/18/80; Order 46, § 314-52-005, Rule 115.5, filed 6/9/76; Order 10, § 314-52-005, Rule 115.5, filed 10/27/70, effective 11/27/70.]

WAC 314-52-010 Mandatory statements. (1) Brand advertising of spirituous liquor by any manufacturer shall contain the following information:

(a) The name and address of the manufacturer responsible for its publication. (Street may be omitted.)

(b) A conspicuous statement of the class to which the product belongs and the type corresponding with the statement of class and type which is required by federal regulations to appear on the label of the product.

(c) A statement of the alcoholic content for distilled spirits shall be stated in percent alcohol by volume.

(d) In the case of distilled spirits produced by blending or rectification, if neutral spirits have been used in the production thereof, there shall be stated the percentage of neutral spirits so used and the name of the commodity from which such neutral spirits have been distilled.

(e) In the case of neutral spirits or of gin produced by a process of continuous distillation, there shall be stated the name of the commodity from which such neutral spirits or gin has been distilled.

(2) Brand advertising of wine by any manufacturer or distributor shall contain the following information:

(a) The name and address of the manufacturer or distributor responsible for its publication. (Street may be omitted.)

(b) A conspicuous statement of the class, type or distinctive designation to which the product belongs, corresponding with the statement of class, type, or distinctive designation which is required by federal regulation to appear on the label of the product.

(3) Brand advertising of malt beverages by any manufacturer, importer, or distributor shall contain the following information:

(a) The name and address of the manufacturer, importer or distributor responsible for publication of the advertisement. (Street may be omitted.)

(b) A conspicuous statement of the class to which the product belongs, corresponding to the statement of class which is required by federal regulations to appear on the label of the product.

[Statutory Authority: RCW 66.08.030, 66.08.060, and 66.28.010. WSR 10-06-122, § 314-52-010, filed 3/3/10, effective 4/3/10. Statutory Authority: RCW 66.08.030, 15.88.030, 19.126.020, 66.04.010, 66.08.180, 66.16.100, 66.20.010, 66.20.300, 66.20.310, 66.24.150, 66.24.170, 66.24.185, 66.24.200, 66.24.206, 66.24.210, 66.24.230, 66.24.240, 66.24.244, 66.24.250, 66.24.375, 66.24.380, 66.24.395, 66.24.400, 66.24.420, 66.24.425, 66.24.440, 66.24.450, 66.24.455, 66.24.495, 66.24.540, 66.28.010, 66.28.040, 66.28.050, 66.28.170, 66.28.180, 66.28.190, 66.28.200, 66.28.310, 66.44.190, 66.44.310, 66.98.060 and 82.08.150. WSR 98-18-097, § 314-52-010, filed 9/2/98, effective 10/3/98. Statutory Authority: RCW 66.08.030 and 66.98.070. WSR 82-17-031 (Order 108, Resolution No. 117), § 314-52-010, filed 8/11/82. Statutory Authority: RCW 66.08.030, 66.08.060 and 66.98.070. WSR 80-09-078 (Order 73, Resolution No. 82), § 314-52-010, filed 7/18/80; Order 46, § 314-52-010, Rule 116, filed 6/9/76; Rule 116, filed 6/13/63.]

WAC 314-52-015 General. (1) Institutional advertising shall mean advertising which promotes company or brand name identification, but does not directly solicit purchase or consumption of liquor. Educational advertising shall mean factual information on liquor, its manufacture, history, consumption and methods of ascertaining the quality of various types of liquors. All liquor advertising on products sold in the state of Washington may not contain any statement, picture, or illustration that:

(a) Is false or misleading;

(b) Promotes over consumption;

(c) Uses the Washington state liquor control board's seal or refers to Washington state liquor control board, except where required by law;

(d) Represents the use of liquor has curative or therapeutic effects, if such statement is untrue or tends to create a misleading impression;

(e) Implies the consumption of liquor enhances athletic prowess, or any statement, picture, or illustration that refers to any known athlete, if such statement, picture, or illustration implies, or if the reader may reasonably infer, that the use of liquor contributed to any known athlete's athletic achievements;

(f) Depicts a child or other person under legal age to consume liquor, or includes:

(i) Objects, such as toys or characters, suggesting the presence of a child, or any other depiction designed in any manner to be especially appealing to children or other persons under legal age to consume liquor; or

(ii) Is designed in any manner that would be especially appealing to children or other persons under twenty-one years of age.

(g) Is targeted principally to minors by implying that the consumption of alcoholic beverages is fashionable or the accepted course of behavior for persons under twenty-one years of age; or

(h) Uses subliminal or similar techniques. "Subliminal or similar techniques" as used in this section, refers to any device or technique that is used to convey, or attempts to convey, a message to a person by means of images or sounds of a very brief nature that cannot be perceived at a normal level of awareness.

(2) If advertising claims the alcohol product has a curative or therapeutic effect or enhances health or performance, the licensee must:

(a) Cite the name of the author and date of the research or study supporting the claim; and

(b) Provide a copy of this research or study to the board.

[Statutory Authority: RCW 66.08.030, 66.08.060, and 66.28.010. WSR 10-06-122, § 314-52-015, filed 3/3/10, effective 4/3/10. Statutory Authority: RCW 66.08.030 and 66.98.070. WSR 82-17-031 (Order 108, Resolution No. 117), § 314-52-015, filed 8/11/82. Statutory Authority: RCW 66.08.030, 66.08.060 and 66.98.070. WSR 80-09-078 (Order 73, Resolution No. 82), § 314-52-015, filed 7/18/80. Statutory Authority: RCW 66.08.030, 66.08.060 and 66.08.070. WSR 79-08-036 (Order 68, Resolution No. 77), § 314-52-015, filed 7/17/79; Order 46, § 314-52-015, Rule 116.5, filed 6/9/76; Order 10, § 314-52-015, Rule 116.5, filed 10/27/70, effective 11/27/70.]

WAC 314-52-030 Liquor advertising prohibited in school publications. No liquor advertising shall:

(1) Be carried in any publication connected or affiliated with any elementary or secondary schools; or

(2) Be connected with such schools in any media.

[Statutory Authority: RCW 66.08.030, 66.08.060, and 66.28.010. WSR 10-06-122, § 314-52-030, filed 3/3/10, effective 4/3/10. Statutory Authority:

RCW 66.08.030 and 66.98.070. WSR 82-17-031 (Order 108, Resolution No. 117), § 314-52-030, filed 8/11/82. Statutory Authority: RCW 66.08.030, 66.08.060 and 66.98.070. WSR 80-09-078 (Order 73, Resolution No. 82), § 314-52-030, filed 7/18/80; Order 46, § 314-52-030, Rule 118, filed 6/9/76; Order 10, § 314-52-030, filed 10/27/70, effective 11/27/70; Rule 118, filed 6/13/63.]

WAC 314-52-040 Contests, competitive events, premiums and coupons. (1) Liquor advertisements may offer consumers premiums or prizes, upon completion of any coupon, contest, or competitive event, which may or may not require proof of purchase of the advertised product. Provided, that:

(a) No one under twenty-one years of age is allowed to participate, and no premiums, prizes, coupons, contests, or competitive events are targeted to persons under twenty-one years of age;

(b) Contests or sweepstakes that offer prizes or premiums to consumers through a game of chance or random drawing, shall not require proof of purchase, and must comply with the requirements of RCW 9.46.0356 regarding gambling.

(2) Liquor advertisements are prohibited by manufacturers, importers, or distributors that:

(a) Offer any premium or prize redeemable through a Washington state liquor store or any retail liquor outlet licensed by the state of Washington, such as "instant" or "in-store" redeemable offers;

(b) Offer an "instant rebate" on either liquor or nonliquor items; or

(c) Offer any premium redeemable through retail outlets prohibited by the advancement of "money or money's worth" from a nonretail licensee to a retail licensee in chapter 66.28 RCW.

(3) A retailer may have its own coupon offers, provided the "after rebate" price does not put the product below cost, and provided there is no undue influence by a nonretail licensee, the coupon is at the retailer's free initiative and the retailer is covering the entire cost.

[Statutory Authority: RCW 66.08.030, 66.08.060, and 66.28.010. WSR 10-06-122, § 314-52-040, filed 3/3/10, effective 4/3/10. Statutory Authority: RCW 66.08.030, 15.88.030, 19.126.020, 66.04.010, 66.08.180, 66.16.100, 66.20.010, 66.20.300, 66.20.310, 66.24.150, 66.24.170, 66.24.185, 66.24.200, 66.24.206, 66.24.210, 66.24.230, 66.24.240, 66.24.244, 66.24.250, 66.24.375, 66.24.380, 66.24.395, 66.24.400, 66.24.420, 66.24.425, 66.24.440, 66.24.450, 66.24.455, 66.24.495, 66.24.540, 66.28.010, 66.28.040, 66.28.050, 66.28.170, 66.28.180, 66.28.190, 66.28.200, 66.28.310, 66.44.190, 66.44.310, 66.98.060 and 82.08.150. WSR 98-18-097, § 314-52-040, filed 9/2/98, effective 10/3/98. Statutory Authority: RCW 66.08.030 and 66.98.070. WSR 82-17-031 (Order 108, Resolution No. 117), § 314-52-040, filed 8/11/82. Statutory Authority: RCW 66.08.030, 66.08.060 and 66.98.070. WSR 80-09-078 (Order 73, Resolution No. 82), § 314-52-040, filed 7/18/80; Order 46, § 314-52-040, Rule 119, filed 6/9/76; Order 10, § 314-52-040, filed 10/27/70, effective 11/27/70; Rule 119, filed 6/13/63.]

WAC 314-52-050 Sound truck advertising prohibited. No liquor advertising shall be permitted by use of sound trucks.

[Statutory Authority: RCW 66.08.030, 66.08.060 and 66.98.070. WSR 80-09-078 (Order 73, Resolution No. 82), § 314-52-050, filed 7/18/80; Order 46, § 314-52-050, Rule 120, filed 6/9/76; Order 10, § 314-52-050, filed 10/27/70, effective 11/27/70; Rule 120, filed 6/13/63.]

WAC 314-52-070 Outdoor advertising. (1) "Outdoor advertising" by manufacturers, importers, distributors, and retail licensees for these purposes shall include all signs affixed or hanging in the windows and on the outside of the premises visible to the general public from the public right of way, advertising the sale and/or service of liquor, excluding trade name and room name signs.

(2) The board limits each retail licensed premises to a total of four signs referring to alcoholic beverages, brand names, or manufacturers that are affixed or hanging in the windows and on the outside of the premises that are visible to the general public from the public right of way. The board also limits the size of a sign advertising alcohol, brand names, or manufacturers that are affixed or hanging in the windows and on the outside of the premises that are visible to the general public from the public right of way to sixteen hundred square inches.

"Sign" is defined as a board, poster, neon, or placard displayed to advertise.

A local jurisdiction has the option to exempt liquor licenses in their jurisdiction from the outdoor advertising restrictions in this section through a local ordinance.

(3) Outdoor signs shall be designed, installed, and in compliance with all liquor advertising rules. These rules include, but are not limited to:

(a) WAC 314-52-015 which contains advertising prohibitions; and

(b) WAC 314-52-110 which contains advertising requirements by a retail licensee.

(4) Prior board approval is not required before installation and use of outdoor advertising; however, outdoor advertising not in compliance with board rules will be required to be altered or removed at the licensee's expense. If prior approval is desired, the licensee, applicant or their agent may submit a copy to the board for approval.

(5) No outdoor advertising of liquor except in subsection (2) of this section, shall be placed within five hundred feet of schools, places of worship, public playgrounds, or athletic fields used primarily by minors where the administrative body of said schools, churches, public playgrounds or athletic fields object to such placement, or any place which the board in its discretion finds contrary to the public interest. "Tourist Oriented Directional Signs" per RCW 47.36.320, are exempt from this requirement.

The five hundred foot distance for outdoor advertising is measured from the property line of the school, place of worship, public playground or athletic field to the outdoor advertising.

[Statutory Authority: RCW 66.08.030, 66.08.060, and 66.28.010. WSR 10-06-122, § 314-52-070, filed 3/3/10, effective 4/3/10. Statutory Authority: RCW 66.08.030, 15.88.030, 19.126.020, 66.04.010, 66.08.180, 66.16.100, 66.20.010, 66.20.300, 66.20.310, 66.24.150, 66.24.170, 66.24.185, 66.24.200, 66.24.206, 66.24.210, 66.24.230, 66.24.240, 66.24.244, 66.24.250, 66.24.375, 66.24.380, 66.24.395, 66.24.400, 66.24.420, 66.24.425, 66.24.440, 66.24.450, 66.24.455, 66.24.495, 66.24.540, 66.28.010, 66.28.040, 66.28.050, 66.28.170, 66.28.180, 66.28.190, 66.28.200, 66.28.310, 66.44.190, 66.44.310, 66.98.060 and 82.08.150. WSR 98-18-097, § 314-52-070, filed 9/2/98, effective 10/3/98. Statutory Authority: RCW 66.08.060. WSR 86-15-041 (Order 191, Resolution No. 200), § 314-52-070, filed 7/16/86. Statutory Authority: RCW 66.08.030 and 66.98.070. WSR 82-17-031 (Order 108, Resolution No. 117), § 314-52-070, filed 8/11/82. Statutory Authority: RCW 66.08.030, 66.08.060 and 66.98.070. WSR 80-09-078 (Order 73, Resolution No. 82), § 314-52-070, filed 7/18/80; WSR 78-02-056 (Order 62), § 314-52-070, filed 1/20/78;

Order 46, § 314-52-070, Rule 122, filed 6/9/76; § 314-52-070, filed 10/27/70, effective 11/27/70; Order 2, § 314-52-070, filed 5/1/69; Rule 122, filed 6/13/63.]

WAC 314-52-080 Novelty advertising. (1) Novelty branded promotional advertising items which are of nominal value, singly or in the aggregate, may be provided to retailers by industry members. Singly or in the aggregate is per licensed location. Such items include, but are not limited to: Trays, lighters, blotters, post cards, pencils, coasters, menu cards, meal checks, napkins, clocks, mugs, glasses, bottle or can openers, corkscrews, matches, printed recipes, shirts, hats, visors, and other similar items. Branded promotional items:

(a) Must be used exclusively by the retailer or its employees in a manner consistent with its license;

(b) Must bear imprinted advertising matter of the industry member only;

(c) May only be provided by industry members to retailers and their employees;

(d) May not be provided by or through retailers or their employees to retail customers.

(2) An industry member is not obligated to provide any branded promotional items, and a retailer may not require an industry member to provide such branded promotional items as a condition for selling any alcohol to the retailer.

(3) Any industry member, retailer, or other person asserting the provision of branded promotional items has resulted or is more likely than not to result in undue influence or an adverse impact on public health and safety, or is otherwise inconsistent with the criteria in subsection (1) of this section, may file a complaint with the board.

Upon receipt of a complaint the board may conduct an investigation as it deems appropriate in the circumstances.

(a) The board may issue an administrative violation notice to the industry member, to the retailer, or both.

(b) The recipient of the administrative violation notice may request a hearing under chapter 34.05 RCW.

(4) An industry member or their employee, may sell, and a retail licensee may purchase, for use, resale, or distribution on the licensed premises any novelty advertising items. The price shall be not less than the industry member's cost of acquisition. In no event shall credit be extended to any retail licensee. The purchase by retail licensees of such items shall be supported by invoices or signed vouchers which shall be preserved for three years on the licensed premises and available for immediate inspection by board enforcement officers.

(5) An industry member who sells novelty advertising items to retail licensees shall keep on file the original or copy of all sales slips, invoices, and other memoranda covering all purchases of novelty advertising items by the industry member and shall also keep on file a copy of all invoices, sales slips, or memoranda reflecting the sales to retail licensees or other disbursement of all novelty advertising items. Such records shall be maintained in a manner satisfactory to the board and must be preserved in the office of the industry member for a period of at least three years after each purchase or sale. Any manufacturer which does not maintain a principal office within the state shall, when requested, furnish the above required records at a designated location within the state for review by the board.

[Statutory Authority: RCW 66.08.030 and 66.28.320. WSR 10-01-090, § 314-52-080, filed 12/16/09, effective 1/16/10. Statutory Authority: RCW 66.08.030, 15.88.030, 19.126.020, 66.04.010, 66.08.180, 66.16.100, 66.20.010, 66.20.300, 66.20.310, 66.24.150, 66.24.170, 66.24.185, 66.24.200, 66.24.206, 66.24.210, 66.24.230, 66.24.240, 66.24.244, 66.24.250, 66.24.375, 66.24.380, 66.24.395, 66.24.400, 66.24.420, 66.24.425, 66.24.440, 66.24.450, 66.24.455, 66.24.495, 66.24.540, 66.28.010, 66.28.040, 66.28.050, 66.28.170, 66.28.180, 66.28.190, 66.28.200, 66.28.310, 66.44.190, 66.44.310, 66.98.060 and 82.08.150. WSR 98-18-097, § 314-52-080, filed 9/2/98, effective 10/3/98. Statutory Authority: RCW 66.08.030. WSR 93-11-028, § 314-52-080, filed 5/10/93, effective 6/10/93. Statutory Authority: RCW 66.08.030 and 66.98.070. WSR 82-17-031 (Order 108, Resolution No. 117), § 314-52-080, filed 8/11/82. Statutory Authority: RCW 66.08.030, 66.08.060 and 66.98.070. WSR 81-04-011 (Order 76, Resolution No. 85), § 314-52-080, filed 1/28/81; WSR 80-09-078 (Order 73, Resolution No. 82), § 314-52-080, filed 7/18/80; WSR 78-02-056 (Order 62), § 314-52-080, filed 1/20/78; Order 46, § 314-52-080, Rule 123, filed 6/9/76; Order 10, § 314-52-080, filed 10/27/70, effective 11/27/70; Rule 123, filed 6/13/63.]

WAC 314-52-085 Programs and program folders. Programs and program folders, for the purpose of this section, shall mean brochures for use at sporting arenas which have, as a part of their operations, whether directly or indirectly, a retail licensed premises. No manufacturer, importer, distributor, or their agent, shall provide, without cost, directly or indirectly, programs or program folders for retail licensees, however:

(1) A premises holding a sports entertainment facility liquor license may accept bona fide liquor advertising from manufacturers, importers, distributors or their agents, for publication in the program or program folder of the sports entertainment facility liquor licensee; and

(2) Advertising is paid for by said manufacturer, importer, distributor or their agent at the published advertising rate for all program or program folder advertisers, including nonliquor advertisers.

[Statutory Authority: RCW 66.08.030, 66.08.060, and 66.28.010. WSR 10-06-122, § 314-52-085, filed 3/3/10, effective 4/3/10. Statutory Authority: RCW 66.08.030, 15.88.030, 19.126.020, 66.04.010, 66.08.180, 66.16.100, 66.20.010, 66.20.300, 66.20.310, 66.24.150, 66.24.170, 66.24.185, 66.24.200, 66.24.206, 66.24.210, 66.24.230, 66.24.240, 66.24.244, 66.24.250, 66.24.375, 66.24.380, 66.24.395, 66.24.400, 66.24.420, 66.24.425, 66.24.440, 66.24.450, 66.24.455, 66.24.495, 66.24.540, 66.28.010, 66.28.040, 66.28.050, 66.28.170, 66.28.180, 66.28.190, 66.28.200, 66.28.310, 66.44.190, 66.44.310, 66.98.060 and 82.08.150. WSR 98-18-097, § 314-52-085, filed 9/2/98, effective 10/3/98. Statutory Authority: RCW 66.08.030 and 66.98.070. WSR 82-17-031 (Order 108, Resolution No. 117), § 314-52-085, filed 8/11/82.]

WAC 314-52-090 Advertising sponsored jointly by retailers and manufacturers, importers, or distributors. (1) The name of a retail licensee shall not appear in, or as a part of, or supplementary to, any advertising of a manufacturer, importer or distributor, except:

(a) To produce brochures and materials promoting tourism in Washington state;

(b) A manufacturer, importer, or distributor may list on their web sites information related to retailers who sell or promote their products.

(2) The brand name of liquor may appear in or as a part of advertising by a retail licensee: Provided, such advertising is upon the retail licensee's free initiative and no moneys or moneys' worth has been offered or solicited as an inducement to secure such mention of any manufacturer, importer, or distributor's product.

(3) A professional sports team who holds a liquor license may accept liquor advertisements from manufacturers, importers, or distributors for use in sports entertainment facilities and may allow a manufacturer, importer, or distributor to use the name and trademark of the professional sports team in their advertising and promotions, if such advertising:

(a) Is paid for by the manufacturer, importer, or distributor at reasonable fair market value; and

(b) Carries no express or implied offer by the manufacturer, importer, or distributor on the part of the retail licensee to stock or list any particular brand of liquor to the total or partial exclusion of any other brand.

[Statutory Authority: RCW 66.08.030, 66.08.060, and 66.28.010. WSR 10-06-122, § 314-52-090, filed 3/3/10, effective 4/3/10. Statutory Authority: RCW 66.08.030, 15.88.030, 19.126.020, 66.04.010, 66.08.180, 66.16.100, 66.20.010, 66.20.300, 66.20.310, 66.24.150, 66.24.170, 66.24.185, 66.24.200, 66.24.206, 66.24.210, 66.24.230, 66.24.240, 66.24.244, 66.24.250, 66.24.375, 66.24.380, 66.24.395, 66.24.400, 66.24.420, 66.24.425, 66.24.440, 66.24.450, 66.24.455, 66.24.495, 66.24.540, 66.28.010, 66.28.040, 66.28.050, 66.28.170, 66.28.180, 66.28.190, 66.28.200, 66.28.310, 66.44.190, 66.44.310, 66.98.060 and 82.08.150. WSR 98-18-097, § 314-52-090, filed 9/2/98, effective 10/3/98. Statutory Authority: RCW 66.08.030 and 66.98.070. WSR 82-17-031 (Order 108, Resolution No. 117), § 314-52-090, filed 8/11/82. Statutory Authority: RCW 66.08.030, 66.08.060 and 66.98.070. WSR 80-09-078 (Order 73, Resolution No. 82), § 314-52-090, filed 7/18/80; WSR 78-02-056 (Order 62), § 314-52-090, filed 1/20/78; Order 46, § 314-52-090, Rule 124, filed 6/9/76; Order 10, § 314-52-090, filed 10/27/70, effective 11/27/70; Rule 124, filed 6/13/63.]

WAC 314-52-097 Financial arrangements between sports entertainment facility licensees and liquor manufacturers, importers, and distributors. A sports entertainment facility licensee and affiliated business may enter into arrangements with a manufacturer, importer, or distributor for brand advertising or promotional events at the sports entertainment facility under the following conditions:

(1) The facility has a capacity of five thousand or more;

(2) Entities required by WAC 314-12-030 placed on the sports entertainment facility license due to financial interest, may receive advertising from liquor manufacturers, importers, or distributors;

(3) The advertising agreement under the provisions of this section must be made by written agreement;

(4) The license must stock and offer for sale other competitive brands of liquor in addition to those of the advertising manufacturer, importer, or distributor;

(5) The agreement may not contain credit or money's worth to be provided by the manufacturer, importer, distributor, or sports entertainment facility licensee;

(6) There will be no exclusionary contracts between a sports entertainment facility licensee and manufacturer, importer, or distributor; and

(7) The advertising manufacturer, importer, or distributor may not exercise undue influence in any manner over the sports entertainment facility licensee's liquor purchasing and sales operations.

[Statutory Authority: RCW 66.08.030, 66.08.060, and 66.28.010. WSR 10-06-122, § 314-52-097, filed 3/3/10, effective 4/3/10.]

WAC 314-52-110 Advertising by retail licensees. (1) Every advertisement by a retail licensee shall carry the licensed trade name or the registered franchise name or the trademark name. The term "trade name" shall be defined as the name as it appears on the license issued to the licensee:

(a) Words such as tavern, cafe, grocery, market, wine shop, and other similar words used to identify the type of business licensed, and numbers used to identify chain licensees, shall neither be required nor prohibited as part of the trade name in advertisements.

(b) Advertisements by a spirit, beer and wine restaurant licensee may also refer to cocktails, bar, lounge and/or the "room name." The term "room name" shall be defined as the name of the room designated as the cocktail lounge and/or the dining room.

(2) No retail licensee shall offer for sale any liquor for on premises consumption under advertising slogans where the expressed or implied meaning is that a customer, in order to receive a reduced price, would be required to purchase more than one drink at a time, such as "two for the price of one," "buy one—get one free," or "two for $_____."

(3) Beer, wine, or spirituous liquor shall not be advertised, offered for sale, or sold by retail licensees at less than acquisition cost. The provisions of this section shall not apply to any sales made:

(a) For the purpose of discontinuing the trade of any product or disposing of seasonal goods after the season has passed;

(b) When the goods are damaged or deteriorated in quality, or to the bona fide sale of perishable goods to prevent loss to the vendor by spoilage or depreciation provided notice is given to the public;

(c) By an officer acting under the orders of any court; or

(d) In an endeavor to meet the prices of a competitor selling the same article or product in the same locality or trade area and in the ordinary channels of trade.

(4) Specialty shops, wineries, breweries, and craft distilleries acting as a retail licensee, providing free tastings to the public, are prohibited from using any term that implies the product is free in their advertising for such events.

[Statutory Authority: RCW 66.08.030, 66.08.060, and 66.28.010. WSR 10-06-122, § 314-52-110, filed 3/3/10, effective 4/3/10. Statutory Authority: RCW 66.08.030, 15.88.030, 19.126.020, 66.04.010, 66.08.180, 66.16.100, 66.20.010, 66.20.300, 66.20.310, 66.24.150, 66.24.170, 66.24.185, 66.24.200, 66.24.206, 66.24.210, 66.24.230, 66.24.240, 66.24.244, 66.24.250, 66.24.375, 66.24.380, 66.24.395, 66.24.400, 66.24.420, 66.24.425, 66.24.440, 66.24.450, 66.24.455, 66.24.495, 66.24.540, 66.28.010, 66.28.040, 66.28.050, 66.28.170, 66.28.180, 66.28.190, 66.28.200, 66.28.310, 66.44.190, 66.44.310, 66.98.060 and 82.08.150. WSR 98-18-097, § 314-52-110, filed 9/2/98, effective 10/3/98. Statutory Authority: RCW 66.08.030, 66.98.070 and 66.08.060. WSR 83-23-122 (Order 132, Resolution No. 141), § 314-52-110, filed 11/23/83. Statutory Authority: RCW 66.08.030 and 66.98.070. WSR 82-17-031 (Order 108, Resolution No. 117), § 314-52-110, filed 8/11/82. Statutory Authority: RCW 66.08.030, 66.08.060 and 66.98.070. WSR 80-09-078 (Order 73, Resolution No. 82), § 314-52-110, filed 7/18/80; Order 46, § 314-52-110, Rule 126, filed 6/9/76; Order 10, § 314-52-110, filed 10/27/70, effective 11/27/70; Rule 126, filed 6/13/63.]

WAC 314-52-113 Brand signs and point-of-sale displays on retail licensed premises. Manufacturers, importers or distributors may furnish brand signs and point-of-sale material to retailers under the following conditions:

(1) The brand signs and point-of-sale material shall have no value to the retailer except as brand advertisement; such signs as those that provide illumination for cash registers, pool tables, and other parts of the premises, have a functional

value and are not authorized. The brand signs and point-of-sale material shall remain the property of, and be the responsibility of, the manufacturers, importers or distributors.

(2) Giant inflatables, such as inflated beer cans, bottles, and banners may be provided as point-of-sale to retailers for display purposes inside the licensed premises, provided the following conditions are met:

(a) Novelty items as defined in WAC 314-52-080 are not provided by manufacturers, importers, or distributors to customers in conjunction with the display;

(b) Inflatables are not targeted or appeal principally to youth; and

(c) The display shall be removed if objected to by local officials, or if the board finds it contrary to the public interest.

(3) Costumed individuals representing beer, wine, or liquor manufacturers may be provided as point-of-sale to retailers for display and promotion purposes on their property, provided the following conditions are met:

(a) The costumed individual is limited to the manufacturer, importer, distributor, or employee thereof and the costumed individual's activities on-premises are limited to socializing with customers and not conducting any activity that the retail licensee would otherwise have to assign employees to;

(b) Novelty items as defined in WAC 314-52-080 and the purchase of drinks, are not to be provided to customers by the costumed individual in conjunction with such displays;

(c) The costumed individual must comply with the regulations regarding lewd and obscene conduct (WAC 314-11-050);

(d) The costumed individual may not be targeted or appeal principally to youth; and

(e) The board may prohibit the use of costumed individuals if the use is contrary to the public interest.

[Statutory Authority: RCW 66.08.030, 66.08.060, and 66.28.010. WSR 10-06-122, § 314-52-113, filed 3/3/10, effective 4/3/10. Statutory Authority: RCW 66.08.030, 15.88.030, 19.126.020, 66.04.010, 66.08.180, 66.16.100, 66.20.010, 66.20.300, 66.20.310, 66.24.150, 66.24.170, 66.24.185, 66.24.200, 66.24.206, 66.24.210, 66.24.230, 66.24.240, 66.24.244, 66.24.250, 66.24.375, 66.24.380, 66.24.395, 66.24.400, 66.24.420, 66.24.425, 66.24.440, 66.24.450, 66.24.455, 66.24.495, 66.24.540, 66.28.010, 66.28.040, 66.28.050, 66.28.170, 66.28.180, 66.28.190, 66.28.200, 66.28.310, 66.44.190, 66.44.310, 66.98.060 and 82.08.150. WSR 98-18-097, § 314-52-113, filed 9/2/98, effective 10/3/98. Statutory Authority: RCW 66.24.010, 66.08.010, 66.08.030, 66.08.060 and 66.98.070. WSR 86-19-022 (Order 199, Resolution No. 208), § 314-52-113, filed 9/10/86. Statutory Authority: RCW 66.08.030 and 66.98.070. WSR 82-17-031 (Order 108, Resolution No. 117), § 314-52-113, filed 8/11/82. Statutory Authority: RCW 66.08.030, 66.08.060 and 66.98.070. WSR 80-09-078 (Order 73, Resolution No. 82), § 314-52-113, filed 7/18/80; WSR 78-02-056 (Order 62, § 314-52-113, filed 1/20/78; Order 46, § 314-52-113, Rule 126.3, filed 6/9/76.]

WAC 314-52-115 Advertising by clubs—Signs. (1) Clubs shall not engage in any form of soliciting or advertising which may be construed as implying that the club operates a premises open to the public, or that social functions at which club liquor may be consumed, are open to the public. Clubs that provide lunch or dinner to the public may advertise but must specify no liquor service is available.

(2) Clubs and/or their auxiliary organizations may advertise social or other club events to their membership through the public media under the following conditions:

(a) Advertising must be clearly directed to their membership only;

(b) Advertising cannot be construed as implying that the general public is welcome to attend; and

(c) Advertising club functions with placards placed for public viewing shall be governed by (a) and (b) of this subsection.

(3) Advertising may be directed to the public generally in connection with events of special public interest under provisions set forth in WAC 314-40-080(3).

(4) A private club may hold a public membership function as outlined in WAC 314-40-040(6). The function must be advertised as a membership drive.

(5) Clubs shall not advertise the events held with the nonclub event endorsement per RCW 66.24.425(3).

(6) Clubs desiring to have radio or television broadcasts originating from their licensed premises may do so provided:

(a) Such broadcasts consist only of entertainment or other matter which is in the public interest and may not contain:

(i) Any announcement of opening or closing hours;

(ii) Any invitation to visit the club; or

(iii) Any statement which may be construed as advertising or any implication that the club is operated as a public place.

(b) The only reference to the club during such broadcasts shall be limited to a statement at the opening and closing of the program as originating from the club quarters.

[Statutory Authority: RCW 66.08.030, 66.08.060, and 66.28.010. WSR 10-06-122, § 314-52-115, filed 3/3/10, effective 4/3/10. Statutory Authority: RCW 66.08.030, 15.88.030, 19.126.020, 66.04.010, 66.08.180, 66.16.100, 66.20.010, 66.20.300, 66.20.310, 66.24.150, 66.24.170, 66.24.185, 66.24.200, 66.24.206, 66.24.210, 66.24.230, 66.24.240, 66.24.244, 66.24.250, 66.24.375, 66.24.380, 66.24.395, 66.24.400, 66.24.420, 66.24.425, 66.24.440, 66.24.450, 66.24.455, 66.24.495, 66.24.540, 66.28.010, 66.28.040, 66.28.050, 66.28.170, 66.28.180, 66.28.190, 66.28.200, 66.28.310, 66.44.190, 66.44.310, 66.98.060 and 82.08.150. WSR 98-18-097, § 314-52-115, filed 9/2/98, effective 10/3/98. Statutory Authority: RCW 66.08.030. WSR 94-06-022, § 314-52-115, filed 2/22/94, effective 3/25/94. Statutory Authority: RCW 66.08.030 and 66.98.070. WSR 82-17-031 (Order 108, Resolution No. 117), § 314-52-115, filed 8/11/82. Statutory Authority: RCW 66.08.030, 66.08.060 and 66.98.070. WSR 80-09-078 (Order 73, Resolution No. 82), § 314-52-115, filed 7/18/80; Order 46, § 314-52-114 (codified as WAC 314-52-115), Rule 126.5, filed 6/9/76; Order 10, § 314-52-114, Rule 126.5, filed 10/27/70, effective 11/27/70. Formerly WAC 314-40-090 (part), Rule 111, filed 6/13/63.]

WAC 314-52-130 Public and civic events. (1) Industry members may sponsor public and civic events and provide the following:

(a) Signage with the industry members name or brand name of their products; and

(b) Programs or flyers to be disseminated at the event.

(2) Acknowledgment of the sponsor, either by name, brand, or both, is allowed in any media advertisement where the function recognizes the sponsors of the event. The size of the alcohol industry sponsor acknowledgment may not exceed the size of the event name.

(3) Inflatables are not allowed inside the event areas.

(4) There may be no giveaways of alcohol promotional items of any kind to persons under twenty-one years of age at events held in public areas including, but not limited to, street fairs, parks, and government buildings.

(5) Industry members may not sponsor a special occasion license at public and civic events. Money may not be given directly to the special occasion licensee, or employees thereof, but industry members may provide the following advertising for a special occasion licensed event:

(a) Signage with the industry members name or brand name of their products;

(b) Media coverage of the event; and

(c) Programs or flyers to be disseminated at the event.

(6) Inflatables are not allowed inside special occasion license areas unless the area is completely enclosed with no view to the inside from the public right of way.

(7) There may be no giveaways of alcohol promotional items of any kind in special occasion license areas.

(8) The board limits each special occasion licensed premises to a total of four signs referring to alcoholic beverages, brand names, or manufacturers that are affixed or hanging in the windows and on the outside of the special occasion licensed premises that are visible to the general public from the public right of way. The board also limits the size of a sign advertising alcohol, brand names, or manufacturers that are affixed or hanging in the windows and on the outside of the special occasion premises that are visible to the general public from the public right of way to sixteen hundred square inches.

(9) Brand advertising is allowed inside the special occasion license event area where alcohol sales and consumption occur.

[Statutory Authority: RCW 66.08.030, 66.08.060, and 66.28.010. WSR 10-06-122, § 314-52-130, filed 3/3/10, effective 4/3/10.]

Chapter 314-55 WAC

MARIJUANA LICENSES, APPLICATION PROCESS, REQUIREMENTS, AND REPORTING

WAC

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WAC 314-55-005 What is the purpose of this chapter? The purpose of this chapter is to outline the application process, qualifications and requirements to obtain and maintain a marijuana license and the reporting requirements for a marijuana licensee.

[Statutory Authority: RCW 69.50.325, 69.50.331, 69.50.342, 69.50.345. WSR 13-21-104, § 314-55-005, filed 10/21/13, effective 11/21/13.]

WAC 314-55-010 Definitions. Following are definitions for the purpose of this chapter. Other definitions are in RCW 69.50.101.

(1) "Applicant" or "marijuana license applicant" means any person or business entity who is considered by the board as a true party of interest in a marijuana license, as outlined in WAC 314-55-035.

(2) "Batch" means a quantity of marijuana-infused product containing material from one or more lots of marijuana.

(3) "Business name" or "trade name" means the name of a licensed business as used by the licensee on signs and advertising.

(4) "Child care center" means an entity that regularly provides child day care and early learning services for a group of children for periods of less than twenty-four hours licensed by the Washington state department of early learning under chapter 170-295 WAC.

(5) "Elementary school" means a school for early education that provides the first four to eight years of basic education and recognized by the Washington state superintendent of public instruction.

(6) "Financier" means any person or entity, other than a banking institution, that has made or will make an investment in the licensed business. A financier can be a person or entity that provides money as a gift, loans money to the applicant/business and expects to be paid back the amount of the

loan with or without interest, or expects any percentage of the profits from the business in exchange for a loan or expertise.

(7) "Game arcade" means an entertainment venue featuring primarily video games, simulators, and/or other amusement devices where persons under twenty-one years of age are not restricted.

(8) "Library" means an organized collection of resources made accessible to the public for reference or borrowing supported with money derived from taxation.

(9) "Licensee" or "marijuana licensee" means any person or entity that holds a marijuana license, or any person or entity who is a true party of interest in a marijuana license, as outlined in WAC 314-55-035.

(10) "Lot" means either of the following:

(a) The flowers from one or more marijuana plants of the same strain. A single lot of flowers cannot weigh more than five pounds; or

(b) The trim, leaves, or other plant matter from one or more marijuana plants. A single lot of trim, leaves, or other plant matter cannot weigh more than fifteen pounds.

(11) "Marijuana strain" means a pure breed or hybrid variety of Cannabis reflecting similar or identical combinations of properties such as appearance, taste, color, smell, cannabinoid profile, and potency.

(12) "Member" means a principal or governing person of a given entity, including but not limited to: LLC member/manager, president, vice-president, secretary, treasurer, CEO, director, stockholder, partner, general partner, limited partner. This includes all spouses of all principals or governing persons named in this definition and referenced in WAC 314-55-035.

(13) "Pesticide" means, but is not limited to: (a) Any substance or mixture of substances intended to prevent, destroy, control, repel, or mitigate any insect, rodent, snail, slug, fungus, weed, and any other form of plant or animal life or virus, except virus on or in a living person or other animal which is normally considered to be a pest; (b) any substance or mixture of substances intended to be used as a plant regulator, defoliant, or desiccant; and (c) any spray adjuvant. Pesticides include substances commonly referred to as herbicides, fungicides, and insecticides.

(14) "Perimeter" means a property line that encloses an area.

(15) "Plant canopy" means the square footage dedicated to live plant production, such as maintaining mother plants, propagating plants from seed to plant tissue, clones, vegetative or flowering area. Plant canopy does not include areas such as space used for the storage of fertilizers, pesticides, or other products, quarantine, office space, etc.

(16) "Playground" means a public outdoor recreation area for children, usually equipped with swings, slides, and other playground equipment, owned and/or managed by a city, county, state, or federal government.

(17) "Public park" means an area of land for the enjoyment of the public, having facilities for rest and/or recreation, such as a baseball diamond or basketball court, owned and/or managed by a city, county, state, federal government, or metropolitan park district. Public park does not include trails.

(18) "Public transit center" means a facility located outside of the public right of way that is owned and managed by a transit agency or city, county, state, or federal government for the express purpose of staging people and vehicles where several bus or other transit routes converge. They serve as efficient hubs to allow bus riders from various locations to assemble at a central point to take advantage of express trips or other route to route transfers.

(19) "Recreation center or facility" means a supervised center that provides a broad range of activities and events intended primarily for use by persons under twenty-one years of age, owned and/or managed by a charitable nonprofit organization, city, county, state, or federal government.

(20) "Residence" means a person's address where he or she physically resides and maintains his or her abode.

(21) "Secondary school" means a high and/or middle school: A school for students who have completed their primary education, usually attended by children in grades seven to twelve and recognized by the Washington state superintendent of public instruction.

(22) "Unit" means an individually packaged marijuana-infused solid or liquid product meant to be eaten or swallowed, not to exceed ten servings or one hundred milligrams of active tetrahydrocannabinol (THC), or Delta 9.

[Statutory Authority: RCW 69.50.325, 69.50.331, 69.50.342, 69.50.345. WSR 13-21-104, § 314-55-010, filed 10/21/13, effective 11/21/13.]

WAC 314-55-015 General information about marijuana licenses. (1) A person or entity must meet certain qualifications to receive a marijuana license, which are continuing qualifications in order to maintain the license.

(2) All applicants and employees working in each licensed establishment must be at least twenty-one years of age.

(3) Minors restricted signs must be posted at all marijuana licensed premises.

(4) A marijuana license applicant may not exercise any of the privileges of a marijuana license until the board approves the license application.

(5) The board will not approve any marijuana license for a location where law enforcement access, without notice or cause, is limited. This includes a personal residence.

(6) The board will not approve any marijuana license for a location on federal lands.

(7) The board will not approve any marijuana retailer license for a location within another business. More than one license could be located in the same building if each licensee has their own area separated by full walls with their own entrance. Product may not be commingled.

(8) Every marijuana licensee must post and keep posted its license, or licenses, and any additional correspondence containing conditions and restrictions imposed by the board in a conspicuous place on the premises.

(9) In approving a marijuana license, the board reserves the right to impose special conditions as to the involvement in the operations of the licensed business of any former licensees, their former employees, or any person who does not qualify for a marijuana license.

(10) A marijuana processor or retailer licensed by the board shall conduct the processing, storage, and sale of marijuana-infused products using sanitary practices and ensure facilities are constructed, kept, and maintained in a clean and sanitary condition in accordance with rules and as prescribed

by the Washington state department of agriculture under chapters 16-165 and 16-167 WAC.

(11) Marijuana licensees may not allow the consumption of marijuana or marijuana-infused products on the licensed premises.

[Statutory Authority: RCW 69.50.325, 69.50.331, 69.50.342, 69.50.345. WSR 13-21-104, § 314-55-015, filed 10/21/13, effective 11/21/13.]

WAC 314-55-020 Marijuana license qualifications and application process. Each marijuana license application is unique and investigated individually. The board may inquire and request documents regarding all matters in connection with the marijuana license application. The application requirements for a marijuana license include, but are not necessarily limited to, the following:

(1) Per RCW 69.50.331, the board shall send a notice to cities and counties, and may send a notice to tribal governments or port authorities regarding the marijuana license application. The local authority has twenty days to respond with a recommendation to approve or an objection to the applicant, location, or both.

(2) The board will verify that the proposed business meets the minimum requirements for the type of marijuana license requested.

(3) The board will conduct an investigation of the applicants' criminal history and administrative violation history, per WAC 314-55-040 and 314-55-045.

(a) The criminal history background check will consist of completion of a personal/criminal history form provided by the board and submission of fingerprints to a vendor approved by the board. The applicant will be responsible for paying all fees required by the vendor for fingerprinting. These fingerprints will be submitted to the Washington state patrol and the Federal Bureau of Investigation for comparison to their criminal records. The applicant will be responsible for paying all fees required by the Washington state patrol and the Federal Bureau of Investigation.

(b) Financiers will also be subject to criminal history investigations equivalent to that of the license applicant. Financiers will also be responsible for paying all fees required for the criminal history check. Financiers must meet the three month residency requirement.

(4) The board will conduct a financial investigation in order to verify the source of funds used for the acquisition and startup of the business, the applicants' right to the real and personal property, and to verify the true party(ies) of interest.

(5) The board may require a demonstration by the applicant that they are familiar with marijuana laws and rules.

(6) The board may conduct a final inspection of the proposed licensed business, in order to determine if the applicant has complied with all the requirements of the license requested.

(7) Per RCW 69.50.331 (1)(b), all applicants applying for a marijuana license must have resided in the state of Washington for at least three months prior to application for a marijuana license. All partnerships, employee cooperatives, associations, nonprofit corporations, corporations and limited liability companies applying for a marijuana license must be formed in Washington. All members must also meet the three month residency requirement. Managers or agents who manage a licensee's place of business must also meet the three month residency requirement.

(8) Submission of an operating plan that demonstrates the applicant is qualified to hold the marijuana license applied for to the satisfaction of the board. The operating plan shall include the following elements in accordance with the applicable standards in the Washington Administrative Code (WAC).

(9) As part of the application process, each applicant must submit in a format supplied by the board an operating plan detailing the following as it pertains to the license type being sought. This operating plan must also include a floor plan or site plan drawn to scale which illustrates the entire operation being proposed. The operating plan must include the following information:

Producer	Processor	Retailer
Security	Security	Security
Traceability	Traceability	Traceability
Employee qualifications and training	Employee qualifications and training	Employee qualifications and training
Transportation of product including packaging of product for transportation	Transportation of product	
Destruction of waste product	Destruction of waste product	Destruction of waste product
Description of growing operation including growing media, size of grow space allocated for plant production, space allocated for any other business activity, description of all equipment used in the production process, and a list of soil amendments, fertilizers, other crop production aids, or pesticides, utilized in the production process	Description of the types of products to be processed at this location together with a complete description of all equipment and solvents, gases, chemicals and other compounds used to create extracts and for processing of marijuana-infused products	
Testing procedures and protocols	Testing procedures and protocols	

Producer	Processor	Retailer
	Description of the types of products to be processed at this location together with a complete description of processing of marijuana-infused products	
	Description of packaging and labeling of products to be processed	
		What array of products are to be sold and how are the products to be displayed to consumers

After obtaining a license, the license holder must notify the board in advance of any substantial change in their operating plan. Depending on the degree of change, prior approval may be required before the change is implemented.

(10) Applicants applying for a marijuana license must be current in any tax obligations to the Washington state department of revenue, as an individual or as part of any entity in which they have an ownership interest. Applicants must sign an attestation that, under penalty of denial or loss of licensure, that representation is correct.

(11) The issuance or approval of a license shall not be construed as a license for, or an approval of, any violations of local rules or ordinances including, but not limited to: Building and fire codes, zoning ordinances, and business licensing requirements.

(12) Upon failure to respond to the board licensing and regulation division's requests for information within the timeline provided, the application may be administratively closed or denial of the application will be sought.

[Statutory Authority: RCW 69.50.325, 69.50.331, 69.50.342, 69.50.345. WSR 13-21-104, § 314-55-020, filed 10/21/13, effective 11/21/13.]

WAC 314-55-035 What persons or entities have to qualify for a marijuana license? A marijuana license must be issued in the name(s) of the true party(ies) of interest.

(1) **True parties of interest -** For purposes of this title, "true party of interest" means:

True party of interest	Persons to be qualified
Sole proprietorship	Sole proprietor and spouse.
General partnership	All partners and spouses.
Limited partnership, limited liability partnership, or limited liability limited partnership	• All general partners and their spouses. • All limited partners and spouses.
Limited liability company	• All members and their spouses. • All managers and their spouses.
Privately held corporation	• All corporate officers (or persons with equivalent title) and their spouses. • All stockholders and their spouses.
Publicly held corporation	All corporate officers (or persons with equivalent title) and their spouses. All stockholders and their spouses.
Multilevel ownership structures	All persons and entities that make up the ownership structure (and their spouses).
Any entity or person (inclusive of **financiers**) that are expecting a percentage of the profits in exchange for a monetary loan or expertise.	Any entity or person who is in receipt of, or has the right to receive, a percentage of the gross or net profit from the licensed business during any full or partial calendar or fiscal year. Any entity or person who exercises control over the licensed business in exchange for money or expertise. For the purposes of this chapter: • "Gross profit" includes the entire gross receipts from all sales and services made in, upon, or from the licensed business. • "Net profit" means gross sales minus cost of goods sold.
Nonprofit corporations	All individuals and spouses, and entities having membership rights in accordance with the provisions of the articles of incorporation or the bylaws.

(2) For purposes of this section, "true party of interest" does not mean:

(a) A person or entity receiving reasonable payment for rent on a fixed basis under a bona fide lease or rental obligation, unless the lessor or property manager exercises control over or participates in the management of the business.

(b) A person who receives a bonus as an employee, if: The employee is on a fixed wage or salary and the bonus is not more than twenty-five percent of the employee's prebo-

nus annual compensation; or the bonus is based on a written incentive/bonus program that is not out of the ordinary for the services rendered.

(c) A person or entity contracting with the applicant(s) to sell the property, unless the contract holder exercises control over or participates in the management of the licensed business.

(3) **Financiers -** The board will conduct a financial investigation as well as a criminal background of financiers.

(4) **Persons who exercise control of business -** The board will conduct an investigation of any person or entity who exercises any control over the applicant's business operations. This may include both a financial investigation and/or a criminal history background.

[Statutory Authority: RCW 69.50.325, 69.50.331, 69.50.342, 69.50.345. WSR 13-21-104, § 314-55-035, filed 10/21/13, effective 11/21/13.]

WAC 314-55-040 What criminal history might prevent a marijuana license applicant from receiving or keeping a marijuana license? (1) When the board processes a criminal history check on an applicant, it uses a point system to determine if the person qualifies for a license. The board will not normally issue a marijuana license or renew a license to an applicant who has accumulated eight or more points as indicated below:

Description	Time period during which points will be assigned	Points assigned
Felony conviction	Ten years	12 points
Gross misdemeanor conviction	Three years	5 points
Misdemeanor conviction	Three years	4 points
Currently under federal or state supervision for a felony conviction	n/a	8 points
Nondisclosure of any of the above	n/a	4 points each

(2) If a case is pending for an alleged offense that would earn eight or more points, the board will hold the application for the disposition of the case. If the disposition is not settled within ninety days, the board will administratively close the application.

(3) The board may not issue a marijuana license to anyone who has accumulated eight or more points as referenced above. This is a discretionary threshold and it is further recommended that the following exceptions to this standard be applied:

Exception to criminal history point assignment. This exception to the criminal history point assignment will expire on July 1, 2014:

(a) Prior to initial 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. All criminal history must be reported on the personal/criminal history form.

(i) Regardless of applicability, failure to disclose full criminal history will result in point accumulation;

(ii) State misdemeanor possession convictions accrued after December 6, 2013, exceeding the allowable amounts of marijuana, usable marijuana, and marijuana-infused products described in chapter 69.50 RCW shall count toward criminal history point accumulation.

(b) Prior to initial license application, any single state or federal conviction for the growing, possession, or sale of marijuana will be considered for mitigation on an individual basis. Mitigation will be considered based on the quantity of product involved and other circumstances surrounding the conviction.

(4) Once licensed, marijuana licensees must report any criminal convictions to the board within fourteen days.

[Statutory Authority: RCW 69.50.325, 69.50.331, 69.50.342, 69.50.345. WSR 13-21-104, § 314-55-040, filed 10/21/13, effective 11/21/13.]

WAC 314-55-045 What marijuana law or rule violation history might prevent an applicant from receiving a marijuana license? The board will conduct an investigation of all applicants' marijuana law or rule administrative violation history. The board will not normally issue a marijuana license to a person, or to an entity with a true party of interest, who has the following violation history; or to any person who has demonstrated a pattern of disregard for laws or rules.

Violation Type (see WAC 314-55-515)	Period of Consideration
• Three or more public safety violations;	• Violations issued within three years of the date the application is received by the board's licensing and regulation division.
• Four or more regulatory violations; or	
• One to four, or more license violations.	• Violations issued within the last three years the true party(ies) of interest were licensed.

[Statutory Authority: RCW 69.50.325, 69.50.331, 69.50.342, 69.50.345. WSR 13-21-104, § 314-55-045, filed 10/21/13, effective 11/21/13.]

WAC 314-55-050 Reasons the board may seek denial, suspension, or cancellation of a marijuana license application or license. Following is a list of reasons the board may deny, suspend, or cancel a marijuana license application or license. Per RCW 69.50.331, the board has broad discretionary authority to approve or deny a marijuana license application for reasons including, but not limited to, the following:

(1) Failure to meet qualifications or requirements for the specific marijuana producer, processor, or retail license, as outlined in this chapter and chapter 69.50 RCW.

(2) Failure or refusal to submit information or documentation requested by the board during the evaluation process.

(3) The applicant makes a misrepresentation of fact, or fails to disclose a material fact to the board during the appli-

cation process or any subsequent investigation after a license has been issued.

(4) Failure to meet the criminal history standards outlined in WAC 314-55-040.

(5) Failure to meet the marijuana law or rule violation history standards outlined in WAC 314-55-045.

(6) The source of funds identified by the applicant to be used for the acquisition, startup and operation of the business is questionable, unverifiable, or determined by the board to be gained in a manner which is in violation by law.

(7) Denies the board or its authorized representative access to any place where a licensed activity takes place or fails to produce any book, record or document required by law or board rule.

(8) Has been denied or had a marijuana license or medical marijuana license suspended or canceled in another state or local jurisdiction.

(9) Where the city, county, tribal government, or port authority has submitted a substantiated objection per the requirements in RCW 69.50.331 (7) and (9).

(10) The board shall not issue a new marijuana license if the proposed licensed business is within one thousand feet of the perimeter of the grounds of any of the following entities. The distance shall be measured as the shortest straight line distance from the property line of the proposed building/business location to the property line of the entities listed below:

(a) Elementary or secondary school;

(b) Playground;

(c) Recreation center or facility;

(d) Child care center;

(e) Public park;

(f) Public transit center;

(g) Library; or

(h) Any game arcade (where admission is not restricted to persons age twenty-one or older).

(11) Has failed to pay taxes or fees required under chapter 69.50 RCW or failed to provide production, processing, inventory, sales and transportation reports to documentation required under this chapter.

(12) Failure to submit an attestation that they are current in any tax obligations to the Washington state department of revenue.

(13) Has been denied a liquor license or had a liquor license suspended or revoked in this or any other state.

(14) The operating plan does not demonstrate, to the satisfaction of the board, the applicant is qualified for a license.

(15) Failure to operate in accordance with the board approved operating plan.

(16) The board determines the issuance of the license will not be in the best interest of the welfare, health, or safety of the people of the state.

[Statutory Authority: RCW 60.50.342 [69.50.342] and 69.50.345. WSR 14-06-108, § 314-55-050, filed 3/5/14, effective 4/5/14. Statutory Authority: RCW 69.50.325, 69.50.331, 69.50.342, 69.50.345. WSR 13-21-104, § 314-55-050, filed 10/21/13, effective 11/21/13.]

WAC 314-55-070 Process if the board denies a marijuana license application. If the board denies a marijuana license application, the applicants may:

(1) Request an administrative hearing per chapter 34.05 RCW, the Administrative Procedure Act.

(2) Reapply for the license no sooner than one year from the date on the final order of denial.

[Statutory Authority: RCW 69.50.325, 69.50.331, 69.50.342, 69.50.345. WSR 13-21-104, § 314-55-070, filed 10/21/13, effective 11/21/13.]

WAC 314-55-075 What is a marijuana producer license and what are the requirements and fees related to a marijuana producer license? (1) A marijuana producer license allows the licensee to produce, harvest, trim, dry, cure, and package marijuana into lots for sale at wholesale to marijuana processor licensees and to other marijuana producer licensees. A marijuana producer can also produce and sell marijuana plants, seed, and plant tissue culture to other marijuana producer licensees. Marijuana production must take place within a fully enclosed secure indoor facility or greenhouse with rigid walls, a roof, and doors. Outdoor production may take place in nonrigid greenhouses, other structures, or an expanse of open or cleared ground fully enclosed by a physical barrier. To obscure public view of the premises, outdoor production must be enclosed by a sight obscure wall or fence at least eight feet high. Outdoor producers must meet security requirements described in WAC 314-55-083.

(2) The application fee for a marijuana producer license is two hundred fifty dollars. The applicant is also responsible for paying the fees required by the approved vendor for fingerprint evaluation.

(3) The annual fee for issuance and renewal of a marijuana producer license is one thousand dollars. The board will conduct random criminal history checks at the time of renewal that will require the licensee to submit fingerprints for evaluation from the approved vendor. The licensee will be responsible for all fees required for the criminal history checks.

(4) The board will initially limit the opportunity to apply for a marijuana producer license to a thirty-day calendar window beginning with the effective date of this section. In order for a marijuana producer application license to be considered it must be received no later than thirty days after the effective date of the rules adopted by the board. The board may reopen the marijuana producer application window after the initial evaluation of the applications received and at subsequent times when the board deems necessary.

(5) Any entity and/or principals within any entity are limited to no more than three marijuana producer licenses.

(6) The maximum amount of space for marijuana production is limited to two million square feet. Applicants must designate on their operating plan the size category of the production premises and the amount of actual square footage in their premises that will be designated as plant canopy. There are three categories as follows:

(a) Tier 1 – Less than two thousand square feet;

(b) Tier 2 – Two thousand square feet to ten thousand square feet; and

(c) Tier 3 – Ten thousand square feet to thirty thousand square feet.

(7) The board may reduce a licensee's or applicant's square footage designated to plant canopy for the following reasons:

(a) If the amount of square feet of production of all licensees exceeds the maximum of two million square feet

the board will reduce the allowed square footage by the same percentage.

(b) If fifty percent production space used for plant canopy in the licensee's operating plan is not met by the end of the first year of operation the board may reduce the tier of licensure.

(8) If the total amount of square feet of marijuana production exceeds two million square feet, the board reserves the right to reduce all licensee's production by the same percentage or reduce licensee production by one or more tiers by the same percentage.

(9) The maximum allowed amount of marijuana on a producer's premises at any time is as follows:

(a) Outdoor or greenhouse grows – One and one-quarter of a year's harvest; or

(b) Indoor grows – Six months of their annual harvest.

[Statutory Authority: RCW 69.50.342 and 69.50.345. WSR 14-10-044, § 314-55-075, filed 4/30/14, effective 5/31/14. Statutory Authority: RCW 69.50.325, 69.50.331, 69.50.342, 69.50.345. WSR 13-21-104, § 314-55-075, filed 10/21/13, effective 11/21/13.]

WAC 314-55-077 What is a marijuana processor license and what are the requirements and fees related to a marijuana processor license? (1) A marijuana processor license allows the licensee to process, package, and label usable marijuana and marijuana-infused products for sale at wholesale to marijuana retailers.

(2) A marijuana processor is allowed to blend tested useable marijuana from multiple lots into a single package for sale to a marijuana retail licensee providing the label requirements for each lot used in the blend are met and the percentage by weight of each lot is also included on the label.

(3) A marijuana processor is limited in the types of food or drinks they may infuse with marijuana to create an infused edible product. To reduce the risk to public health, food defined as potentially hazardous food in WAC 246-215-0115(88) may not be infused with marijuana. These foods are potentially hazardous as they require time-temperature control to keep them safe for human consumption and prevent the growth of pathogenic microorganisms or the production of toxins. The board may designate other food items that may not be infused with marijuana. Any food that requires refrigeration, freezing, or a hot holding unit to keep it safe for human consumption may not be infused with marijuana.

(4) The recipe for any food infused with marijuana to make an edible product must be kept on file at the marijuana producer's licensed premises and made available for inspection by the WSLCB or their designee.

(5) The application fee for a marijuana processor license is two hundred fifty dollars. The applicant is also responsible for paying the fees required by the approved vendor for fingerprint evaluation.

(6) The annual fee for issuance and renewal of a marijuana processor license is one thousand dollars. The board will conduct random criminal history checks at the time of renewal that will require the licensee to submit fingerprints for evaluation from the approved vendor. The licensee will be responsible for all fees required for the criminal history checks.

(7) The board will initially limit the opportunity to apply for a marijuana processor license to a thirty-day calendar window beginning with the effective date of this section. In order for a marijuana processor application license to be considered it must be received no later than thirty days after the effective date of the rules adopted by the board. The board may reopen the marijuana processor application window after the initial evaluation of the applications that are received and processed, and at subsequent times when the board deems necessary.

(8) Any entity and/or principals within any entity are limited to no more than three marijuana processor licenses.

(9) Marijuana processor licensees are allowed to have a maximum of six months of their average useable marijuana and six months average of their total production on their licensed premises at any time.

(10) A marijuana processor must accept returns of products and sample jars from marijuana retailers for destruction, but is not required to provide refunds to the retailer.

[Statutory Authority: RCW 69.50.342 and 69.50.345. WSR 14-10-044, § 314-55-077, filed 4/30/14, effective 5/31/14. Statutory Authority: RCW 69.50.325, 69.50.331, 69.50.342, 69.50.345. WSR 13-21-104, § 314-55-077, filed 10/21/13, effective 11/21/13.]

WAC 314-55-079 What is a marijuana retailer license and what are the requirements and fees related to a marijuana retailer license? (1) A marijuana retailer license allows the licensee to sell only usable marijuana, marijuana-infused products, and marijuana paraphernalia at retail in retail outlets to persons twenty-one years of age and older.

(2) Marijuana extracts, such as hash, hash oil, shatter, and wax can be infused in products sold in a marijuana retail store, but RCW 69.50.354 does not allow the sale of extracts that are not infused in products. A marijuana extract does not meet the definition of a marijuana-infused product per RCW 69.50.101.

(3) Internet sales and delivery of product to customers is prohibited.

(4) The application fee for a marijuana retailer's license is two hundred fifty dollars. The applicant is also responsible for paying the fees required by the approved vendor for fingerprint evaluation.

(5) The annual fee for issuance and renewal of a marijuana retailer's license is one thousand dollars. The board will conduct random criminal history checks at the time of renewal that will require the licensee to submit fingerprints for evaluation from the approved vendor. The licensee will be responsible for all fees required for the criminal history checks.

(6) Marijuana retailers may not sell marijuana products below their acquisition cost.

(7) Marijuana retailer licensees are allowed to have a maximum of four months of their average inventory on their licensed premises at any given time.

(8) A marijuana retailer may transport product to other locations operated by the licensee or to return product to a marijuana processor as outlined in the transportation rules in WAC 314-55-085.

(9) A marijuana retailer may not accept a return of product that has been opened.

[Statutory Authority: RCW 69.50.342 and 69.50.345. WSR 14-10-044, § 314-55-079, filed 4/30/14, effective 5/31/14. Statutory Authority: RCW

69.50.325, 69.50.331, 69.50.342, 69.50.345. WSR 13-21-104, § 314-55-079, filed 10/21/13, effective 11/21/13.]

WAC 314-55-081 Who can apply for a marijuana retailer license? (1) Using estimated consumption data and population data obtained from the office of financial management (OFM) population data, the liquor control board will determine the maximum number of marijuana retail locations per county.

The number of retail locations will be determined using a method that distributes the number of locations proportionate to the most populous cities within each county. Locations not assigned to a specific city will be at large. At large locations can be used for unincorporated areas in the county or in cities within the county that have no retail licenses designated. Once the number of locations per city and at large have been identified, the eligible applicants will be selected by lottery in the event the number of applications exceeds the allotted amount for the cities and county. Any lottery conducted by the board will be witnessed by an independent third party.

(2) The number of marijuana retail licenses determined by the board can be found on the liquor control board web site at www.liq.wa.gov.

(3) Any entity and/or principals within any entity are limited to no more than three retail marijuana licenses with no multiple location licensee allowed more than thirty-three percent of the allowed licenses in any county or city.

(4) The board will initially limit the opportunity to apply for a marijuana retailer license to a thirty-day calendar window beginning with the effective date of this section. In order for a marijuana retailer license application to be considered it must be received no later than thirty days after the effective date of the rules adopted by the board. The board may reopen the marijuana retailer application window after the initial evaluation of the applications received and at subsequent times when the board deems necessary.

[Statutory Authority: RCW 69.50.325, 69.50.331, 69.50.342, 69.50.345. WSR 13-21-104, § 314-55-081, filed 10/21/13, effective 11/21/13.]

WAC 314-55-082 Insurance requirements. Marijuana licensees shall provide insurance coverage as set out in this section. The intent of the required insurance is to protect the consumer should there be any claims, suits, actions, costs, damages or expenses arising from any negligent or intentional act or omission of the marijuana licensees. Marijuana licensees shall furnish evidence in the form of a certificate of insurance satisfactory to the board that insurance, in the following kinds and minimum amounts, has been secured. Failure to provide proof of insurance, as required, may result in license cancellation.

(1) Commercial general liability insurance: The licensee shall at all times carry and maintain commercial general liability insurance and if necessary, commercial umbrella insurance for bodily injury and property damage arising out of licensed activities. This insurance shall cover such claims as may be caused by any act, omission, or negligence of the licensee or its officers, agents, representatives, assigns, or servants. The insurance shall also cover bodily injury, including disease, illness and death, and property damage arising out of the licensee's premises/operations, products, and personal injury. The limits of liability insurance shall not be less than one million dollars.

(2) Insurance carrier rating: The insurance required in subsection (1) of this section shall be issued by an insurance company authorized to do business within the state of Washington. Insurance is to be placed with a carrier that has a rating of A - Class VII or better in the most recently published edition of *Best's Reports*. If an insurer is not admitted, all insurance policies and procedures for issuing the insurance policies must comply with chapters 48.15 RCW and 284-15 WAC.

(3) Additional insured. The board shall be named as an additional insured on all general liability, umbrella, and excess insurance policies. All policies shall be primary over any other valid and collectable insurance.

[Statutory Authority: RCW 69.50.325, 69.50.331, 69.50.342, 69.50.345. WSR 13-21-104, § 314-55-082, filed 10/21/13, effective 11/21/13.]

WAC 314-55-083 What are the security requirements for a marijuana licensee? The security requirements for a marijuana licensee are as follows:

(1) **Display of identification badge.** All employees on the licensed premises shall be required to hold and properly display an identification badge issued by the licensed employer at all times while on the licensed premises.

(2) **Alarm systems.** At a minimum, each licensed premises must have a security alarm system on all perimeter entry points and perimeter windows. Motion detectors, pressure switches, duress, panic, and hold-up alarms may also be utilized.

(3) **Surveillance system.** At a minimum, a complete video surveillance with minimum camera resolution of 640x470 pixel and must be internet protocol (IP) compatible and recording system for controlled areas within the licensed premises and entire perimeter fencing and gates enclosing an outdoor grow operation, to ensure control of the area. The requirements include image acquisition, video recording, management and monitoring hardware and support systems. All recorded images must clearly and accurately display the time and date. Time is to be measured in accordance with the U.S. National Institute Standards and Technology standards.

(a) All controlled access areas, security rooms/areas and all points of ingress/egress to limited access areas, all points of ingress/egress to the exterior of the licensed premises, and all point-of-sale (POS) areas must have fixed camera coverage capable of identifying activity occurring within a minimum of twenty feet of all entry and exit points.

(b) Camera placement shall allow for the clear and certain identification of any individual on the licensed premises.

(c) All entrances and exits to the facility shall be recorded from both indoor and outdoor vantage points, and capable of clearly identifying any activities occurring within the facility or within the grow rooms in low light conditions. The surveillance system storage device must be secured onsite in a lock box, cabinet, closet, or secured in another manner to protect from employee tampering or criminal theft.

(d) All perimeter fencing and gates enclosing an outdoor grow operation must have full video surveillance capable of clearly identifying any activities occurring within twenty feet of the exterior of the perimeter. Any gate or other entry point that is part of the enclosure for an outdoor growing operation

must have fixed camera coverage capable of identifying activity occurring within a minimum of twenty feet of the exterior, twenty-four hours a day. A motion detection lighting system may be employed to illuminate the gate area in low light conditions.

(e) Areas where marijuana is grown, cured or manufactured including destroying waste, shall have a camera placement in the room facing the primary entry door, and in adequate fixed positions, at a height which will provide a clear, unobstructed view of the regular activity without a sight blockage from lighting hoods, fixtures, or other equipment, allowing for the clear and certain identification of persons and activities at all times.

(f) All marijuana or marijuana-infused products that are intended to be removed or transported from marijuana producer to marijuana processor and/or marijuana processor to marijuana retailer shall be staged in an area known as the "quarantine" location for a minimum of twenty-four hours. Transport manifest with product information and weights must be affixed to the product. At no time during the quarantine period can the product be handled or moved under any circumstances and is subject to auditing by the liquor control board or designees.

(g) All camera recordings must be continuously recorded twenty-four hours a day. All surveillance recordings must be kept for a minimum of forty-five days on the licensee's recording device. All videos are subject to inspection by any liquor control board employee or law enforcement officer, and must be copied and provided to the board or law enforcement officer upon request.

(4) **Traceability:** To prevent diversion and to promote public safety, marijuana licensees must track marijuana from seed to sale. Licensees must provide the required information on a system specified by the board. All costs related to the reporting requirements are borne by the licensee. Marijuana seedlings, clones, plants, lots of usable marijuana or trim, leaves, and other plant matter, batches of extracts, marijuana-infused products, samples, and marijuana waste must be traceable from production through processing, and finally into the retail environment including being able to identify which lot was used as base material to create each batch of extracts or infused products. The following information is required and must be kept completely up-to-date in a system specified by the board:

(a) Key notification of "events," such as when a plant enters the system (moved from the seedling or clone area to the vegetation production area at a young age);

(b) When plants are to be partially or fully harvested or destroyed;

(c) When a lot or batch of marijuana, marijuana extract, marijuana-infused product, or marijuana waste is to be destroyed;

(d) When usable marijuana or marijuana-infused products are transported;

(e) Any theft of usable marijuana, marijuana seedlings, clones, plants, trim or other plant material, extract, infused product, seed, plant tissue or other item containing marijuana;

(f) There is a seventy-two hour mandatory waiting period after the notification described in this subsection is given before any plant may be destroyed, a lot or batch of marijuana, marijuana extract, marijuana-infused product, or marijuana waste may be destroyed;

(g) There is a twenty-four hour mandatory waiting period after the notification described in this subsection to allow for inspection before a lot of marijuana is transported from a producer to a processor;

(h) There is a twenty-four hour mandatory waiting period after the notification described in this subsection to allow for inspection before usable marijuana, or marijuana-infused products are transported from a processor to a retailer;

(i) Prior to reaching eight inches in height or width, each marijuana plant must be tagged and tracked individually, which typically should happened when a plant is moved from the seed germination or clone area to the vegetation production area;

(j) A complete inventory of all marijuana, seeds, plant tissue, seedlings, clones, all plants, lots of usable marijuana or trim, leaves, and other plant matter, batches of extract, marijuana-infused products, and marijuana waste;

(k) All point of sale records;

(l) Marijuana excise tax records;

(m) All samples sent to an independent testing lab, any sample of unused portion of a sample returned to a licensee, and the quality assurance test results;

(n) All free samples provided to another licensee for purposes of negotiating a sale;

(o) All samples used for testing for quality by the producer or processor;

(p) Samples containing usable marijuana provided to retailers;

(q) Samples provided to the board or their designee for quality assurance compliance checks; and

(r) Other information specified by the board.

(5) **Start-up inventory for marijuana producers.** Within fifteen days of starting production operations a producer must have all nonflowering marijuana plants physically on the licensed premises. The producer must, within twenty-four hours, record each marijuana plant that enters the facility in the traceability system during this fifteen day time frame. No flowering marijuana plants may be brought into the facility during this fifteen day time frame. After this fifteen day time frame expires, a producer may only start plants from seed or create clones from a marijuana plant located physically on their licensed premises, or purchase marijuana seeds, clones, or plants from another licensed producer.

(6) **Samples.** Free samples of usable marijuana may be provided by producers or processors, or used for product quality testing, as set forth in this section.

(a) Samples are limited to two grams and a producer may not provide any one licensed processor more than four grams of usable marijuana per month free of charge for the purpose of negotiating a sale. The producer must record the amount of each sample and the processor receiving the sample in the traceability system.

(b) Samples are limited to two grams and a processor may not provide any one licensed retailer more than four grams of usable marijuana per month free of charge for the purpose of negotiating a sale. The processor must record the amount of each sample and the retailer receiving the sample in the traceability system.

(c) Samples are limited to two units and a processor may not provide any one licensed retailer more than six ounces of marijuana infused in solid form per month free of charge for the purpose of negotiating a sale. The processor must record the amount of each sample and the retailer receiving the sample in the traceability system.

(d) Samples are limited to two units and a processor may not provide any one licensed retailer more than twenty-four ounces of marijuana-infused liquid per month free of charge for the purpose of negotiating a sale. The processor must record the amount of each sample and the retailer receiving the sample in the traceability system.

(e) Samples are limited to one-half gram and a processor may not provide any one licensed retailer more than one gram of marijuana-infused extract meant for inhalation per month free of charge for the purpose of negotiating a sale. The processor must record the amount of each sample and the retailer receiving the sample in the traceability system.

(f) Producers may sample one gram of usable marijuana per strain, per month for quality sampling. Sampling for quality may not take place at a licensed premises. Only the producer or employees of the licensee may sample the usable marijuana for quality. The producer must record the amount of each sample and the employee(s) conducting the sampling in the traceability system.

(g) Processors may sample one unit, per batch of a new edible marijuana-infused product to be offered for sale on the market. Sampling for quality may not take place at a licensed premises. Only the processor or employees of the licensee may sample the edible marijuana-infused product. The processor must record the amount of each sample and the employee(s) conducting the sampling in the traceability system.

(h) Processors may sample up to one quarter gram, per batch of a new marijuana-infused extract for inhalation to be offered for sale on the market. Sampling for quality may not take place at a licensed premises. Only the processor or employee(s) of the licensee may sample the marijuana-infused extract for inhalation. The processor must record the amount of each sample and the employee(s) conducting the sampling in the traceability system.

(i) The limits described in subsection (3) of this section do not apply to the usable marijuana in sample jars that may be provided to retailers described in WAC 314-55-105(8).

(j) Retailers may not provide free samples to customers.

[Statutory Authority: RCW 69.50.342, 69.50.345. WSR 14-07-116, § 314-55-083, filed 3/19/14, effective 4/19/14. Statutory Authority: RCW 69.50.325, 69.50.331, 69.50.342, 69.50.345. WSR 13-21-104, § 314-55-083, filed 10/21/13, effective 11/21/13.]

WAC 314-55-084 Production of marijuana. Only the following specified soil amendments, fertilizers, other crop production aids, and pesticides may be used in the production of marijuana:

(1) Pesticides registered by WSDA under chapter 15.58 RCW as allowed for use in the production, processing, and handling of marijuana. Pesticides must be used consistent with the label requirements.

(2) Commercial fertilizers registered by WSDA under chapter 15.54 RCW.

(3) Potting soil and other growing media available commercially in the state of Washington may be used in marijuana production. Producers growing outdoors are not required to meet land eligibility requirements outlined in 7 C.F.R. Part 205.202.

[Statutory Authority: RCW 69.50.342 and 69.50.345. WSR 14-10-044, § 314-55-084, filed 4/30/14, effective 5/31/14. Statutory Authority: RCW 69.50.325, 69.50.331, 69.50.342, 69.50.345. WSR 13-21-104, § 314-55-084, filed 10/21/13, effective 11/21/13.]

WAC 314-55-085 What are the transportation requirements for a marijuana licensee? (1) **Notification of shipment.** Upon transporting any marijuana or marijuana product, a producer, processor, retailer, or certified third-party testing lab shall notify the board of the type and amount and/or weight of marijuana and/or marijuana products being transported, the name of transporter, information about the transporting vehicle, times of departure and expected delivery. This information must be reported in the traceability system described in WAC 314-55-083(4).

(2) **Receipt of shipment.** Upon receiving the shipment, the licensee receiving the product shall report the amount and/or weight of marijuana and/or marijuana products received in the traceability system.

(3) **Transportation manifest.** A complete printed transport manifest on a form provided by the board containing all information required by the board must be kept with the product at all times.

(4) **Records of transportation.** Records of all transportation must be kept for a minimum of three years at the licensee's location.

(5) **Transportation of product.** Marijuana or marijuana products that are being transported must meet the following requirements:

(a) Only the marijuana licensee, an employee of the licensee, or a certified testing lab may transport product;

(b) Marijuana or marijuana products must be in a sealed package or container approved by the board pursuant to WAC 314-55-105;

(c) Sealed packages or containers cannot be opened during transport;

(d) Marijuana or marijuana products must be in a locked, safe and secure storage compartment that is secured to the inside body/compartment of the vehicle transporting the marijuana or marijuana products;

(e) Any vehicle transporting marijuana or marijuana products must travel directly from the shipping licensee to the receiving licensee and must not make any unnecessary stops in between except to other facilities receiving product.

[Statutory Authority: RCW 69.50.342 and 69.50.345. WSR 14-10-044, § 314-55-085, filed 4/30/14, effective 5/31/14. Statutory Authority: RCW 69.50.325, 69.50.331, 69.50.342, 69.50.345. WSR 13-21-104, § 314-55-085, filed 10/21/13, effective 11/21/13.]

WAC 314-55-086 What are the mandatory signs a marijuana licensee must post on a licensed premises? (1) **Notices regarding persons under twenty-one years of age** must be conspicuously posted on the premises as follows:

Type of licensee	Sign must contain the following language:	Required location of sign
Marijuana producer, marijuana processor, and marijuana retailer	"Persons under twenty-one years of age not permitted on these premises."	Conspicuous location at each entry to premises.

The board will provide the required notices, or licensees may design their own notices as long as they are legible and contain the required language.

(2) **Signs provided by the board prohibiting opening a package of marijuana or marijuana-infused product in public or consumption of marijuana or marijuana-infused products in public,** must be posted as follows:

Type of premises	Required location of sign
Marijuana retail	Posted in plain view at the main entrance to the establishment.

(3) **The premises' current and valid master license with appropriate endorsements** must be conspicuously posted on the premises and available for inspection by liquor enforcement officers.

[Statutory Authority: RCW 69.50.325, 69.50.331, 69.50.342, 69.50.345. WSR 13-21-104, § 314-55-086, filed 10/21/13, effective 11/21/13.]

WAC 314-55-087 What are the recordkeeping requirements for marijuana licensees? (1) Marijuana licensees are responsible to keep records that clearly reflect all financial transactions and the financial condition of the business. The following records must be kept and maintained on the licensed premises for a three-year period and must be made available for inspection if requested by an employee of the liquor control board:

(a) Purchase invoices and supporting documents, to include the items and/or services purchased, from whom the items were purchased, and the date of purchase;

(b) Bank statements and canceled checks for any accounts relating to the licensed business;

(c) Accounting and tax records related to the licensed business and each true party of interest;

(d) Records of all financial transactions related to the licensed business, including contracts and/or agreements for services performed or received that relate to the licensed business;

(e) All employee records, to include training;

(f) Records of each daily application of pesticides applied to the marijuana plants or growing medium. For each application, the producer shall record the following information on the same day the application is made:

(i) Full name of each employee who applied the pesticide;

(ii) The date the pesticide was applied;

(iii) The name of the pesticide or product name listed on the registration label which was applied;

(iv) The concentration and total amount of pesticide per plant; and

(v) For outdoor production, the concentration of pesticide that was applied to the field. Liquid applications may be recorded as, but are not limited to, amount of product per one hundred gallons of liquid spray, gallons per acre of output volume, ppm, percent product in tank mix (e.g., one percent). For chemigation applications, record "inches of water applied" or other appropriate measure.

(g) Soil amendment, fertilizers, or other crop production aids applied to the growing medium or used in the process of growing marijuana;

(h) Production and processing records, including harvest and curing, weighing, destruction of marijuana, creating batches of marijuana-infused products and packaging into lots and units;

(i) Records of each batch of extracts or infused marijuana products made, including at a minimum, the lots of usable marijuana or trim, leaves, and other plant matter used (including the total weight of the base product used), any solvents or other compounds utilized, and the product type and the total weight of the end product produced, such as hash oil, shatter, tincture, infused dairy butter, etc.;

(j) Transportation records as described in WAC 314-55-085;

(k) Inventory records;

(l) All samples sent to an independent testing lab and the quality assurance test results;

(m) All free samples provided to another licensee for purposes of negotiating a sale;

(n) All samples used for testing for quality by the producer or processor;

(o) Sample jars containing usable marijuana provided to retailers; and

(p) Records of any theft of marijuana seedlings, clones, plants, trim or other plant material, extract, marijuana-infused product, or other item containing marijuana.

(2) If the marijuana licensee keeps records within an automated data processing (ADP) and/or point-of-sale (POS) system, the system must include a method for producing legible records that will provide the same information required of that type of record within this section. The ADP and/or POS system is acceptable if it complies with the following guidelines:

(a) Provides an audit trail so that details (invoices and vouchers) underlying the summary accounting data may be identified and made available upon request.

(b) Provides the opportunity to trace any transaction back to the original source or forward to a final total. If printouts of transactions are not made when they are processed, the system must have the ability to reconstruct these transactions.

(c) Has available a full description of the ADP and/or POS portion of the accounting system. This should show the applications being performed, the procedures employed in each application, and the controls used to ensure accurate and reliable processing.

(3) The provisions contained in subsections (1) and (2) of this section do not eliminate the requirement to maintain source documents, but they do allow the source documents to be maintained in some other location.

[Statutory Authority: RCW 69.50.325, 69.50.331, 69.50.342, 69.50.345. WSR 13-21-104, § 314-55-087, filed 10/21/13, effective 11/21/13.]

WAC 314-55-089 What are the tax and reporting requirements for marijuana licensees? (1) Marijuana licensees must submit monthly report(s) and payments to the board. The required monthly reports must be:

(a) On a form or electronic system designated by the board;

(b) Filed every month, including months with no activity or payment due;

(c) Submitted, with payment due, to the board on or before the twentieth day of each month, for the previous month. (For example, a report listing transactions for the month of January is due by February 20th.) When the twentieth day of the month falls on a Saturday, Sunday, or a legal holiday, the filing must be postmarked by the U.S. Postal Service no later than the next postal business day;

(d) Filed separately for each marijuana license held; and

(e) All records must be maintained and available for review for a three-year period on licensed premises (see WAC 314-55-087).

(2) **Marijuana producer licensees:** On a monthly basis, marijuana producers must maintain records and report purchases from other licensed marijuana producers, current production and inventory on hand, sales by product type, and lost and destroyed product in a manner prescribed by the board.

A marijuana producer licensee must pay to the board a marijuana excise tax of twenty-five percent of the selling price on each wholesale sale to a licensed marijuana processor or producer.

(3) **Marijuana processor licensees:** On a monthly basis, marijuana processors must maintain records and report purchases from licensed marijuana producers, production of marijuana-infused products, sales by product type to marijuana retailers, and lost and/or destroyed product in a manner prescribed by the board.

A marijuana processor licensee must pay to the board a marijuana excise tax of twenty-five percent of the selling price on each wholesale sale of usable marijuana and marijuana-infused product to a licensed marijuana retailer.

(4) **Marijuana retailer's licensees:** On a monthly basis, marijuana retailers must maintain records and report purchases from licensed marijuana processors, sales by product type to consumers, and lost and/or destroyed product in a manner prescribed by the board.

A marijuana retailer licensee must pay to the board a marijuana excise tax of twenty-five percent of the selling price on each retail sale of usable marijuana or marijuana-infused products.

[Statutory Authority: RCW 69.50.342 and 69.50.345. WSR 14-10-044, § 314-55-089, filed 4/30/14, effective 5/31/14. Statutory Authority: RCW 69.50.325, 69.50.331, 69.50.342, 69.50.345. WSR 13-21-104, § 314-55-089, filed 10/21/13, effective 11/21/13.]

WAC 314-55-092 What if a marijuana licensee fails to report or pay, or reports or pays late? (1) If a marijuana licensee does not submit its monthly reports and payment(s) to the board as required in WAC 314-55-089: The licensee is subject to penalties.

Penalties: A penalty of two percent per month will be assessed on any payments postmarked after the twentieth day of the month following the month of sale. When the twentieth day of the month falls on a Saturday, Sunday, or a legal holiday, the filing must be postmarked by the U.S. Postal Service no later than the next postal business day. Absent a postmark, the date received at the liquor control board or authorized designee, will be used to assess the penalty of two percent per month on payments received after the twentieth day of the month following the month of sale.

(2) Failure to make a report and/or pay the license taxes and/or penalties in the manner and dates outlined in WAC 314-55-089 will be sufficient grounds for the board to suspend or revoke a marijuana license.

[Statutory Authority: RCW 69.50.342 and 69.50.345. WSR 14-10-044, § 314-55-092, filed 4/30/14, effective 5/31/14. Statutory Authority: RCW 69.50.325, 69.50.331, 69.50.342, 69.50.345. WSR 13-21-104, § 314-55-092, filed 10/21/13, effective 11/21/13.]

WAC 314-55-095 Marijuana servings and transaction limitations. Marijuana dosage and transaction limitations are as follows:

(1) **Single serving.** A single serving of a marijuana-infused product amounts to ten milligrams active tetrahydrocannabinol (THC), or Delta 9.

(2) **Maximum number of servings.** The maximum number of servings in any one single unit of marijuana-infused product meant to be eaten or swallowed is ten servings or one hundred milligrams of active THC, or Delta 9. A single unit of marijuana-infused extract for inhalation cannot exceed one gram.

(3) **Transaction limitation.** A single transaction is limited to one ounce of usable marijuana, sixteen ounces of marijuana-infused product in solid form, seven grams of marijuana-infused extract for inhalation, and seventy-two ounces of marijuana-infused product in liquid form for persons twenty-one years of age and older.

[Statutory Authority: RCW 69.50.325, 69.50.331, 69.50.342, 69.50.345. WSR 13-21-104, § 314-55-095, filed 10/21/13, effective 11/21/13.]

WAC 314-55-097 Marijuana waste disposal—Liquids and solids. (1) Solid and liquid wastes generated during marijuana production and processing must be stored, managed, and disposed of in accordance with applicable state and local laws and regulations.

(2) Wastewater generated during marijuana production and processing must be disposed of in compliance with applicable state and local laws and regulations.

(3) Wastes from the production and processing of marijuana plants must be evaluated against the state's dangerous waste regulations (chapter 173-303 WAC) to determine if those wastes designate as dangerous waste. It is the responsibility of each waste generator to properly evaluate their waste to determine if it designates as a dangerous waste. If a generator's waste does designate as a dangerous waste, then that waste(s) is subject to the applicable management standards found in chapter 173-303 WAC.

(a) Wastes that must be evaluated against the dangerous waste regulations include, but are not limited to, the following:

(i) Waste from marijuana flowers, trim and solid plant material used to create an extract (per WAC 315-55-104).

(ii) Waste solvents used in the marijuana process (per WAC 315-55-104).

(iii) Discarded plant waste, spent solvents and laboratory wastes from any marijuana processing or quality assurance testing.

(iv) Marijuana extract that fails to meet quality testing.

(b) Marijuana wastes that do not designate as dangerous shall be managed in accordance with subsection (4) of this section.

(c) A marijuana plant, usable marijuana, trim and other plant material in itself is not considered dangerous waste as defined under chapter 173-303 WAC unless it has been treated or contaminated with a solvent.

(4) Marijuana waste that does not designate as dangerous waste (per subsection (3) of this section) must be rendered unusable following the methods in subsection (5) of this section prior to leaving a licensed producer, processor, retail facility, or laboratory. Disposal of the marijuana waste rendered unusable must follow the methods under subsection (6) of this section.

(a) Wastes that must be rendered unusable prior to disposal include, but are not limited to, the following:

(i) Waste evaluated per subsection (3) of this section and determined to not designate as "Dangerous Waste."

(ii) Marijuana plant waste, including roots, stalks, leaves, and stems that have not been processed with solvent.

(iii) Solid marijuana sample plant waste possessed by third-party laboratories accredited by the board to test for quality assurance that must be disposed of.

(iv) Other wastes as determined by the LCB.

(b) A producer or processor must provide the board a minimum of seventy-two hours notice in the traceability system described in WAC 314-55-083(4) prior to rendering the product unusable and disposing of it.

(5) The allowable method to render marijuana plant waste unusable is by grinding and incorporating the marijuana plant waste with other ground materials so the resulting mixture is at least fifty percent nonmarijuana waste by volume. Other methods to render marijuana waste unusable must be approved by LCB before implementation.

Material used to grind with the marijuana falls into two categories: Compostable waste and noncompostable waste.

(a) Compostable mixed waste: Marijuana waste to be disposed as compost feedstock or in another organic waste method (for example, anaerobic digester) may be mixed with the following types of waste materials:

(i) Food waste;

(ii) Yard waste;

(iii) Vegetable based grease or oils; or

(iv) Other wastes as approved by the LCB.

(b) Noncompostable mixed waste: Marijuana waste to be disposed in a landfill or another disposal method (for example, incinerator) may be mixed with the following types of waste materials:

(i) Paper waste;

(ii) Cardboard waste;

(iii) Plastic waste;

(iv) Soil; or

(v) Other wastes as approved by the LCB.

(6) Marijuana wastes rendered unusable following the method described in subsection (4) of this section can be disposed.

(a) Disposal of the marijuana waste rendered unusable may be delivered to a permitted solid waste facility for final disposition. Examples of acceptable permitted solid waste facilities include:

(i) Compostable mixed waste: Compost, anaerobic digester, or other facility with approval of the jurisdictional health department.

(ii) Noncompostable mixed waste: Landfill, incinerator, or other facility with approval of the jurisdictional health department.

(b) Disposal of the marijuana waste rendered unusable may be managed on-site by the generator in accordance with the standards of chapter 173-350 WAC.

(c) A record of the final destination of marijuana waste rendered unusable.

[Statutory Authority: RCW 69.50.325, 69.50.331, 69.50.342, 69.50.345. WSR 13-21-104, § 314-55-097, filed 10/21/13, effective 11/21/13.]

WAC 314-55-099 Standardized scales. (1) Marijuana producer and processor licensees must have at least one scale on the licensed premises for the traceability and inventory of products.

(2) The scales and other measuring devices are subject to chapter 19.94 RCW, and must meet the requirements of the most current version of chapters 16-662 and 16-664 WAC.

(3) Licensees must register scales on a business license application with business license services through the department of revenue as required under chapter 19.94 RCW.

[Statutory Authority: RCW 69.50.325, 69.50.331, 69.50.342, 69.50.345. WSR 13-21-104, § 314-55-099, filed 10/21/13, effective 11/21/13.]

WAC 314-55-102 Quality assurance testing. (1) A third-party testing lab must be certified by the board or their vendor as meeting the board's accreditation and other requirements prior to conducting required quality assurance tests. Certified labs will receive a certification letter from the board and must conspicuously display this letter in the lab in plain sight of the customers. The board can summarily suspend a lab's certification if a lab is found out of compliance with the requirements of WAC 314-55-102.

(2) A person with financial interest in a certified third-party testing lab may not have direct or indirect financial interest in a licensed marijuana producer or processor for whom they are conducting required quality assurance tests. A person with direct or indirect financial interest in a certified third-party testing lab must disclose to the board by affidavit any direct or indirect financial interest in a licensed marijuana producer or processor.

(3) As a condition of certification, each lab must employ a scientific director responsible to ensure the achievement and maintenance of quality standards of practice. The scientific director shall meet the following minimum qualifications:

(a) Has earned, from a college or university accredited by a national or regional certifying authority a doctorate in the chemical or biological sciences and a minimum of two years' post-degree laboratory experience; or

(b) Has earned a master's degree in the chemical or biological sciences and has a minimum of four years' of post-degree laboratory experience; or

(c) Has earned a bachelor's degree in the chemical or biological sciences and has a minimum of six years of post-education laboratory experience.

(4) As a condition of certification, labs must follow the most current version of the Cannabis Inflorescence and Leaf monograph published by the *American Herbal Pharmacopoeia* or notify the board what alternative scientifically valid testing methodology the lab is following for each quality assurance test. The board may require third-party validation of any monograph or analytical method followed by the lab to ensure the methodology produces scientifically accurate results prior to them using those standards when conducting required quality assurance tests.

(5) As a condition of certification, the board may require third-party validation and ongoing monitoring of a lab's basic proficiency to correctly execute the analytical methodologies employed by the lab. The board may contract with a vendor to conduct the validation and ongoing monitoring described in this subsection. The lab shall pay all vendor fees for validation and ongoing monitoring directly to the vendor.

(6) The lab must allow the board or their vendor to conduct physical visits and inspect related laboratory equipment, testing and other related records during normal business hours without advance notice.

(7) Labs must adopt and follow minimum good lab practices (GLPs), and maintain internal standard operating procedures (SOPs), and a quality control/quality assurance (QC/QA) program as specified by the board. The board or authorized third-party organization can conduct audits of a lab's GLPs, SOPs, QC/QA, and inspect all other related records.

(8) The general body of required quality assurance tests for marijuana flowers and infused products may include moisture content, potency analysis, foreign matter inspection, microbiological screening, pesticide and other chemical residue and metals screening, and residual solvents levels.

(9) Table of required quality assurance tests.

Product	Test(s) Required	Sample Size Needed to Complete all Tests
Lots of marijuana flowers	1. Moisture content 2. Potency analysis 3. Foreign matter inspection 4. Microbiological screening	Up to 7 grams
Infused extract (solvent based) for inhalation made using n-butane, isobutane, propane, heptane, or other solvents or gases approved by the board of at least 99% purity	1. Potency analysis 2. Residual solvent test 3. Microbiological screening (only if using flowers and other plant material that failed initial test)	Up to 2 grams
Infused extract for inhalation made with a CO_2 extractor like hash oil	1. Potency analysis 2. Microbiological screening (only if using flowers and other plant material that failed initial test)	Up to 2 grams
Infused extract for inhalation made with ethanol or other approved food grade solvent	1. Potency analysis 2. Microbiological screening (only if using flowers and other plant material that failed initial test)	Up to 2 grams
Infused extract (nonsolvent) meant for inhalation infused with kief, hashish, or bubble hash	1. Potency analysis 2. Microbiological screening	Up to 2 grams
Infused edible	1. Potency analysis 2. Microbiological screening	1 unit
Infused liquid like a soda or tonic	1. Potency analysis 2. Microbiological screening	1 unit
Infused topical	1. Potency analysis 2. Microbiological screening	1 unit

(10) Independent testing labs may request additional sample material in excess of amounts listed in the table in subsection (9) of this section for the purposes of completing required quality assurance tests. Labs certified as meeting the board's accreditation requirements may retrieve samples from a marijuana licensee's licensed premises and transport the samples directly to the lab and return any unused portion of the samples.

(11) Labs certified as meeting the board's accreditation requirements are not limited in the amount of usable marijuana and marijuana products they may have on their premises at any given time, but they must have records to prove all marijuana and marijuana-infused products only for the testing purposes described in WAC 314-55-102.

(12) At the discretion of the board, a producer or processor must provide an employee of the board or their designee samples in the amount listed in subsection (9) of this section or samples of the growing medium, soil amendments, fertilizers, crop production aids, pesticides, or water for random compliance checks. Samples may be screened for pesticides

and chemical residues, unsafe levels of metals, and used for other quality assurance tests deemed necessary by the board. All costs of this testing will be borne by the producer or processor.

(13) No lot of usable flower or batch of marijuana-infused product may be sold or transported until the completion of all required quality assurance testing.

(14) Any usable marijuana or marijuana-infused product that passed the required quality assurance tests may be labeled as "Class A." Only "Class A" usable marijuana or marijuana-infused product will be allowed to be sold.

(15) If a lot of marijuana flowers fail a quality assurance test, any marijuana plant trim, leaf and other usable material from the same plants automatically fails quality assurance testing also. Upon approval of the board, a lot that fails a quality assurance test may be used to make a CO_2 or solvent based extract. After processing, the CO_2 or solvent based extract must still pass all required quality assurance tests in WAC 314-55-102.

(16) At the request of the producer or processor, the board may authorize a retest to validate a failed test result on a case-by-case basis. All costs of the retest will be borne by the producer or the processor.

(17) Labs must report all required quality assurance test results directly into LCB's seed to sale traceability system within twenty-four hours of completion. Labs must also record in the seed to sale traceability system an acknowledgment of the receipt of samples from producers or processors and verify if any unused portion of the sample was destroyed or returned to the licensee.

[Statutory Authority: RCW 69.50.342, 69.50.345. WSR 14-07-116, § 314-55-102, filed 3/19/14, effective 4/19/14. Statutory Authority: RCW 69.50.325, 69.50.331, 69.50.342, 69.50.345. WSR 13-21-104, § 314-55-102, filed 10/21/13, effective 11/21/13.]

WAC 314-55-104 Marijuana processor license extraction requirements. (1) Processors are limited to certain methods, equipment, solvents, gases and mediums when creating marijuana extracts.

(2) Processors may use the hydrocarbons N-butane, isobutane, propane, or heptane or other solvents or gases exhibiting low to minimal potential human health-related toxicity approved by the board. These solvents must be of at least ninety-nine percent purity and a processor must use them in a professional grade closed loop extraction system designed to recover the solvents, work in an environment with proper ventilation, controlling all sources of ignition where a flammable atmosphere is or may be present.

(3) Processors may use a professional grade closed loop CO_2 gas extraction system where every vessel is rated to a minimum of nine hundred pounds per square inch. The CO_2 must be of at least ninety-nine percent purity.

(4) Professional grade closed loop systems used by processors must be commercially manufactured and built to codes of recognized and generally accepted good engineering practices, such as:

(a) The American Society of Mechanical Engineers (ASME);

(b) American National Standards Institute (ANSI);

(c) Underwriters Laboratories (UL); or

(d) The American Society for Testing and Materials (ASTM).

(5) Professional closed loop systems, other equipment used, the extraction operation, and facilities must be approved for their use by the local fire code official and meet any required fire, safety, and building code requirements specified in:

(a) Title 296 WAC;

(b) National Fire Protection Association (NFPA) standards;

(c) International Building Code (IBC);

(d) International Fire Code (IFC); and

(e) Other applicable standards including following all applicable fire, safety, and building codes in processing and the handling and storage of the solvent or gas.

(6) Processors may use heat, screens, presses, steam distillation, ice water, and other methods without employing solvents or gases to create kief, hashish, bubble hash, or infused dairy butter, or oils or fats derived from natural sources, and other extracts.

(7) Processors may use food grade glycerin, ethanol, and propylene glycol solvents to create extracts.

(8) Processors creating marijuana extracts must develop standard operating procedures, good manufacturing practices, and a training plan prior to producing extracts for the marketplace. Any person using solvents or gases in a closed looped system to create marijuana extracts must be fully trained on how to use the system, have direct access to applicable material safety data sheets and handle and store the solvents and gases safely.

(9) Parts per million for one gram of finished extract cannot exceed 500 parts per million or residual solvent or gas when quality assurance tested per RCW 69.50.348.

[Statutory Authority: RCW 69.50.342 and 69.50.345. WSR 14-10-044, § 314-55-104, filed 4/30/14, effective 5/31/14. Statutory Authority: RCW 69.50.325, 69.50.331, 69.50.342, 69.50.345. WSR 13-21-104, § 314-55-104, filed 10/21/13, effective 11/21/13.]

WAC 314-55-105 Packaging and labeling requirements. (1) All usable marijuana and marijuana-infused products must be stored behind a counter or other barrier to ensure a customer does not have direct access to the product.

(2) Any container or packaging containing usable marijuana or marijuana-infused products must protect the product from contamination and must not impart any toxic or deleterious substance to the usable marijuana or marijuana product.

(3) Upon the request of a retail customer, a retailer must disclose the name of the accredited third-party testing lab and results of the required quality assurance test for any usable marijuana or other marijuana-infused product the customer is considering purchasing.

(4) Usable marijuana and marijuana-infused products may not be labeled as organic unless permitted by the United States Department of Agriculture in accordance with the Organic Foods Production Act.

(5) The accredited third-party testing lab and required results of the quality assurance test must be included with each lot and disclosed to the customer buying the lot.

(6) A marijuana producer must make quality assurance test results available to any processor purchasing product. A

marijuana producer must label each lot of marijuana with the following information:

(a) Lot number;

(b) UBI number of the producer; and

(c) Weight of the product.

(7) Marijuana-infused products meant to be eaten, swallowed, or inhaled, must be packaged in child resistant packaging in accordance with Title 16 C.F.R. 1700 of the Poison Prevention Packaging Act or use standards specified in this subsection. Marijuana-infused product in solid or liquid form may be packaged in plastic four mil or greater in thickness and be heat sealed with no easy-open tab, dimple, corner, or flap as to make it difficult for a child to open and as a tamper-proof measure. Marijuana-infused product in liquid form may also be sealed using a metal crown cork style bottle cap.

(8) A processor may provide a retailer free samples of usable marijuana packaged in a sample jar protected by a plastic or metal mesh screen to allow customers to smell the product before purchase. The sample jar may not contain more than three and one-half grams of usable marijuana. The sample jar and the usable marijuana within may not be sold to a customer and must be returned to the licensed processor who provided the usable marijuana and sample jar.

(9) A producer or processor may not treat or otherwise adulterate usable marijuana with any organic or nonorganic chemical or other compound whatsoever to alter the color, appearance, weight, or smell of the usable marijuana.

(10) Labels must comply with the version of NIST Handbook 130, Uniform Packaging and Labeling Regulation adopted in chapter 16-662 WAC.

(11) **All usable marijuana when sold at retail must include accompanying material that contains the following warnings that state:**

(a) "Warning: This product has intoxicating effects and may be habit forming. Smoking is hazardous to your health";

(b) "There may be health risks associated with consumption of this product";

(c) "Should not be used by women that are pregnant or breast feeding";

(d) "For use only by adults twenty-one and older. Keep out of reach of children";

(e) "Marijuana can impair concentration, coordination, and judgment. Do not operate a vehicle or machinery under the influence of this drug";

(f) Statement that discloses all pesticides applied to the marijuana plants and growing medium during production and processing.

(12) **All marijuana-infused products sold at retail must include accompanying material that contains the following warnings that state:**

(a) "There may be health risks associated with consumption of this product";

(b) "This product is infused with marijuana or active compounds of marijuana";

(c) "Should not be used by women that are pregnant or breast feeding";

(d) "For use only by adults twenty-one and older. Keep out of reach of children";

(e) "Products containing marijuana can impair concentration, coordination, and judgment. Do not operate a vehicle or machinery under the influence of this drug";

(f) "Caution: When eaten or swallowed, the intoxicating effects of this drug may be delayed by two or more hours";

(g) Statement that discloses all pesticides applied to the marijuana plants and growing medium during production of the base marijuana used to create the extract added to the infused product; and

(h) Statement that discloses the type of extraction method, including any solvents, gases, or other chemicals or compounds used to produce or that are added to the extract.

(13) **Labels affixed to the container or package containing usable marijuana sold at retail must include:**

(a) The business or trade name and Washington state unified business identifier number of the licensees that produced, processed, and sold the usable marijuana;

(b) Lot number;

(c) Concentration of THC, THCA, CBD, including a total of active cannabinoids (potency profile);

(d) Net weight in ounces and grams or volume as appropriate;

(e) Warnings that state: "This product has intoxicating effects and may be habit forming";

(f) Statement that "This product may be unlawful outside of Washington state";

(g) Date of harvest; and

(h) The board may create a logo that must be placed on all usable marijuana and marijuana-infused products.

(14) **Sample label mock up for a container or package containing usable marijuana sold at retail with required information:**

(15) **Labels affixed to the container or package containing marijuana-infused products sold at retail must include:**

(a) The business or trade name and Washington state unified business identifier number of the licensees that produced, processed, and sold the usable marijuana;

(b) Lot numbers of all base marijuana used to create the extract;

(c) Batch number;

(d) Date manufactured;

(e) Best by date;

(f) Products meant to be eaten or swallowed, recommended serving size and the number of servings contained within the unit, including total milligrams of active tetrahydrocannabinol (THC), or Delta 9;

(g) Net weight in ounces and grams, or volume as appropriate;

(h) List of all ingredients and any allergens;

(i) "Caution: When eaten or swallowed, the intoxicating effects of this drug may be delayed by two or more hours.";

(j) If a marijuana extract was added to the product, disclosure of the type of extraction process and any solvent, gas, or other chemical used in the extraction process, or any other compound added to the extract;

(k) Warnings that state: "This product has intoxicating effects and may be habit forming";

(l) Statement that "This product may be unlawful outside of Washington state";

(m) The board may create a logo that must be placed on all usable marijuana and marijuana-infused products.

(16) **Sample label mock up (front and back) for a container or package containing marijuana-infused products sold at retail with required information:**

(Front of label)

UBI: 1234567890010001 Batch#: 5463

The Best Resins

Space cake

CAUTION: when eaten the effects of this product can be delayed by as much as two hours.

Net weight: 6oz (128grams)

THIS PRODUCT IS UNLAWFUL OUTSIDE WASHINGTON STATE

(Back of label)

Manufactured at: 111 Old Hwy Rd., Mytown, WA on 1/14/14 Best by 2/1/14

INGREDIENTS: Flour, Butter, Canola oil, Sugar, Chocolate, Marijuana, Strawberries,

CONTAINS ALLERGENS: Milk, Wheat,

Serving size: 10 MG of THC

This product contains 10 servings and a total of 100 MG of THC

Warning- This product has intoxicating effects and may be habit forming

[Statutory Authority: RCW 69.50.342 and 69.50.345. WSR 14-10-044, § 314-55-105, filed 4/30/14, effective 5/31/14. Statutory Authority: RCW 69.50.325, 69.50.331, 69.50.342, 69.50.345. WSR 13-21-104, § 314-55-105, filed 10/21/13, effective 11/21/13.]

WAC 314-55-120 Ownership changes. (1) Licensees must receive prior board approval before making any of the following ownership changes (see WAC 314-55-035 for the definition of "true party of interest"):

Type of change	Type of application	Fee
Change in the qualifying persons in a: Sole proprietorship, general partnership, limited partnership, or limited liability partnership.	New application.	Application fee and annual fee for current license privilege.
Change in the qualifying persons for a publicly or privately held corporation. The board will waive the fee for a corporate change when the proposed change consists solely of dropping an approved officer.	Application for change in corporate officer and/or stockholder.	$75
Change in the qualifying persons in a limited liability company.	Application for change of limited liability company member and/or manager.	$75

(2) The board may inquire into all matters in connection with any such sale of stock/units or proposed change in officers/members.

[Statutory Authority: RCW 69.50.325, 69.50.331, 69.50.342, 69.50.345. WSR 13-21-104, § 314-55-120, filed 10/21/13, effective 11/21/13.]

WAC 314-55-125 Change of location. (1) Changing your marijuana license to a new location requires an application, per the process outlined in WAC 314-55-020.

(2) A change of location occurs any time a move by the licensee results in any change to the physical location address.

[Statutory Authority: RCW 69.50.325, 69.50.331, 69.50.342, 69.50.345. WSR 13-21-104, § 314-55-125, filed 10/21/13, effective 11/21/13.]

WAC 314-55-130 Change of business name. (1) If you wish to change the name of your business, you must apply for a change of trade name with the department of revenue, business license service.

(2) If you wish to change your corporation or limited liability company name, you must apply for a change of name through the secretary of state.

(3) See chapter 434-12 WAC for guidelines for trade names.

[Statutory Authority: RCW 69.50.325, 69.50.331, 69.50.342, 69.50.345. WSR 13-21-104, § 314-55-130, filed 10/21/13, effective 11/21/13.]

WAC 314-55-135 Discontinue marijuana sales. You must notify the board's enforcement and education division in writing if you plan to stop doing business for more than thirty days, or if you plan to permanently discontinue marijuana sales.

[Statutory Authority: RCW 69.50.325, 69.50.331, 69.50.342, 69.50.345. WSR 13-21-104, § 314-55-135, filed 10/21/13, effective 11/21/13.]

WAC 314-55-140 Death or incapacity of a marijuana licensee. (1) The appointed guardian, executor, administrator, receiver, trustee, or assignee must notify the board's licensing and regulation division in the event of the death, incapacity, receivership, bankruptcy, or assignment for benefit of creditors of any licensee.

(2) The board may give the appointed guardian, executor, administrator, receiver, trustee, or assignee written approval to continue marijuana sales on the licensed business premises for the duration of the existing license and to renew the license when it expires.

(a) The person must be a resident of the state of Washington.

(b) A criminal background check may be required.

(3) When the matter is resolved by the court, the true party(ies) of interest must apply for a marijuana license for the business.

[Statutory Authority: RCW 69.50.325, 69.50.331, 69.50.342, 69.50.345. WSR 13-21-104, § 314-55-140, filed 10/21/13, effective 11/21/13.]

WAC 314-55-145 Are marijuana license fees refundable? When a license is suspended or canceled, or the licensed business is discontinued, the unused portion of the marijuana license fee will not be refunded.

[Statutory Authority: RCW 69.50.325, 69.50.331, 69.50.342, 69.50.345. WSR 13-21-104, § 314-55-145, filed 10/21/13, effective 11/21/13.]

WAC 314-55-147 What hours may a marijuana retailer licensee conduct sales? A marijuana retailer licensee may sell usable marijuana, marijuana-infused products, and marijuana paraphernalia between the hours of 8 a.m. and 12 a.m.

[Statutory Authority: RCW 69.50.325, 69.50.331, 69.50.342, 69.50.345. WSR 13-21-104, § 314-55-147, filed 10/21/13, effective 11/21/13.]

WAC 314-55-150 What are the forms of acceptable identification? (1) Following are the forms of identification that are acceptable to verify a person's age for the purpose of purchasing marijuana:

(a) Driver's license, instruction permit, or identification card of any state, or province of Canada, from a U.S. territory or the District of Columbia, or "identicard" issued by the Washington state department of licensing per RCW 46.20.117;

(b) United States armed forces identification card issued to active duty, reserve, and retired personnel and the personnel's dependents, which may include an embedded, digital signature in lieu of a visible signature;

(c) Passport;

(d) Merchant Marine identification card issued by the United States Coast Guard; and

(e) Enrollment card issued by the governing authority of a federally recognized Indian tribe located in Washington, if the enrollment card incorporates security features comparable to those implemented by the department of licensing for Washington driver's licenses.

(2) The identification document is not acceptable to verify age if expired.

[Statutory Authority: RCW 69.50.325, 69.50.331, 69.50.342, 69.50.345. WSR 13-21-104, § 314-55-150, filed 10/21/13, effective 11/21/13.]

WAC 314-55-155 Advertising. (1) **Advertising by retail licensees.** The board limits each retail licensed premises to one sign identifying the retail outlet by the licensee's business name or trade name that is affixed or hanging in the windows or on the outside of the premises that is visible to the general public from the public right of way. The size of the sign is limited to sixteen hundred square inches.

(2) **General.** All marijuana advertising and labels of useable marijuana and marijuana-infused products sold in the state of Washington may not contain any statement, or illustration that:

(a) Is false or misleading;

(b) Promotes over consumption;

(c) Represents the use of marijuana has curative or therapeutic effects;

(d) Depicts a child or other person under legal age to consume marijuana, or includes:

(i) Objects, such as toys, characters, or cartoon characters suggesting the presence of a child, or any other depiction designed in any manner to be especially appealing to children or other persons under legal age to consume marijuana; or

(ii) Is designed in any manner that would be especially appealing to children or other persons under twenty-one years of age.

(3) No licensed marijuana producer, processor, or retailer shall place or maintain, or cause to be placed or maintained, an advertisement of marijuana, usable marijuana, or a marijuana-infused product in any form or through any medium whatsoever:

(a) Within one thousand feet of the perimeter of a school grounds, playground, recreation center or facility, child care center, public park, library, or a game arcade admission to which it is not restricted to persons aged twenty-one years or older;

(b) On or in a public transit vehicle or public transit shelter; or

(c) On or in a publicly owned or operated property.

(4) Giveaways, coupons, and distribution of branded merchandise are banned.

(5) All advertising must contain the following warnings:

(a) "This product has intoxicating effects and may be habit forming.";

(b) "Marijuana can impair concentration, coordination, and judgment. Do not operate a vehicle or machinery under the influence of this drug.";

(c) "There may be health risks associated with consumption of this product."; and

(d) "For use only by adults twenty-one and older. Keep out of the reach of children."

[Statutory Authority: RCW 69.50.325, 69.50.331, 69.50.342, 69.50.345. WSR 13-21-104, § 314-55-155, filed 10/21/13, effective 11/21/13.]

WAC 314-55-160 Objections to marijuana license applications. (1) **How can persons, cities, counties, tribal governments, or port authorities object to the issuance of a marijuana license?** Per RCW 69.50.331, the board will notify cities, counties, tribal governments, and port authorities of the following types of marijuana applications. In addition to these entities, any person or group may comment in writing to the board regarding an application.

Type of application	Entities the board will/may notify
• Applications for an annual marijuana license at a new location.	• Cities and counties in which the premises is located will be notified. Tribal governments and port authorities in which the premises is located may be notified.
• Applications to change the class of an existing annual marijuana license.	
• Changes of ownership at existing licensed premises.	• Cities and counties in which the premises is located will be notified. Tribal governments and port authorities in which the premises is located may be notified.

(2) **What will happen if a person or entity objects to a marijuana license application?** When deciding whether to issue or deny a marijuana license application, the board will give substantial weight to input from governmental jurisdictions in which the premises is located based upon chronic illegal activity associated with the applicant's operations of the premises proposed to be licensed or the applicant's operation of any other licensed premises; and other persons or groups. Note: Per RCW 69.50.331, the board shall not issue a new marijuana license if any of the following are within one thousand feet of the premises to be licensed: Any elementary or secondary schools, playgrounds, recreation centers or facilities, child care centers, public parks, public transit centers, libraries, game arcade where admission is not restricted to persons twenty-one years of age or older.

(a) If the board contemplates issuing a license over the objection of a governmental jurisdiction in which the premises is located, the government subdivision may request an adjudicative hearing under the provisions of the Administrative Procedure Act, chapter 34.05 RCW. If the board, in its discretion, grants the governmental jurisdiction(s) an adjudicative hearing, the applicant will be notified and given the opportunity to present evidence at the hearing.

(b) If the board denies a marijuana license application based on the objection from a governmental jurisdiction, the applicant(s) may either:

(i) Reapply for the license no sooner than one year from the date on the final order of denial; or

(ii) Submit a written request on a form provided by the board for an adjudicative hearing under the provisions of the Administrative Procedure Act, chapter 34.05 RCW. The request must be received within twenty days of the date the intent to deny notification was mailed.

[Statutory Authority: RCW 69.50.325, 69.50.331, 69.50.342, 69.50.345. WSR 13-21-104, § 314-55-160, filed 10/21/13, effective 11/21/13.]

WAC 314-55-165 Objections to marijuana license renewals. (1) **How can local cities, counties, tribal governments, or port authorities object to the renewal of a marijuana license?**

(a) The board will give governmental jurisdictions approximately ninety days written notice of premises that hold annual marijuana licenses in that jurisdiction that are up for renewal.

(b) Per RCW 69.50.331, if a county, city, tribal government, or port authority wants to object to the renewal of a marijuana license in its jurisdiction, it must submit a letter to the board detailing the reason(s) for the objection and a statement of all facts on which the objections are based.

(c) The county, city, tribal government, or port authority may submit a written request to the board for an extension for good cause shown.

(d) This letter must be received by the board at least thirty days before the marijuana license expires. The objection must state specific reasons and facts that show issuance of the marijuana license at the proposed location or to the applicant business how it will detrimentally impact the safety, health, or welfare of the community.

(e) If the objection is received within thirty days of the expiration date or the licensee has already renewed the license, the objection will be considered as a complaint and possible license revocation may be pursued by the enforcement division.

(f) Objections from the public will be referred to the appropriate city, county, tribal government, or port authority for action under subsection (2) of this section. Upon receipt of the objection, the board licensing and regulation division will acknowledge receipt of the objection(s) and forward to the appropriate city, county, tribal government, or port authority. Such jurisdiction may or may not, based on the public objection, request nonrenewal.

(2) **What will happen if a city, county, tribal government, or port authority objects to the renewal of a marijuana license?** The board will give substantial weight to a city, county, tribal government, or port authority objection to a marijuana license renewal of a premises in its jurisdiction based upon chronic illegal activity associated with the licensee's operation of the premises. Based on the jurisdiction's input and any information in the licensing file, the board will decide to either renew the marijuana license, or to pursue nonrenewal.

(a) **Board decides to renew the marijuana license:**	(b) **Board decides to pursue nonrenewal of the marijuana license:**
(i) The board will notify the jurisdiction(s) in writing of its intent to renew the license, stating the reason for this decision.	(i) The board will notify the licensee in writing of its intent to not renew the license, stating the reason for this decision.
(ii) The jurisdiction(s) may contest the renewal and request an adjudicative hearing under the provisions of the Administrative Procedure Act (chapter 34.05 RCW) by submitting a written request on a form provided by the board. The request must be received within twenty days of the date the intent to renew notification was mailed. If the board, in its discretion, grants the governmental jurisdiction(s) an adjudicative hearing, the applicant will be notified and given the opportunity to present evidence at the hearing.	(ii) The licensee may contest the nonrenewal action and request an adjudicative hearing under the provisions of the Administrative Procedure Act (chapter 34.05 RCW) by submitting a written request on a form provided by the board. The request must be received within twenty days of the date the intent to deny notification was mailed. (iii) If the licensee requests a hearing, the governmental jurisdiction will be notified. (iv) During the hearing and any subsequent appeal process, the licensee is issued a temporary operating permit for the marijuana license until a final decision is made.

[Statutory Authority: RCW 69.50.325, 69.50.331, 69.50.342, 69.50.345. WSR 13-21-104, § 314-55-165, filed 10/21/13, effective 11/21/13.]

WAC 314-55-200 How will the liquor control board identify marijuana, usable marijuana, and marijuana-infused products during checks of licensed businesses? Officers shall identify marijuana, usable marijuana, and marijuana-infused products during on-site inspections of licensed producers, processors, and retailers of marijuana by means of product in the traceability system, and/or by observation based on training and experience. Products that are undetermined to be marijuana, usable marijuana, and marijuana-infused products will be verified by the following:

(1) Officers may take a sample large enough for testing purposes;

(2) Field test kits may be used if available and appropriate for the type of product being verified; and

(3) Those samples not able to be tested with a field test kit may be tested through the Washington state toxicology or crime lab.

[Statutory Authority: RCW 69.50.342, 69.50.345. WSR 14-07-116, § 314-55-200, filed 3/19/14, effective 4/19/14.]

WAC 314-55-210 Will the liquor control board seize or confiscate marijuana, usable marijuana, and marijuana-infused products? The liquor control board may seize or confiscate marijuana, usable marijuana, and marijuana-infused products under the following circumstances:

(1) During an unannounced or announced administrative search or inspection of a licensed location, or vehicle involved in the transportation of marijuana products, where any product was found to be in excess of product limitations set forth in WAC 314-55-075, 314-55-077, and 314-55-079.

(2) Any product not properly logged in inventory records or untraceable product required to be in the traceability system.

(3) Marijuana, usable marijuana, and marijuana-infused product that are altered or not properly packaged and labeled in accordance with WAC 314-55-105.

(4) During a criminal investigation, officers shall follow seizure laws detailed in RCW 69.50.505 and any other applicable criminal codes.

[Statutory Authority: RCW 69.50.342, 69.50.345. WSR 14-07-116, § 314-55-210, filed 3/19/14, effective 4/19/14.]

WAC 314-55-220 What is the process once the board summarily orders marijuana, usable marijuana, or marijuana-infused products of a marijuana licensee to be destroyed? (1) The board may issue an order to summarily destroy marijuana, usable marijuana, or marijuana-infused products after the board's enforcement division has completed a preliminary staff investigation of the violation and upon a determination that immediate destruction of marijuana, usable marijuana, or marijuana-infused products is necessary for the protection or preservation of the public health, safety, or welfare.

(2) Destruction of any marijuana, usable marijuana, or marijuana-infused products under this provision shall take effect immediately upon personal service on the licensee or employee thereof of the summary destruction order unless otherwise provided in the order.

(3) When a license has been issued a summary destruction order by the board, an adjudicative proceeding for the associated violation or other action must be promptly instituted before an administrative law judge assigned by the office of administrative hearings. If a request for an administrative hearing is timely filed by the licensee, then a hearing shall be held within ninety days of the effective date of the summary destruction ordered by the board.

[Statutory Authority: RCW 69.50.342, 69.50.345. WSR 14-07-116, § 314-55-220, filed 3/19/14, effective 4/19/14.]

WAC 314-55-230 What are the procedures the liquor control board will use to destroy or donate marijuana, usable marijuana, and marijuana-infused products to law enforcement? (1) The liquor control board may require a marijuana licensee to destroy marijuana, usable marijuana, and marijuana-infused products found in a licensed establishment to be in excess of product limits set forth in WAC 314-55-075, 314-55-077, and 314-55-079.

(2) Destruction of seized marijuana, usable marijuana, marijuana-infused products, or confiscated marijuana after case adjudication, will conform with liquor control board evidence policies, to include the option of donating marijuana, usable marijuana, and marijuana-infused products, set for destruction, to local and state law enforcement agencies for training purposes only.

(3) Marijuana, usable marijuana, and marijuana-infused products set for destruction shall not reenter the traceability system or market place.

[Statutory Authority: RCW 69.50.342, 69.50.345. WSR 14-07-116, § 315-55-230 (codified as WAC 314-55-230), filed 3/19/14, effective 4/19/14.]

WAC 314-55-505 What are the procedures for notifying a licensee of an alleged violation of a liquor control board statute or regulation? (1) When an enforcement officer believes that a licensee has violated a board statute or regulation, the officer may prepare an administrative violation notice (AVN) and mail or deliver the notice to the licensee, licensee's agent, or employee.

(2) The AVN notice will include:

(a) A complete narrative description of the violation(s) the officer is charging;

(b) The date(s) of the violation(s);

(c) A copy of the law(s) and/or regulation(s) allegedly violated;

(d) An outline of the licensee's options as outlined in WAC 314-55-510; and

(e) The recommended penalty.

(i) If the recommended penalty is the standard penalty, see WAC 314-55-520 through 314-55-535 for licensees.

(ii) For cases in which there are aggravating or mitigating circumstances, the penalty may be adjusted from the standard penalty.

[Statutory Authority: RCW 69.50.325, 69.50.331, 69.50.342, 69.50.345. WSR 13-21-104, § 314-55-505, filed 10/21/13, effective 11/21/13.]

WAC 314-55-506 What is the process once the board summarily suspends a marijuana license? (1) The board may summarily suspend any license after the board's enforcement division has completed a preliminary staff investigation of the violation and upon a determination that immediate cessation of the licensed activities is necessary for the protection or preservation of the public health, safety, or welfare.

(2) Suspension of any license under this provision shall take effect immediately upon personal service on the licensee or employee thereof of the summary suspension order unless otherwise provided in the order.

(3) When a license has been summarily suspended by the board, an adjudicative proceeding for revocation or other action must be promptly instituted before an administrative law judge assigned by the office of administrative hearings. If a request for an administrative hearing is timely filed by the licensee or permit holder, then a hearing shall be held within ninety days of the effective date of the summary suspension ordered by the board.

[Statutory Authority: RCW 69.50.325, 69.50.331, 69.50.342, 69.50.345. WSR 13-21-104, § 314-55-506, filed 10/21/13, effective 11/21/13.]

WAC 314-55-507 How may a licensee challenge the summary suspension of his or her marijuana license? (1) Upon summary suspension of a license by the board pursuant to WAC 314-55-506, an affected licensee may petition the board for a stay of suspension pursuant to RCW 34.05.467 and 34.05.550(1). A petition for a stay of suspension must be received by the board within fifteen days of service of the summary suspension order. The petition for stay shall state the basis on which the stay is sought.

(2) A hearing shall be held before an administrative law judge within fourteen days of receipt of a timely petition for stay. The hearing shall be limited to consideration of whether a stay should be granted, or whether the terms of the suspension may be modified to allow the conduct of limited activities under current licenses or permits.

(3) Any hearing conducted pursuant to subsection (2) of this section shall be a brief adjudicative proceeding under RCW 34.05.485. The agency record for the hearing shall consist of the documentary information upon which the summary suspension was based. The licensee or permit holder shall have the burden of demonstrating by clear and convincing evidence that:

(a) The licensee is likely to prevail upon the merits at hearing;

(b) Without relief, the licensee will suffer irreparable injury. For purposes of this section, elimination of income from licensed activities shall not be deemed irreparable injury;

(c) The grant of relief will not substantially harm other parties to the proceedings; and

(d) The threat to the public health, safety, or welfare is not sufficiently serious to justify continuation of the suspension, or that modification of the terms of the suspension will adequately protect the public interest.

(4) The initial order on stay shall be effective immediately upon service unless another date is specified in the order.

[Statutory Authority: RCW 69.50.325, 69.50.331, 69.50.342, 69.50.345. WSR 13-21-104, § 314-55-507, filed 10/21/13, effective 11/21/13.]

WAC 314-55-508 Review of orders on stay. (1) The licensee, or agency, may petition the board for review of an initial order on stay. Any petition for review must be in writing and received by the board within ten days of service of the initial order. If neither party has requested review within ten days of service, the initial order shall be deemed the final order of the board for purposes of RCW 34.05.467.

(2) If the board receives a timely petition for review, the board shall consider the petition within fifteen days of service of the petition for review. Consideration on review shall be limited to the record of the hearing on stay.

(3) The order of the board on the petition for review shall be effective upon personal service unless another date is specified in the order and is final pursuant to RCW 34.05.467. Final disposition of the petition for stay shall not affect subsequent administrative proceedings for suspension or revocation of a license.

[Statutory Authority: RCW 69.50.325, 69.50.331, 69.50.342, 69.50.345. WSR 13-21-104, § 314-55-508, filed 10/21/13, effective 11/21/13.]

WAC 314-55-510 What options does a licensee have once he/she receives a notice of an administrative violation? (1) **A licensee has twenty days from receipt of the notice to:**

(a) Accept the recommended penalty; or

(b) Request a settlement conference in writing; or

(c) Request an administrative hearing in writing.

A response must be submitted on a form provided by the agency.

(2) **What happens if a licensee does not respond to the administrative violation notice within twenty days?**

(a) If a licensee does not respond to the administrative violation notice within twenty days, the recommended suspension penalty will go into effect.

(b) If the penalty does not include a suspension, the licensee must pay a twenty-five percent late fee in addition to the recommended penalty. The recommended penalty plus the late fee must be received within thirty days of the violation notice issue date.

(3) **What are the procedures when a licensee requests a settlement conference?**

(a) If the licensee requests a settlement conference, the hearing examiner or designee will contact the licensee to discuss the violation.

(b) Both the licensee and the hearing examiner or designee will discuss the circumstances surrounding the charge, the recommended penalty, and any aggravating or mitigating factors.

(c) If a compromise is reached, the hearing examiner or designee will prepare a compromise settlement agreement. The hearing examiner or designee will forward the compromise settlement agreement, authorized by both parties, to the board, or designee, for approval.

(i) If the board, or designee, approves the compromise, a copy of the signed settlement agreement will be sent to the licensee and will become part of the licensing history.

(ii) If the board, or designee, does not approve the compromise, the licensee will be notified of the decision. The licensee will be given the option to renegotiate with the hearings examiner or designee, of accepting the originally recommended penalty, or of requesting an administrative hearing on the charges.

(d) If the licensee and the hearing examiner or designee cannot reach agreement on a settlement proposal, the licensee may accept the originally recommended penalty, or the hearing examiner or designee will forward a request for an administrative hearing to the board's hearings coordinator.

[Statutory Authority: RCW 69.50.325, 69.50.331, 69.50.342, 69.50.345. WSR 13-21-104, § 314-55-510, filed 10/21/13, effective 11/21/13.]

WAC 314-55-515 What are the penalties if a marijuana license holder violates a marijuana law or rule? (1) The purpose of WAC 314-55-515 through 314-55-540 is to outline what penalty a marijuana licensee can expect if a licensee or employee violates a liquor control board law or rule. (WAC rules listed in the categories provide reference areas, and may not be all inclusive.)

(2) Penalties for violations by marijuana licensees or employees are broken down into four categories:

(a) Group One—Public safety violations, WAC 314-55-520.

(b) Group Two—Regulatory violations, WAC 314-55-525.

(c) Group Three—License violations, WAC 314-55-530.

(d) Group Four—Producer violations involving the manufacture, supply, and/or distribution of marijuana by nonretail licensees and prohibited practices between nonretail licensees and retail licensees, WAC 314-55-535.

(3) For the purposes of chapter 314-55 WAC, a three-year window for violations is measured from the date one violation occurred to the date a subsequent violation occurred.

(4) The following schedules are meant to serve as guidelines. Based on mitigating or aggravating circumstances, the liquor control board may impose a different penalty than the standard penalties outlined in these schedules. Based on mit-

igating circumstances, the board may offer a monetary option in lieu of suspension, or alternate penalty, during a settlement conference as outlined in WAC 314-55-510(3).

(a) **Mitigating circumstances**	(b) **Aggravating circumstances**
Mitigating circumstances that may result in fewer days of suspension and/or a lower monetary option may include demonstrated business policies and/or practices that reduce the risk of future violations.	Aggravating circumstances that may result in increased days of suspension, and/or increased monetary option, and/or cancellation of marijuana license may include business operations or behaviors that create an increased risk for a violation and/or intentional commission of a violation.
Examples include: • Having a signed acknowledgment of the business' responsible handling and sales policies on file for each employee; • Having an employee training plan that includes annual training on marijuana laws.	Examples include: • Failing to call 911 for local law enforcement or medical assistance when requested by a customer, a liquor control board officer, or when people have sustained injuries.

[Statutory Authority: RCW 69.50.325, 69.50.331, 69.50.342, 69.50.345. WSR 13-21-104, § 314-55-515, filed 10/21/13, effective 11/21/13.]

WAC 314-55-520 Group 1 violations against public safety. Group 1 violations are considered the most serious because they present a direct threat to public safety. Based on chapter 69.50 RCW, some violations have only a monetary option. Some violations beyond the first violation do not have a monetary option upon issuance of a violation notice. The liquor control board may offer a monetary option in lieu of suspension days based on mitigating circumstances as outlined in WAC 314-55-515(4).

Violation Type	1st Violation	2nd Violation in a three-year window	3rd Violation in a three-year window	4th Violation in a three-year window
Violations involving minors:	10-day suspension or $2,500 monetary option	30-day suspension	Cancellation of license	
Sale or service to minor: Sale of marijuana and/or paraphernalia to a person under twenty-one years of age. WAC 314-55-079	10-day suspension or $2,500 monetary option	30-day suspension	Cancellation of license	
Allowing a minor to frequent a restricted area. RCW 69.50.357	$1,000 monetary fine	$1,000 monetary fine	$1,000 monetary fine	
Employee under legal age. RCW 69.50.357	$1,000 monetary fine	$1,000 monetary fine	$1,000 monetary fine	$1,000 monetary fine
Licensee and/or employee open and/or consuming marijuana on a retail licensed premises. RCW 69.50.357	$1,000 monetary fine	$1,000 monetary fine	$1,000 monetary fine	$1,000 monetary fine
Conduct violations: Criminal conduct: Permitting or engaging in criminal conduct.	10-day suspension or $2,500 monetary option	30-day suspension	Cancellation of license	

Violation Type	1st Violation	2nd Violation in a three-year window	3rd Violation in a three-year window	4th Violation in a three-year window
Using unauthorized pesticides, soil amendments, fertilizers, other crop production aids. WAC 314-55-020(8) WAC 314-55-083(4) WAC 314-55-087 (1)(f)	10-day suspension or $2,500 monetary option	30-day suspension	Cancellation of license	
Adulterate usable marijuana with organic or nonorganic chemical or other compound. WAC 314-55-105(8)	10-day suspension or $2,500 monetary option	30-day suspension	Cancellation of license	
Using unauthorized solvents or gases in processing. WAC 314-55-104	10-day suspension or $2,500 monetary option	30-day suspension	Cancellation of license	
Refusal to allow an inspection and/or obstructing a law enforcement officer from performing their official duties. WAC 314-55-050	10-day suspension or $2,500 monetary option	30-day suspension	Cancellation of license	
Marijuana purchased from an unauthorized source.	Cancellation of license			
Marijuana sold to an unauthorized source.	Cancellation of license			
Sales in excess of transaction limitations. WAC 314-55-095(3)	Cancellation of license			

[Statutory Authority: RCW 69.50.325, 69.50.331, 69.50.342, 69.50.345. WSR 13-21-104, § 314-55-520, filed 10/21/13, effective 11/21/13.]

WAC 314-55-525 Group 2 regulatory violations. Group 2 violations are violations involving general regulation and administration of retail or nonretail licenses.

Violation Type	1st Violation	2nd Violation in a three-year window	3rd Violation in a three-year window	4th Violation in a three-year window
Hours of service: Sales of marijuana between 12:00 a.m. and 8:00 a.m.	5-day suspension or $500 monetary option	10-day suspension or $2,500 monetary option	30-day suspension	Cancellation of license
Advertising: Violations (statements/illustrations). WAC 314-55-155(2)	5-day suspension or $500 monetary option	10-day suspension or $2,500 monetary option	30-day suspension	Cancellation of license

Violation Type	1st Violation	2nd Violation in a three-year window	3rd Violation in a three-year window	4th Violation in a three-year window
Advertising violations – Sign exceeding 1600 square inches; within 1000 feet of prohibited areas; on or in public transit vehicles, shelters, or publicly owned or operated property. RCW 69.50.357 RCW 69.50.369	$1,000 monetary fine	$1,000 monetary fine	$1,000 monetary fine	$1,000 monetary fine
Packaging and/or labeling violations (processor/retailer). WAC 314-55-105	5-day suspension or $500 monetary option	10-day suspension or $2,500 monetary option	30-day suspension	Cancellation of license
Licensee/employee failing to display required security badge. WAC 314-55-083(1)	5-day suspension or $500 monetary option	10-day suspension or $2,500 monetary option	30-day suspension	Cancellation of license
Failure to maintain required security alarm and surveillance systems. WAC 314-55-083 (2) and (3)	5-day suspension or $500 monetary option	10-day suspension or $2,500 monetary option	30-day suspension	Cancellation of license
Records: Improper recordkeeping. WAC 314-55-087 WAC 314-55-089 (3), (4), and (5)	5-day suspension or $500 monetary option	10-day suspension or $2,500 monetary option	30-day suspension	Cancellation of license
Failure to submit monthly tax reports and/or payments. WAC 314-55-089 WAC 314-55-092	5-day suspension or $500 monetary option	10-day suspension or $2,500 monetary option	30-day suspension	Cancellation of license
Signs: Failure to post required signs. WAC 314-55-086	5-day suspension or $500 monetary option	10-day suspension or $2,500 monetary option	30-day suspension	Cancellation of license
Failure to utilize and/or maintain traceability (processor or retail licensee). WAC 314-55-083(4)	5-day suspension or $500 monetary option	10-day suspension or $2,500 monetary option	30-day suspension	Cancellation of license
Violation of transportation requirements. WAC 314-55-085	5-day suspension or $500 monetary option	10-day suspension or $2,500 monetary option	30-day suspension	Cancellation of license
Exceeding maximum serving requirements for marijuana-infused products. WAC 314-55-095(2)	5-day suspension or $500 monetary option	10-day suspension or $2,500 monetary option	30-day suspension	Cancellation of license

Violation Type	1st Violation	2nd Violation in a three-year window	3rd Violation in a three-year window	4th Violation in a three-year window
Failure for a processor to meet marijuana waste disposal requirements. WAC 314-55-097	5-day suspension or $500 monetary option	10-day suspension or $2,500 monetary option	30-day suspension	Cancellation of license
Failure to maintain standardized scale requirements (processor/retailer). WAC 314-55-099	5-day suspension or $500 monetary option	10-day suspension or $2,500 monetary option	30-day suspension	Cancellation of license
Marijuana processor extraction requirements. WAC 314-55-104	5-day suspension or $500 monetary option	10-day suspension or $2,500 monetary option	30-day suspension	Cancellation of license
Retail outlet selling unauthorized products. RCW 69.50.357	$1,000 monetary fine	$1,000 monetary fine	$1,000 monetary fine	$1,000 monetary fine
Retailer displaying products in a manner visible to the general public from a public right of way. RCW 69.50.357	$1,000 monetary fine	$1,000 monetary fine	$1,000 monetary fine	$1,000 monetary fine

[Statutory Authority: RCW 69.50.325, 69.50.331, 69.50.342, 69.50.345. WSR 13-21-104, § 314-55-525, filed 10/21/13, effective 11/21/13.]

WAC 314-55-530 Group 3 license violations. Group 3 violations are violations involving licensing requirements, license classification, and special restrictions.

Violation Type	1st Violation	2nd Violation in a three-year window	3rd Violation in a three-year window	4th Violation in a three-year window
True party of interest violation. WAC 314-55-035	Cancellation of license			
Failure to furnish required documents. WAC 314-55-050	Cancellation of license			
Misrepresentation of fact. WAC 314-55-050	Cancellation of license			
Operating plan: Violations of a board-approved operating plan. WAC 314-55-020	5-day suspension or $500 monetary option	10-day suspension or $1,500 monetary option	30-day suspension	Cancellation of license
Failing to gain board approval for changes in existing ownership. WAC 314-55-120	30-day suspension	Cancellation of license		
Failure to maintain required insurance. WAC 314-55-080	30-day suspension	Cancellation of license		

[Statutory Authority: RCW 69.50.325, 69.50.331, 69.50.342, 69.50.345. WSR 13-21-104, § 314-55-530, filed 10/21/13, effective 11/21/13.]

WAC 314-55-535 Group 4 marijuana producer violations. Group 4 violations are violations involving 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.

Violation Type	1st Violation	2nd Violation in a three-year window	3rd Violation in a three-year window	4th Violation in a three-year window
Unauthorized sale to a retail licensee. WAC 314-55-075	$2,500 monetary fine	$5,000 monetary fine and destruction of 25% of harvestable plants	$15,000 monetary fine and destruction of 50% of harvestable plants	Cancellation of license
Failure to utilize and/or maintain traceability. WAC 314-55-083(4)	$2,500 monetary fine	$5,000 monetary fine and destruction of 25% of harvestable plants	$15,000 monetary fine and destruction of 50% of harvestable plants	Cancellation of license
Packaging and/or labeling violations (producer). WAC 314-55-105	$2,500 monetary fine	$5,000 monetary fine and destruction of 25% of harvestable plants	$15,000 monetary fine and destruction of 50% of harvestable plants	Cancellation of license
Unauthorized product/unapproved storage or delivery.	$2,500 monetary fine	$5,000 monetary fine and destruction of 25% of harvestable plants	$15,000 monetary fine and destruction of 50% of harvestable plants	Cancellation of license
Failure for a producer to meet marijuana waste disposal requirements. WAC 314-55-097	$2,500 monetary fine	$5,000 monetary fine and destruction of 25% of harvestable plants	$15,000 monetary fine and destruction of 50% of harvestable plants	Cancellation of license
Records: Improper recordkeeping. WAC 314-55-087 WAC 314-55-089 (2) and (4) WAC 314-55-092	$2,500 monetary fine	$5,000 monetary fine and destruction of 25% of harvestable plants	$15,000 monetary fine and destruction of 50% of harvestable plants	Cancellation of license
Violation of transportation requirements. WAC 314-55-085	$2,500 monetary fine	$5,000 monetary fine and destruction of 25% of harvestable plants	$15,000 monetary fine and destruction of 50% of harvestable plants	Cancellation of license
Failure to maintain required security alarm and surveillance systems. WAC 314-55-083 (2) and (3)	$2,500 monetary fine	$5,000 monetary fine and destruction of 25% of harvestable plants	$15,000 monetary fine and destruction of 50% of harvestable plants	Cancellation of license
Failure to maintain standardized scale requirements (producer). WAC 314-55-099	$2,500 monetary fine	$5,000 monetary fine and destruction of 25% of harvestable plants	$15,000 monetary fine and destruction of 50% of harvestable plants	Cancellation of license
Violation.				

[Statutory Authority: RCW 69.50.325, 69.50.331, 69.50.342, 69.50.345. WSR 13-21-104, § 314-55-535, filed 10/21/13, effective 11/21/13.]

WAC 314-55-540 Information about marijuana license suspensions. (1) On the date a marijuana license suspension goes into effect, a liquor control officer will post a suspension notice in a conspicuous place on or about the licensed premises. This notice will state that the license has been suspended by order of the liquor control board due to a violation of a board law or rule.

(2) During the period of marijuana license suspension, the licensee and employees:

(a) Are required to maintain compliance with all applicable marijuana laws and rules;

(b) May not remove, alter, or cover the posted suspension notice, and may not permit another person to do so;

(c) May not place or permit the placement of any statement on the licensed premises indicating that the premises have been closed for any reason other than as stated in the suspension notice;

(d) May not advertise by any means that the licensed premises is closed for any reason other than as stated in the liquor control board's suspension notice.

(3) During the period of marijuana license suspension:

(a) A marijuana retailer or marijuana processor licensee may not operate his/her business during the dates and times of suspension.

(b) There is no sale, delivery, service, destruction, removal, or receipt of marijuana during a license suspension.

(c) A producer of marijuana may do whatever is necessary as a part of the producing process to keep current stock that is on hand at the time of the suspension from spoiling or becoming unsalable during a suspension, provided it does not include processing the product. The producer may not receive any agricultural products used in the production of marijuana during the period of suspension.

[Statutory Authority: RCW 69.50.325, 69.50.331, 69.50.342, 69.50.345. WSR 13-21-104, § 314-55-540, filed 10/21/13, effective 11/21/13.]

Chapter 314-60 WAC
PUBLIC RECORDS

WAC

314-60-010 Purpose—Washington state liquor control board.
314-60-015 Agency description—Contact information—Public records officer.
314-60-040 Operations and procedure.
314-60-070 Availability of public records.
314-60-080 Making requests for public records.
314-60-085 Processing public records requests.
314-60-087 Processing public records requests—Electronic records.
314-60-090 Costs of providing copies of public records.
314-60-100 Exemptions.
314-60-110 Review of denials of public records requests.

DISPOSITION OF SECTIONS FORMERLY CODIFIED IN THIS CHAPTER

314-60-020 Definitions—Public records—Writing. [Statutory Authority: RCW 66.08.030. WSR 94-03-060, § 314-60-020, filed 1/14/94, effective 2/14/94; Order 22, § 314-60-020, filed 4/17/73, effective 5/18/73.] Repealed by WSR 09-07-070, filed 3/13/09, effective 4/13/09. Statutory Authority: RCW 66.08.030, 34.05.220, and 42.56.40 [42.56.040].

314-60-030 Description of central and field organization of Washington state liquor control board. [Statutory Authority: RCW 66.08.030. WSR 94-03-060, § 314-60-030, filed 1/14/94, effective 2/14/94; WSR 88-16-026 (Order 259, Resolution No. 268), § 314-60-030, filed 7/27/88; WSR 82-04-030 (Order 97, Resolution No. 106), § 314-60-030, filed 1/27/82; Order 22, § 314-60-030, filed 4/17/73, effective 5/18/73.] Repealed by WSR 09-07-070, filed 3/13/09, effective 4/13/09. Statutory Authority: RCW 66.08.030, 34.05.220, and 42.56.40 [42.56.040].

314-60-050 Public records available. [Order 56, § 314-60-050, filed 5/31/77, effective 7/1/77; Order 22, § 314-60-050, filed 4/17/73, effective 5/18/73.] Repealed by WSR 09-07-070, filed 3/13/09, effective 4/13/09. Statutory Authority: RCW 66.08.030, 34.05.220, and 42.56.40 [42.56.040].

314-60-060 Public records officer. [Order 56, § 314-60-060, filed 5/31/77, effective 7/1/77; Order 22, § 314-60-060, filed 4/17/73, effective 5/18/73.] Repealed by WSR 09-07-070, filed 3/13/09, effective 4/13/09. Statutory Authority: RCW 66.08.030, 34.05.220, and 42.56.40 [42.56.040].

314-60-105 General guidelines—Exempt records. [Statutory Authority: RCW 66.08.030, 66.20.360 through [66.20].380, 66.20.390, 66.24.170, 66.24.206, 66.24.210, 66.24.240, 66.24.244, 66.24.270, 66.24.290, 66.28.170, 66.28.180, and 42.56.270. WSR 07-02-076, § 314-60-105, filed 12/29/06, effective 1/29/07. Statutory Authority: RCW 66.08.030. WSR 94-03-060, § 314-60-105, filed 1/14/94, effective 2/14/94; Order 56, § 314-60-105, filed 5/31/77, effective 7/1/77.] Repealed by WSR 09-07-070, filed 3/13/09, effective 4/13/09. Statutory Authority: RCW 66.08.030, 34.05.220, and 42.56.40 [42.56.040].

314-60-120 Protection of public records. [Order 22, § 314-60-120, filed 4/17/73, effective 5/18/73.] Repealed by WSR 09-07-070, filed 3/13/09, effective 4/13/09. Statutory Authority: RCW 66.08.030, 34.05.220, and 42.56.40 [42.56.040].

314-60-130 Records index. [Order 22, § 314-60-130, filed 4/17/73, effective 5/18/73.] Repealed by WSR 09-07-070, filed 3/13/09, effective 4/13/09. Statutory Authority: RCW 66.08.030, 34.05.220, and 42.56.40 [42.56.040].

314-60-140 Communications and submissions relating to public records. [Order 56, § 314-60-140, filed 5/31/77, effective 7/1/77; Order 22, § 314-60-140, filed 4/17/73, effective 5/18/73.] Repealed by WSR 09-07-070, filed 3/13/09, effective 4/13/09. Statutory Authority: RCW 66.08.030, 34.05.220, and 42.56.40 [42.56.040].

314-60-150 Adoption of forms. [Order 56, § 314-60-150, filed 5/31/77, effective 7/1/77; Order 22, § 314-60-150, filed 4/17/73, effective 5/18/73.] Repealed by WSR 82-04-030 (Order 97, Resolution No. 106), filed 1/27/82. Statutory Authority: RCW 66.08.030.

314-60-900 Organization chart (Appendix A). [Order 56, Appendix A (codified as WAC 314-60-900), filed 5/31/77, effective 7/1/77; Order 22, Appendix A, filed 4/17/73, effective 5/18/73.] Repealed by WSR 82-04-030 (Order 97, Resolution No. 106), filed 1/27/82. Statutory Authority: RCW 66.08.030.

314-60-901 Formal hearings (Appendix B). [Order 56, Appendix B (codified as WAC 314-60-901), filed 5/31/77, effective 7/1/77; Order 22, Appendix B, filed 4/17/73, effective 5/18/73.] Repealed by WSR 82-04-030 (Order 97, Resolution No. 106), filed 1/27/82. Statutory Authority: RCW 66.08.030.

314-60-902 Notice of proposed order of summary license suspension (Appendix C). [Order 56, Appendix C (codified as WAC 314-60-902), filed 5/31/77, effective 7/1/77; Order 22, Appendix C, filed 4/17/73, effective 5/18/73.] Repealed by WSR 82-04-030 (Order 97, Resolution No. 106), filed 1/27/82. Statutory Authority: RCW 66.08.030.

314-60-903 Notice of proposed order of summary license suspension with added penalty (Appendix C). [Order 56, Appendix C (codified as WAC 314-60-903), filed 5/31/77, effective 7/1/77; Order 22, Appendix C, filed 4/17/73, effective 5/18/73.] Repealed by WSR 82-04-030 (Order 97, Resolution No. 106), filed 1/27/82. Statutory Authority: RCW 66.08.030.

314-60-904 Notice of proposed order of summary license suspension with option for monetary penalty (Appendix C). [Order 56, Appendix C (codified as WAC 314-60-904), filed 5/31/77, effective 7/1/77; Order 22, Appendix C, filed 4/17/73, effective 5/18/73.] Repealed by WSR 82-04-030 (Order 97, Resolution No. 106), filed 1/27/82. Statutory Authority: RCW 66.08.030.

314-60-905 Notice of proposed order of summary license suspension with directions to implement option for monetary penalty (Appendix C). [Order 56, Appendix C (codified as WAC 314-60-905), filed 5/31/77, effective 7/1/77; Order 22, Appendix C, filed 4/17/73, effective 5/18/73.] Repealed by WSR 82-04-030 (Order 97, Resolution No. 106), filed 1/27/82. Statutory Authority: RCW 66.08.030.

314-60-906 Resolution No. 41 (Appendix D). [Order 56, Appendix D (codified as WAC 314-60-906), filed 5/31/77, effective 7/1/77; Order 22, Appendix D, filed 4/17/73, effective 5/18/73.] Repealed by WSR 82-04-030 (Order 97, Resolution No. 106), filed 1/27/82. Statutory Authority: RCW 66.08.030.

314-60-907 Request for public record (Appendix E). [Order 56, Appendix E (codified as WAC 314-60-907), filed 5/31/77, effective 7/1/77; Order 22, Appendix E, filed 4/17/73, effective 5/18/73.] Repealed by WSR 82-04-030 (Order 97, Resolution No. 106), filed 1/27/82. Statutory Authority: RCW 66.08.030.

WAC 314-60-010 Purpose—Washington state liquor control board. The purposes of this chapter are to:

(1) Describe the organization of the liquor control board (LCB);

(2) Ensure that LCB complies with laws governing the disclosure (release) of public records; and

(3) Explain how an individual or organization can obtain public records.

[Statutory Authority: RCW 66.08.030, 34.05.220, and 42.56.40 [42.56.040]. WSR 09-07-070, § 314-60-010, filed 3/13/09, effective 4/13/09. Statutory

Authority: RCW 66.08.030. WSR 94-03-060, § 314-60-010, filed 1/14/94, effective 2/14/94; Order 56, § 314-60-010, filed 5/31/77, effective 7/1/77; Order 22, § 314-60-010, filed 4/17/73, effective 5/18/73.]

WAC 314-60-015 Agency description—Contact information—Public records officer. (1)(a) The board is an agency created to exercise the police power of the state in administering and enforcing all of the laws and regulations relating to alcoholic beverage control (Title 66 RCW). The board issues licenses to persons who handle liquor; collects taxes imposed on liquor; and distributes and sells spirituous liquor.

(b) The board is responsible for enforcing laws preventing access to tobacco products by persons under the age of eighteen years (chapter 70.155 RCW). The board enforces the tobacco tax laws and the department of revenue administers tobacco tax laws (chapters 82.24 and 82.26 RCW).

(2) The "Washington state liquor control board" or "board" pursuant to RCW 66.08.012 and 66.08.014, consists of three members appointed by the governor with the consent of the senate, for terms of six years that are staggered so that an appointment or reappointment is made every two years. Where appropriate, the term "board" also refers to the staff and employees of the Washington state liquor control board.

(3) The board delegates certain administrative functions to an administrative director appointed by the board.

(4) The Washington state liquor control board is organized into six divisions:

(a) The director's office;

(b) Licensing and regulation;

(c) Enforcement and education;

(d) Administrative services;

(e) Business enterprise; and

(f) Human resources.

(5)(a) The administrative offices of the Washington state liquor control board are located at 3000 Pacific Avenue Southeast, Olympia, Washington 98504-3080.

(b) LCB staff is also located at:

(i) The distribution center, 4401 East Marginal Way South, Seattle, Washington;

(ii) State liquor stores in areas throughout the state; and

(iii) Enforcement offices maintained in major cities throughout the state.

(c) LCB contracts with individuals to sell liquor on commission. These contract liquor stores are located in areas throughout the state.

(d) Exact locations of state liquor stores, contract liquor stores, enforcement offices, and contact number are located on the LCB home page at www.liq.wa.gov.

(6) Any person wishing to access LCB public records should contact the LCB's public records officer:

Public Records Officer
Liquor Control Board
3000 Pacific Avenue Southeast
Olympia, Washington 98504
360-664-1714
Fax 360-664-9689
e-mail publicrecords@liq.wa.gov

Information is also available on the LCB web site at www.liq.wa.gov.

(7) The public records officer will oversee compliance with the act and the implementation of the LCB's rules and regulations regarding release of public records, coordinating the staff of the public records unit and the LCB employees in this regard, and generally coordinating compliance by the LCB with the public records disclosure requirements of chapter 42.56 RCW. The public records officer will provide the "fullest assistance" to requestors; create and maintain for use by the public and LCB officials an index to public records of the LCB; ensure that public records are protected from damage or disorganization; and to prevent public records requests from causing excessive interference with essential functions of the LCB.

[Statutory Authority: RCW 66.08.030, 34.05.220, and 42.56.40 [42.56.040]. WSR 09-07-070, § 314-60-015, filed 3/13/09, effective 4/13/09.]

WAC 314-60-040 Operations and procedure. The general course and method by which the operations of the board are channeled and determined are illustrated by the following:

(1) An organizational chart is available from the board's public records office which illustrates the general structure of the board's operations.

(2) Board procedures relating to hearings involving alleged violations of the liquor act and/or revised rules and regulations of the board are covered in chapter 314-42 WAC.

(a) General information pertaining to formal hearings is available from the board's public records office.

(b) Forms of notice of board action proposing to suspend a liquor license are available from the board's public records office.

(3) Pursuant to the requirements of the Open Public Meetings Act (chapter 42.30 RCW) all determinations and business of the board, except matters which are exempt from the act under RCW 42.30.140, or properly conducted in executive session, pursuant to RCW 42.30.110, will be made and conducted in meetings open to the public. The board holds regular meetings as published with the office of the code reviser per RCW 42.30.075 and as published on the board's internet site at www.liq.wa.gov. Generally, the board will conduct business at regular meetings on Monday, Tuesday, and Wednesday of each week at a place and time selected by the board and published with the Washington State Register and posted on the liquor control board web site. Occasionally the board may deem it necessary to conduct business on a Thursday and/or Friday, during these occasions, stakeholder notification will occur. For scheduling purposes, it is the board's intent to schedule petitions, take public testimony, take rule making actions, and adopt resolutions at its regular Wednesday board meetings.

[Statutory Authority: RCW 66.08.030, 34.05.220, and 42.56.40 [42.56.040]. WSR 09-07-070, § 314-60-040, filed 3/13/09, effective 4/13/09. Statutory Authority: RCW 66.08.030, 43.30.070. WSR 02-10-006, § 314-60-040, filed 4/19/02, effective 5/20/02. Statutory Authority: RCW 66.08.030 and 66.24.12 [66.08.012]. WSR 99-16-119, § 314-60-040, filed 8/4/99, effective 9/4/99. Statutory Authority: RCW 66.08.030. WSR 98-14-003, § 314-60-040, filed 6/18/98, effective 7/19/98. Statutory Authority: RCW 66.08.030, 66.08.050 and 42.30.070. WSR 92-14-027, § 314-60-040, filed 6/22/92, effective 7/23/92. Statutory Authority: RCW 66.08.030(1). WSR 90-02-109, § 314-60-040, filed 1/3/90, effective 2/3/90. Statutory Authority: RCW 66.08.030 and 42.30.070. WSR 82-10-021 (Order 104, Resolution No. 113), § 314-60-040, filed 4/28/82. Statutory Authority: RCW 66.08.030. WSR 82-04-030 (Order 97, Resolution No. 106), § 314-60-040, filed 1/27/82; Order

56, § 314-60-040, filed 5/31/77, effective 7/1/77; Order 22, § 314-60-040, filed 4/17/73, effective 5/18/73.]

WAC 314-60-070 Availability of public records. (1) **Hours for inspection of records.** Public records are available for inspection and copying at the main office of the board during normal business hours of the LCB, Monday through Friday, from 8 a.m. to 4 p.m., excluding legal holidays.

(2) **Records index.** An index of public records is available for use by members of the public, including:

(a) Final opinions, including concurring and dissenting opinions, as well as orders, made in the adjudication of cases.

(b) Those statements of policy and interpretations of policy, statute and the constitution which have been adopted by the agency.

(c) Administrative staff manuals and instructions to staff that affect a member of the public.

(d) Planning policies and goals, and interim and final planning decisions.

(e) Factual staff reports and studies, factual consultant's reports and studies, scientific reports and studies, and any other factual information derived from tests, studies, reports or surveys, whether conducted by public employees or others.

(f) Correspondence, and materials referred to therein, by and with the agency relating to any regulatory, supervisory or enforcement responsibilities of the agency, whereby the agency determines, or opines upon, or is asked to determine or opine upon, the rights of the state, the public, a subdivision of state government, or of any private party.

(3) **Organization of records.** The LCB will maintain its records in a reasonably organized manner. The LCB will take reasonable actions to protect records from damage and disorganization. A requestor shall not take LCB records from LCB offices without the permission of the public records officer. A variety of records is available on the LCB web site at www.liq.wa.gov. Requestors are encouraged to view the documents available on the web site prior to submitting a records request.

[Statutory Authority: RCW 66.08.030, 34.05.220, and 42.56.40 [42.56.040]. WSR 09-07-070, § 314-60-070, filed 3/13/09, effective 4/13/09; Order 22, § 314-60-070, filed 4/17/73, effective 5/18/73.]

WAC 314-60-080 Making requests for public records. An individual may request a public record orally or in writing. The board encourages that all public record requests be in writing and may be sent via e-mail.

(1) A form prescribed by the board is available at its main office. The written request or prescribed form shall be submitted or presented to the public records officer. The request should include the following information:

(a) The name, organization, mailing address, telephone number, fax number, and e-mail address of the person requesting the record.

(b) The time of day and calendar date on which the request was received at the main office of the board.

(c) A detailed description of the public record being requested.

(d) If the matter requested is referenced within the current index maintained by the board, a reference to the requested record as described.

(e) The address where copies of the record are to be mailed, or that the requestor wants to examine the record at the LCB.

(2) If the public records officer accepts a request other than in writing, he or she will confirm receipt of the information and the substance of the request in writing.

(3) If the requestor wishes to have copies of the records made instead of simply inspecting them, he or she should so indicate and make arrangements to pay for copies of the records or a deposit. Standard photocopies will be provided at fifteen cents per page. (See WAC 314-60-090.)

(4) When it appears that a request for a record is made by or on behalf of a party to a lawsuit or a controversy to which the board is also a party (or when a request is made by or on behalf of an attorney for a party) the request shall be referred to the assistant attorney general assigned to the board for an appropriate response.

[Statutory Authority: RCW 66.08.030, 34.05.220, and 42.56.40 [42.56.040]. WSR 09-07-070, § 314-60-080, filed 3/13/09, effective 4/13/09. Statutory Authority: RCW 66.08.030. WSR 94-03-060, § 314-60-080, filed 1/14/94, effective 2/14/94; Order 56, § 314-60-080, filed 5/31/77, effective 7/1/77; Order 22, § 314-60-080, filed 4/17/73, effective 5/18/73.]

WAC 314-60-085 Processing public records requests. (1) The public records officer will process requests in the order allowing the most requests to be processed in the most efficient manner.

(2) **Acknowledging receipt of request.** Within five business days of receipt of the request, the public records officer will do one or more of the following:

(a) Make the records available for inspection and copying;

(b) If copies are requested and payment of a deposit for copies, if any, is made or terms of payment agreed upon, send the copies to the requestor;

(c) Provide a reasonable estimate of when records will be available; or

(d) If the request is unclear or does not sufficiently identify the requested records, request clarification from the requestor. Such clarification may be requested and provided by telephone. The public records officer may revise the estimate of when records will be available; or

(e) Deny the request.

(3) **Protecting the rights of others.** If the requested records contain information that may affect rights of others and may be exempt from disclosure, the public records officer may, prior to providing the records, give notice to such others whose rights may be affected by the disclosure. Such notice should be given so as to make it possible for those other persons to contact the requestor and ask him or her to revise the request, or, if necessary, seek an order from a court to prevent or limit the disclosure. The notice to the affected persons will include a copy of the request.

(4) **Records exempt from disclosure.** Some records are exempt from disclosure, in whole or in part. If the LCB believes that a record is exempt from disclosure and should be withheld, the public records officer will state the specific exemption and provide a brief explanation of why the record

or a portion of the record is being withheld. If only a portion of a record is exempt from disclosure, but the remainder is not exempt, the public records officer will redact the exempt portions, provide the nonexempt portions, and indicate to the requestor why portions of the record are being redacted.

(5) **Inspection of records.**

(a) Consistent with other demands, the LCB shall promptly provide space to inspect public records. No member of the public may remove a document from the viewing area or disassemble or alter any document. The requestor shall indicate which documents he or she wishes the agency to copy.

(b) The requestor must claim or review the assembled records within thirty days of the LCB's notification to him or her that the records are available for inspection or copying. The agency will notify the requestor in writing of this requirement and inform the requestor that he or she should contact the agency to make arrangements to claim or review the records. If the requestor or a representative of the requestor fails to claim or review the records within the thirty-day period or make other arrangements, the LCB may close the request and refile the assembled records. Other public records requests can be processed ahead of a subsequent request by the same person for the same or almost identical records, which can be processed as a new request.

(6) **Providing copies of records.** After inspection is complete, the public records officer shall make the requested copies or arrange for copying.

(7) **Providing records in installments.** When the request is for a large number of records, the public records officer will provide access for inspection and copying in installments, if he or she reasonably determines that it would be practical to provide the records in that way. If, within thirty days, the requestor fails to inspect the entire set of records or one or more of the installments, the public records officer or designee may stop searching for the remaining records and close the request.

(8) **Completion of inspection.** When the inspection of the requested records is complete and all requested copies are provided, the public records officer will indicate that the LCB has completed a diligent search for the requested records and made any located nonexempt records available for inspection.

(9) **Closing withdrawn or abandoned request.** When the requestor either withdraws the request or fails to fulfill his or her obligations to inspect the records or pay the deposit or final payment for the requested copies, the public records officer will close the request and indicate to the requestor that the LCB has closed the request.

(10) **Later discovered documents.** If, after the LCB has informed the requestor that it has provided all available records, the LCB becomes aware of additional responsive documents existing at the time of the request, it will promptly inform the requestor of the additional documents and provide them on an expedited basis.

[Statutory Authority: RCW 66.08.030, 34.05.220, and 42.56.40 [42.56.040]. WSR 09-07-070, § 314-60-085, filed 3/13/09, effective 4/13/09.]

WAC 314-60-087 Processing public records requests—Electronic records. (1) **Requesting electronic records.** The process for requesting electronic public records is the same as for requesting paper public records.

(2) **Providing electronic records.** When a requestor requests records in an electronic format, the public records officer will provide the nonexempt records or portions of such records that are reasonably locatable in an electronic format that is used by the agency and is generally commercially available, or in a format that is reasonably translatable from the format in which the agency keeps the record. Costs for providing electronic records are governed by WAC 314-60-090.

(3) **Customized access to data bases.** With the consent of the requestor, the agency may provide customized access under RCW 43.105.280 if the record is not reasonably locatable or not reasonably translatable into the format requested. The LCB may charge a fee consistent with RCW 43.105.280 for such customized access.

[Statutory Authority: RCW 66.08.030, 34.05.220, and 42.56.40 [42.56.040]. WSR 09-07-070, § 314-60-087, filed 3/13/09, effective 4/13/09.]

WAC 314-60-090 Costs of providing copies of public records. (1) No fee shall be charged for the inspection of public records.

(2) After the first one hundred free copies, the board charges one or more of the following fees for copies of public records:

(a) Up to fifteen cents per page for black and white photocopies of a record;

(b) The actual cost of manuals, blueprints, and other nonprinted materials such as CDs, audio tapes, or video tapes;

(c) Up to fifteen cents per page for scanning existing WSLCB paper or other nonelectronic records. There will be no charge for e-mailing electronic records to a requestor, unless a scanning fee applies; and

(d) The cost of postage, when items are mailed. (See RCW 42.56.070.)

[Statutory Authority: RCW 66.08.030, 34.05.220, and 42.56.40 [42.56.040]. WSR 09-07-070, § 314-60-090, filed 3/13/09, effective 4/13/09; Order 22, § 314-60-090, filed 4/17/73, effective 5/18/73.]

WAC 314-60-100 Exemptions. (1) The Public Records Act (chapter 42.56 RCW) provides that a number of types of documents are exempt from public inspection and copying. In addition, documents are exempt from disclosure if any "other statute" exempts or prohibits disclosure. Requestors should be aware of the following exemptions, outside the Public Records Act, that restrict the availability of some documents held by WSLCB for inspection and copying:

(a) **Autopsy, post mortem or medical examiner reports.** Requests for these records should be referred to the agency which originated the record(s): Coroner's office, medical examiner's office, etc. (RCW 68.50.105)

(b) **Claim file information.** On any industrial insurance claim. (RCW 51.28.070)

(c) **Criminal history reports.** Concerning nonconviction data. Law enforcement agency reports should be referred to the agency that originated the report. (RCW 10.97.080)

(d) **Crime victims.** Files and information. (RCW 7.68.140)

(e) **Individual purchases.** All records whatsoever of the board showing purchases of liquor by any individual or establishment. (RCW 66.16.090)

(f) **Medical records and data.** Medical records, drug records, accident victims and other persons to which LCB has access. (RCW 42.56.360(2) and chapter 70.02 RCW)

(g) **Social Security numbers.** (RCW 42.56.250(3) and 42 U.S.C. Section 405 (c)(2)(C)(vii)(1))

(h) **Trade secrets.** As defined in RCW 19.108.010, including blueprints, diagrams, drawings, formulas, photos, etc., requested to be held confidential by the affected person. Should be labeled "RESTRICTED TRADE INFORMATION." (RCW 39.10.470(2) and 49.17.200)

(i) Special order requests and records of purchases by any person or persons, including spirits, beer, and wine restaurant licensees. (See RCW 66.16.090.)

(j) Financial or proprietary information supplied to the board by a domestic winery, brewery, or microbrewery, acting as its own distributor, or certificate of approval holder with a direct shipping to Washington retailer endorsement, containing the identity and amount of beer or wine sold directly to licensed Washington retailers. (See RCW 66.24.206 (1)(a), 66.24.270 (2)(a), and 42.56.270.)

(k) Financial or proprietary information supplied to the board by a licensed Washington liquor retailer containing the identity and amount of beer or wine purchased directly from a domestic winery, brewery, microbrewery, or a certificate of approval holder with a direct shipping to Washington retailer endorsement. (See RCW 66.24.210, 66.24.290, and 42.56.270.)

(2) The WSLCB is prohibited by statute from disclosing lists of individuals for commercial purposes. (See RCW 42.56.070.)

(3) Before beginning to make the copies, the public records officer may require a deposit of up to ten percent of the estimated costs of copying all the records selected by the requestor. The public records officer may also require the payment of the remainder of the copying costs before providing all the records, or the payment of the costs of copying an installment before providing that installment. The LCB will not charge sales tax when it makes copies of public records.

[Statutory Authority: RCW 66.08.030, 34.05.220, and 42.56.40 [42.56.040]. WSR 09-07-070, § 314-60-100, filed 3/13/09, effective 4/13/09; Order 56, § 314-60-100, filed 5/31/77, effective 7/1/77; Order 22, § 314-60-100, filed 4/17/73, effective 5/18/73.]

WAC 314-60-110 Review of denials of public records requests. (1) Any person who objects to the denial of a request for a public record may petition for prompt review of such decision by tendering a written request for review. The written request shall specifically refer to the written statement by the public records staff member which constituted or accompanied the denial. Send your written petition for review to:

Public Records Officer, Public Records Unit
P.O. Box 43080
Olympia, Washington 98504-3080
360-664-1714
jdk@liq.wa.gov

(2) Immediately after receiving a written request for review of a decision denying a public record, the public records officer shall refer it to the administrative director. The administrative director shall immediately consider the matter and either affirm or reverse such denial. The request shall be returned with a final decision, within two business days following the LCB's receipt of the request for review of the original denial, or within such other time as the LCB and the requestor mutually agree to.

(3) If the LCB denies a requestor access to public records because it claims the record is exempt in whole or in part from disclosure, the requestor may request the attorney general's office to review the matter. The attorney general has adopted rules on such requests in WAC 44-06-160.

(4) **Judicial review.** Any person may obtain court review of denials of public records request.

[Statutory Authority: RCW 66.08.030, 34.05.220, and 42.56.40 [42.56.040]. WSR 09-07-070, § 314-60-110, filed 3/13/09, effective 4/13/09. Statutory Authority: RCW 66.08.030. WSR 94-03-060, § 314-60-110, filed 1/14/94, effective 2/14/94; Order 22, § 314-60-110, filed 4/17/73, effective 5/18/73.]

Chapter 314-62 WAC
LIQUOR LAW PAMPHLETS AND ANNUAL REPORTS

WAC

314-62-010 Liquor law pamphlets.
314-62-020 Annual reports.

WAC 314-62-010 Liquor law pamphlets. Pursuant to RCW 66.08.030, pamphlets containing state liquor laws (Title 66 RCW and other liquor related statutes) and the revised rules and regulations of the board will be made publicly available on the agency web site.

[Statutory Authority: RCW 66.08.030. WSR 09-07-085, § 314-62-010, filed 3/17/09, effective 4/17/09. Statutory Authority: RCW 66.08.030 and 66.98.070. WSR 81-19-116 (Order 81, Resolution No. 90), § 314-62-010, filed 9/23/81; WSR 78-02-039 (Order 63), § 314-62-010, filed 1/17/78.]

WAC 314-62-020 Annual reports. The board makes annual reports covering the administration and enforcement of the Liquor Act during the preceding fiscal year. Copies of this report will be publicly available on the agency web site.

[Statutory Authority: RCW 66.08.030. WSR 09-07-085, § 314-62-020, filed 3/17/09, effective 4/17/09. Statutory Authority: RCW 66.08.030 and 66.98.070. WSR 81-19-116 (Order 81, Resolution No. 90), § 314-62-020, filed 9/23/81; WSR 78-05-003 (Order 65, Resolution No. 74), § 314-62-020, filed 4/6/78; WSR 78-02-039 (Order 63), § 314-62-020, filed 1/17/78.]

Chapter 314-64 WAC
LIQUOR SAMPLES

WAC

314-64-070	Definition.
314-64-080	Procedures.
314-64-08001	Procedures for providing spirit samples to authorized retail licensees for the purpose of negotiating a sale.
314-64-090	Accounting.

DISPOSITION OF SECTIONS FORMERLY CODIFIED IN THIS CHAPTER

314-64-010	Purpose. [Order 40, § 314-64-010, Rule 129, filed 8/21/75.] Repealed by WSR 12-17-006, filed 8/1/12, effective 9/1/12. Statutory Authority: RCW 66.08.030 and 66.08.050.
314-64-020	Definitions. [Statutory Authority: RCW 66.08.030, 66.28.045. WSR 09-14-035, § 314-64-020, filed 6/24/09, effective 7/25/09; Order 40, § 314-64-020, Rule 130, filed 8/21/75.] Repealed by WSR 12-17-006, filed 8/1/12, effective 9/1/12. Statutory Authority: RCW 66.08.030 and 66.08.050.
314-64-030	Procedures for chemical analysis. [Statutory Authority: RCW 66.08.030. WSR 88-14-001 (Order 252, Resolution No. 261), § 314-64-030, filed 6/23/88. Statutory Authority: RCW 66.08.030 and 66.98.070. WSR 82-04-035 (Order 95, Resolution No. 104), § 314-64-030, filed 1/28/82; Order 57, § 314-64-030, filed 7/28/77, effective 9/1/77; Order 40, § 314-64-030, filed 8/21/75.] Repealed by WSR 91-19-070, filed 9/16/91, effective 10/17/91. Statutory Authority: RCW 66.08.030.
314-64-040	Procedures for board samples. [Statutory Authority: RCW 66.08.030, 66.28.045. WSR 09-14-035, § 314-64-040, filed 6/24/09, effective 7/25/09. Statutory Authority: RCW 66.28.045. WSR 86-21-117 (Order 200, Resolution No. 209), § 314-64-040, filed 10/21/86. Statutory Authority: RCW 66.08.030 and 66.98.070. WSR 82-04-035 (Order 95, Resolution No. 104), § 314-64-040, filed 1/28/82; Order 40, § 314-64-040, filed 8/21/75.] Repealed by WSR 12-17-006, filed 8/1/12, effective 9/1/12. Statutory Authority: RCW 66.08.030 and 66.08.050.
314-64-050	Accounting for board samples. [Statutory Authority: RCW 66.08.030, 66.28.045. WSR 09-14-035, § 314-64-050, filed 6/24/09, effective 7/25/09. Statutory Authority: RCW 66.08.030. WSR 91-19-070, § 314-64-050, filed 9/16/91, effective 10/17/91; WSR 88-14-001 (Order 252, Resolution No. 261), § 314-64-050, filed 6/23/88. Statutory Authority: RCW 66.08.030 and 66.98.070. WSR 82-04-035 (Order 95, Resolution No. 104), § 314-64-050, filed 1/28/82; Order 40, § 314-64-050, filed 8/21/75.] Repealed by WSR 12-17-006, filed 8/1/12, effective 9/1/12. Statutory Authority: RCW 66.08.030 and 66.08.050.
314-64-060	Purpose. [Statutory Authority: RCW 66.08.030, 66.08.060 and 66.98.070. WSR 81-23-038 (Order 84, Resolution No. 93), § 314-64-060, filed 11/18/81.] Repealed by WSR 94-14-021, filed 6/27/94, effective 7/28/94. Statutory Authority: RCW 66.08.030.

WAC 314-64-070 Definition. Samples for the purpose of this section shall mean beer and wine and/or containers furnished to licensees for the purpose of negotiating a sale as provided in RCW 66.28.040.

[Statutory Authority: RCW 66.08.030, 66.08.060 and 66.98.070. WSR 81-23-038 (Order 84, Resolution No. 93), § 314-64-070, filed 11/18/81.]

WAC 314-64-080 Procedures. Procedures for furnishing samples of beer and wine to licensees for the purpose of negotiating a sale are as follows:

(1) Quantity. Except as provided in (d) of this subsection, samples may be furnished only in their original packages or containers as produced by the manufacturer or bottler, as follows:

(a) Wholesaler or importer. A brewer, winery or importer may furnish a sample of beer or wine to a wholesaler or importer who has not previously purchased the brand and type or vintage year from the supplier furnishing the sample. For each wholesaler or importer, the brewer, winery or importer may give not more than seventy-two ounces of any brand and type of beer, and not more than one liter of any brand and type of wine.

(b) Retailer. A brewer, winery, importer or wholesaler may, except as hereinafter provided, furnish a sample of beer or wine to a retail licensee who has not previously purchased the brand and type or vintage year from the supplier furnishing the sample. For each retail licensee, the brewer, winery, importer or wholesaler may give not more than seventy-two ounces of any brand and type of beer, and not more than one liter of any brand and type of wine. If a particular product is not available in a size within the quantity limitations of this section, a brewer, winery, importer or wholesaler may furnish the next largest size.

(c) Out-of-state brewers and wineries who hold a certificate of approval to ship their products into this state who provide samples to retailers as outlined in (b) of this subsection shall be responsible for reporting monthly to the board any shipments of samples to retailers in Washington state and shall also be responsible for paying the taxes due on such beer and wine samples provided to retailers as provided for in WAC 314-20-010 and 314-24-110 as if they were a domestic brewer or a domestic winery.

(d) Samples in other than the original packages or containers may, subject to the conditions and limitations stated in (a), (b), and (c) of this subsection, be furnished as follows:

(i) A brewery, winery, importer, or wholesaler, either directly or through their licensed agents, may furnish to authorized licensees at their licensed premises or business office samples of beer and wine from an opened container carried by a licensed agent, provided such samples are furnished only in single-serving samples not to exceed two ounces of wine or twelve ounces of beer.

(ii) A brewery, winery, importer, or wholesaler, either directly or through their licensed agents, may furnish samples of beer or wine to authorized licensees at the premises of a retail licensee.

(iii) A licensed importer or licensed wholesaler may furnish samples to authorized licensees on the licensed premises of the importer or wholesaler.

(2) Identification. Brewers, wineries, importers or wholesalers shall identify the samples on the containers, cartons and shipping documents as "Samples for licensees."

(3) Shipping instructions. Brewers, wineries, importers or wholesalers shall, except as provided in subsection (1)(d) of this section, deliver or ship samples to licensees at their licensed premises or business office.

(4) Use and disposition of samples. Samples may be furnished for the purpose of negotiating a sale of beer or wine to a wholesaler, importer, or retail licensee.

[Statutory Authority: RCW 66.08.030, 66.28.045. WSR 09-14-035, § 314-64-080, filed 6/24/09, effective 7/25/09. Statutory Authority: RCW 66.08.030. WSR 94-14-022, § 314-64-080, filed 6/27/94, effective 7/28/94; WSR 86-11-015 (Order 185, Resolution No. 194), § 314-64-080, filed 5/13/86. Statutory Authority: RCW 66.08.030 and 66.98.070. WSR 82-04-035 (Order 95, Resolution No. 104), § 314-64-080, filed 1/28/82. Statutory Authority: RCW 66.08.030, 66.08.060 and 66.98.070. WSR 81-23-038 (Order 84, Resolution No. 93), § 314-64-080, filed 11/18/81.]

WAC 314-64-08001 Procedures for providing spirit samples to authorized retail licensees for the purpose of negotiating a sale. A distiller, craft distiller, spirits distributor, spirits certificate of approval holder, spirits importer, or their agent may, for the purpose of product promotion, provide without charge single samples to retail licensees authorized to sell spirits and their employees.

(1) Samples are limited to 750 ml and no more than one sample of each product may be provided to any one licensed business.

(2) Only products not purchased by the retail licensee within the last twelve months from the distiller or their agent or existing products with a change in alcohol proof or formula may be sampled. If there is a complete change of ownership of the retail licensee to another entity, the former retail licensee's purchase of the product is not deemed a purchase made by the successor retail licensee for purposes of this provision.

(3) Both the retailer and distiller, craft distiller, spirits certificate of approval holder, spirits distributor, and spirits importer must retain records of sampling for a period of three years. The records shall include the brand and type of sample and the date of sampling.

(4) If the distiller, craft distiller, spirits certificate of approval holder, spirits distributor, and spirits importer keeps records within an automated data processing (ADP) system, the system must include a method for producing legible records that will provide the required information. The ADP system is acceptable if it complies with the following guidelines:

(a) Provides an audit trail so that details (invoices) underlying the summary account data may be identified and made available upon request.

(b) Provides the opportunity to trace any transaction back to the original source or forward to a final total. If printouts of transactions are not made when they are processed, the system must have the ability to reconstruct these transactions.

(c) Has available a full description of the ADP portion of the accounting system. This should show the applications being performed, the procedures employed in each application, and the controls used to ensure accurate and reliable processing.

(5) The provisions contained in subsection (4) of this section do not eliminate the requirement to maintain source documents, but they do allow the source documents to be maintained in some other location.

[Statutory Authority: RCW 66.08.030 and 66.08.050. WSR 12-17-006, § 314-64-08001, filed 8/1/12, effective 9/1/12. Statutory Authority: RCW 66.08.030, 66.28.045. WSR 09-14-035, § 314-64-08001, filed 6/24/09, effective 7/25/09. Statutory Authority: RCW 66.08.030. WSR 98-08-041, § 314-64-08001, filed 3/25/98, effective 4/25/98.]

WAC 314-64-090 Accounting. (1) Each brewer, winery, importer or wholesaler who furnishes samples of beer or wine to licensees shall keep at his place of business a complete record of the disposition of such samples, which record shall show (a) the name and address of the importer, wholesaler or retail licensee to whom the samples were furnished, (b) the brand name and type, (c) the quantities furnished to each importer, wholesaler or retail licensee, and (d) the date the samples were furnished.

(2) Each importer or wholesaler who receives samples of beer or wine shall keep at his place of business a complete current record of all such samples received, showing (a) the name and address of the brewer, winery, importer or wholesaler from whom the samples were received, (b) the brand name and type, (c) the quantities received, and (d) the date the samples were received.

(3) Each retail licensee who receives samples of beer or wine shall keep at his place of business a complete current record of all such samples received, showing (a) the name and address of the brewer, winery, importer or wholesaler from whom the samples were received, (b) the brand name and type, (c) the quantities received, and (d) the date the samples were received.

(4) All records and documents prescribed by this section shall be retained by the person required to keep the documents for a period of not less than two years, and during this period shall be available, during business hours, for inspection and copying by members of the board or their accredited representatives.

(5) All beer or wine samples received or furnished by licensees shall be subject to the taxes imposed by RCW 66.24.290 and 66.24.210.

[Statutory Authority: RCW 66.08.030, 66.08.060 and 66.98.070. WSR 81-23-038 (Order 84, Resolution No. 93), § 314-64-090, filed 11/18/81.]

Chapter 314-68 WAC

IMPORTATION OF ALCOHOLIC BEVERAGES FOR PERSONAL OR HOUSEHOLD USE

WAC

314-68-010 Purpose.
314-68-020 Definitions.
314-68-030 How much alcoholic beverages can a private individual bring into the state of Washington for personal or household use?
314-68-040 What are the procedures for a private individual to bring alcoholic beverages into the state from outside the United States for personal or household use?
314-68-050 What are the procedures for a private individual to bring alcoholic beverages into the state from another state for personal or household use?

WAC 314-68-010 Purpose. The purpose of this chapter is to outline the regulations for a person to bring alcoholic beverages into the state for personal or household use, either from another state or from outside the United States, per RCW 66.12.110 and 66.12.120.

[Statutory Authority: RCW 66.08.030 and 66.12.120. WSR 99-10-066, § 314-68-010, filed 5/4/99, effective 6/4/99; Order 60, § 314-68-010, filed 11/1/77; Order 40, § 314-68-010, Rule 134, filed 8/21/75.]

WAC 314-68-020 Definitions. (1) "Alcoholic beverages" means liquor as defined in RCW 66.04.010(16).

(2) "Private individual" means a person bringing alcoholic beverages into the state from another state or from outside the United States for personal or household use.

(3) "Personal or household use" means:

(a) The alcoholic beverages are to be consumed by the private individual or the person's family or guests, or gifted to another private individual or a nonprofit organization that is not licensed by the board; and

(b) The alcoholic beverages may not be sold or resold.

(4) "Equivalent markup and tax" means the average state markup and tax that would apply to the purchase of the same or similar alcoholic beverages at retail from a state liquor store.

(5) "Bringing alcoholic beverages into the state" means personally carrying alcoholic beverages purchased outside the state into the state of Washington.

Persons who purchase alcohol for personal or household use from auction sellers may have their purchases shipped to them in the state of Washington, provided they obtain advance authorization from the board and arrange to pay the equivalent markup and tax (see WAC 314-68-040 or 314-68-050 for procedures).

[Statutory Authority: RCW 66.08.030 and 66.12.120. WSR 99-10-066, § 314-68-020, filed 5/4/99, effective 6/4/99; Order 60, § 314-68-020, filed 11/1/77; Order 40, § 314-68-020, Rule 135, filed 8/21/75.]

WAC 314-68-030 How much alcoholic beverages can a private individual bring into the state of Washington for personal or household use?

	Do Not Have to Pay Tax and Markup	Must Pay Tax and Markup
Bringing from inside the U.S.	2 liters of spirits or wine or 288 ounces of beer, no more than once per calendar month.	An amount above 2 liters of spirits or wine or 288 ounces of beer during one calendar month.
Bringing from outside the U.S.	The amount that has been declared and permitted to enter the United States duty free under federal law.	An amount in excess of that permitted by federal law.

Individuals moving into the state or receiving alcoholic beverages through inheritance or estate settlements will be allowed a one-time exemption from payment of tax and markup.

[Statutory Authority: RCW 66.08.030 and 66.12.120. WSR 99-10-066, § 314-68-030, filed 5/4/99, effective 6/4/99; Order 40, § 314-68-030, Rule 136, filed 8/21/75.]

WAC 314-68-040 What are the procedures for a private individual to bring alcoholic beverages into the state from outside the United States for personal or household use? Fill out a board declaration form, which is available from the United States Custom Service.

(1) Compute the state taxes and markup using the chart on the form.

(2) Sign the form.

(3) Keep a copy for your records and give a copy to the United States Customs Service.

(4) Send a copy of the form with payment within ten days to the Washington State Liquor Control Board, Purchasing Division, Olympia, Washington.

(5) The board will mail a receipt to the individual who signed the form, authorizing use of the alcoholic beverages for personal or household use.

[Statutory Authority: RCW 66.08.030 and 66.12.120. WSR 99-10-066, § 314-68-040, filed 5/4/99, effective 6/4/99; Order 60, § 314-68-040, filed 11/1/77; Order 40, § 314-68-040, Rule 137, filed 8/21/75.]

WAC 314-68-050 What are the procedures for a private individual to bring alcoholic beverages into the state from another state for personal or household use? (1) You must obtain prior authorization from the board before bringing alcoholic beverages into the state from another state for personal or household use. Any private individual who fails to obtain prior authorization will be subject to the provisions

of RCW 66.44.160, "Illegal possession, transportation of alcoholic beverages."

(2) To obtain approval if you know the quantity of alcoholic beverages you will bring into the state:

(a) Mail a list of the items to be brought into the state to the Washington State Liquor Control Board, Purchasing Division, Olympia, Washington.

(b) The liquor purchasing agent will compute the tax and markup.

(c) The board will mail an authorization once the payment of the applicable equivalent markup and tax is paid.

(3) To obtain approval if you do not know the quantity of alcoholic beverages you will bring into the state:

(a) Mail a certification that markup and tax will be paid to the Washington State Liquor Control Board, Purchasing Division, Olympia, Washington.

(b) The liquor purchasing agent will review the certification to pay equivalent markup and tax and mail an authorization to bring the alcoholic beverages into the state along with a declaration form.

(c) Once you have brought the alcoholic beverages into the state:

(i) Fill out the declaration form.

(ii) Compute the state taxes and markup using the chart on the form.

(iii) Sign the form.

(iv) Keep a copy for your records.

(v) Mail a copy of the form with payment within ten days to the Washington State Liquor Control Board, Purchasing Division, Olympia, Washington.

[Statutory Authority: RCW 66.08.030 and 66.12.120. WSR 99-10-066, § 314-68-050, filed 5/4/99, effective 6/4/99; Order 40, § 314-68-050, Rule 138, filed 8/21/75.]

Chapter 314-70 WAC

DISPOSITION OF LIQUOR STOCK FOLLOWING DISCONTINUANCE OF BUSINESS AND/OR LAWFUL SEIZURE OF LIQUOR BY A GOVERNMENTAL AGENCY

WAC

314-70-010 Sale by spirit, beer and wine restaurant licensee of liquor stock after discontinuance of business.

314-70-030 Purchases by spirit, beer and wine restaurant licensee of certain liquor stocks.

DISPOSITION OF SECTIONS FORMERLY CODIFIED IN THIS CHAPTER

314-70-020 Disposition by a governmental agency of lawfully seized liquors, except those which are required to be delivered to the board under RCW 66.32.090. [Statutory Authority: RCW 66.08.030, 15.88.030, 19.126.020, 66.04.010, 66.08.180, 66.16.100, 66.20.010, 66.20.300, 66.20.310, 66.24.150, 66.24.170, 66.24.185, 66.24.200, 66.24.206, 66.24.210, 66.24.230, 66.24.240, 66.24.244, 66.24.250, 66.24.375, 66.24.380, 66.24.395, 66.24.400, 66.24.420, 66.24.425, 66.24.440, 66.24.450, 66.24.455, 66.24.495, 66.24.540, 66.28.010, 66.28.040, 66.28.050, 66.28.170, 66.28.180, 66.28.190, 66.28.200, 66.28.310, 66.44.190, 66.44.310, 66.98.060 and 82.08.150. WSR 98-18-097, § 314-70-020, filed 9/2/98, effective 10/3/98. Statutory Authority: RCW 66.08.030. WSR 88-16-040 (Order 260, Resolution No. 269), § 314-70-020, filed 7/29/88. Statutory Authority: RCW 66.08.030 and 66.98.070. WSR 82-17-022 (Order 109, Resolution No. 118), § 314-70-020, filed 8/9/82.] Repealed by WSR 01-06-014, filed 2/26/01, effective 3/29/01. Statutory Authority: RCW 66.08.030, 66.28.100, 66.28.040, 66.28.090, 66.44.010, 66.44.070, 66.44.200, 66.44.270, 66.44.291, 66.44.292, 66.44.310, 66.44.316, 66.44.318, 66.44.340, 66.44.350, and chapter 66.44 RCW.

314-70-040 Procedures for board purchase of liquor from governmental agencies. [Statutory Authority: RCW 66.08.030, 15.88.030, 19.126.020, 66.04.010, 66.08.180, 66.16.100, 66.20.010, 66.20.300, 66.20.310, 66.24.150, 66.24.170, 66.24.185, 66.24.200, 66.24.206, 66.24.210, 66.24.230, 66.24.240, 66.24.244, 66.24.250, 66.24.375, 66.24.380, 66.24.395, 66.24.400, 66.24.420, 66.24.425, 66.24.440, 66.24.450, 66.24.455, 66.24.495, 66.24.540, 66.28.010, 66.28.040, 66.28.050, 66.28.170, 66.28.180, 66.28.190, 66.28.200, 66.28.310, 66.44.190, 66.44.310, 66.98.060 and 82.08.150. WSR 98-18-097, § 314-70-040, filed 9/2/98, effective 10/3/98. Statutory Authority: RCW 66.08.030 and 66.98.070. WSR 82-17-022 (Order 109, Resolution No. 118), § 314-70-040, filed 8/9/82.] Repealed by WSR 01-06-014, filed 2/26/01, effective 3/29/01. Statutory Authority: RCW 66.08.030, 66.28.100, 66.28.040, 66.28.090, 66.44.010, 66.44.070, 66.44.200, 66.44.270, 66.44.291, 66.44.292, 66.44.310, 66.44.316, 66.44.318, 66.44.340, 66.44.350, and chapter 66.44 RCW.

314-70-050 Destruction of liquor by liquor enforcement officers. [Statutory Authority: RCW 66.08.030. WSR 95-04-044, § 314-70-050, filed 1/25/95, effective 2/25/95; WSR 93-11-028, § 314-70-050, filed 5/10/93, effective 6/10/93.] Repealed by WSR 01-06-014, filed 2/26/01, effective 3/29/01. Statutory Authority: RCW 66.08.030, 66.28.100, 66.28.040, 66.28.090, 66.44.010, 66.44.070, 66.44.200, 66.44.270, 66.44.291, 66.44.292, 66.44.310, 66.44.316, 66.44.318, 66.44.340, 66.44.350, and chapter 66.44 RCW.

WAC 314-70-010 Sale by spirit, beer and wine restaurant licensee of liquor stock after discontinuance of business. Notwithstanding any other provision of Title 66 RCW or Title 314 WAC, a spirit, beer and wine restaurant licensee who permanently discontinues business for any reason shall dispose of the salable unopened liquor remaining in stock by sale to the board of the items originally purchased from the board. The board will pay the total amount listed in the official price list then in effect, less the spirit, beer and wine restaurant discount and tax exemption expressed as a percent of the total price and the percent of total expenses assigned to the merchandise division to gross sales as reported on the profit and loss statement in the last published annual report of the board. Combined percentages will be rounded up to a whole percent: Provided, however, That in the case of a sale of business with a spirit, beer and wine restaurant licensee, after obtaining the approval of the board and under the supervision of a representative of the board, may sell the entire inventory of liquor to the incoming licensee at a negotiated price.

[Statutory Authority: RCW 66.08.030, 15.88.030, 19.126.020, 66.04.010, 66.08.180, 66.16.100, 66.20.010, 66.20.300, 66.20.310, 66.24.150, 66.24.170, 66.24.185, 66.24.200, 66.24.206, 66.24.210, 66.24.230, 66.24.240, 66.24.244, 66.24.250, 66.24.375, 66.24.380, 66.24.395, 66.24.400, 66.24.420, 66.24.425, 66.24.440, 66.24.450, 66.24.455, 66.24.495, 66.24.540, 66.28.010, 66.28.040, 66.28.050, 66.28.170, 66.28.180, 66.28.190, 66.28.200, 66.28.310, 66.44.190, 66.44.310, 66.98.060 and 82.08.150. WSR 98-18-097, § 314-70-010, filed 9/2/98, effective 10/3/98. Statutory Authority: RCW 66.08.030, 66.24.010 and 66.24.025. WSR 96-03-004, § 314-70-010, filed 1/4/96, effective 2/4/96. Statutory Authority: RCW 66.08.030 and 66.98.070. WSR 82-17-022 (Order 109, Resolution No. 118), § 314-70-010, filed 8/9/82.]

WAC 314-70-030 Purchases by spirit, beer and wine restaurant licensee of certain liquor stocks. Notwithstanding any other provision of Title 66 RCW or Title 314 WAC, a spirit, beer and wine restaurant licensee in conjunction with the purchase of a licensed business may purchase, and place into its regular stock, salable liquor as provided in WAC 314-70-010. Such liquor shall be treated for purposes of Title 66 RCW and Title 314 WAC as if it had been purchased from the board pursuant to RCW 66.24.440.

[Statutory Authority: RCW 66.08.030, 15.88.030, 19.126.020, 66.04.010, 66.08.180, 66.16.100, 66.20.010, 66.20.300, 66.20.310, 66.24.150, 66.24.170, 66.24.185, 66.24.200, 66.24.206, 66.24.210, 66.24.230, 66.24.240, 66.24.244, 66.24.250, 66.24.375, 66.24.380, 66.24.395, 66.24.400, 66.24.420, 66.24.425, 66.24.440, 66.24.450, 66.24.455, 66.24.495, 66.24.540, 66.28.010, 66.28.040, 66.28.050, 66.28.170, 66.28.180, 66.28.190, 66.28.200, 66.28.310, 66.44.190, 66.44.310, 66.98.060 and 82.08.150. WSR 98-18-097, § 314-70-030, filed 9/2/98, effective 10/3/98. Statutory Authority: RCW 66.08.030, 66.24.010 and 66.24.025. WSR 96-03-004, § 314-70-030, filed 1/4/96, effective 2/4/96. Statutory Authority: RCW 66.08.030 and 66.98.070. WSR 82-17-022 (Order 109, Resolution No. 118), § 314-70-030, filed 8/9/82.]

Chapter 314-72 WAC

AGENCY GUIDELINES— STATE ENVIRONMENTAL POLICY

WAC

314-72-010 Purpose.
314-72-020 Application.

WAC 314-72-010 Purpose. The purpose of this chapter is to comply with and implement RCW 43.21C.120 directing every state agency to adopt rules pertaining to the integration of the policies and procedures of the State Environmental Protection Act into the various programs under their jurisdiction for implementation.

[Order 44, § 314-72-010, Rule 140, filed 5/4/76.]

WAC 314-72-020 Application. Pursuant to WAC 197-10-800, the liquor control board has reviewed its authorized activities and found them to be exempt under the provisions of chapter 197-10 WAC.

[Order 44, § 314-72-020, Rule 141, filed 5/4/76.]

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UNIFORM CONTROLLED SUBSTANCES ACT

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ARTICLE I
DEFINITIONS

69.50.101 Definitions. Unless the context clearly requires otherwise, definitions of terms shall be as indicated where used in this chapter:

(a) "Administer" means to apply a controlled substance, whether by injection, inhalation, ingestion, or any other means, directly to the body of a patient or research subject by:

(1) a practitioner authorized to prescribe (or, by the practitioner's authorized agent); or

(2) the patient or research subject at the direction and in the presence of the practitioner.

(b) "Agent" means an authorized person who acts on behalf of or at the direction of a manufacturer, distributor, or dispenser. It does not include a common or contract carrier, public warehouseperson, or employee of the carrier or warehouseperson.

(c) "Commission" means the pharmacy quality assurance commission.

(d) "Controlled substance" means a drug, substance, or immediate precursor included in Schedules I through V as set forth in federal or state laws, or federal or commission rules.

(e)(1) "Controlled substance analog" means a substance the chemical structure of which is substantially similar to the chemical structure of a controlled substance in Schedule I or II and:

(i) that has a stimulant, depressant, or hallucinogenic effect on the central nervous system substantially similar to the stimulant, depressant, or hallucinogenic effect on the central nervous system of a controlled substance included in Schedule I or II; or

(ii) with respect to a particular individual, that the individual represents or intends to have a stimulant, depressant, or hallucinogenic effect on the central nervous system substantially similar to the stimulant, depressant, or hallucinogenic effect on the central nervous system of a controlled substance included in Schedule I or II.

(2) The term does not include:

(i) a controlled substance;

(ii) a substance for which there is an approved new drug application;

(iii) a substance with respect to which an exemption is in effect for investigational use by a particular person under Section 505 of the federal Food, Drug and Cosmetic Act, 21 U.S.C. Sec. 355, to the extent conduct with respect to the substance is pursuant to the exemption; or

(iv) any substance to the extent not intended for human consumption before an exemption takes effect with respect to the substance.

(f) "Deliver" or "delivery," means the actual or constructive transfer from one person to another of a substance, whether or not there is an agency relationship.

(g) "Department" means the department of health.

(h) "Dispense" means the interpretation of a prescription or order for a controlled substance and, pursuant to that prescription or order, the proper selection, measuring, compounding, labeling, or packaging necessary to prepare that prescription or order for delivery.

(i) "Dispenser" means a practitioner who dispenses.

(j) "Distribute" means to deliver other than by administering or dispensing a controlled substance.

(k) "Distributor" means a person who distributes.

(l) "Drug" means (1) a controlled substance recognized as a drug in the official United States pharmacopoeia/national formulary or the official homeopathic pharmacopoeia of the United States, or any supplement to them; (2) controlled substances intended for use in the diagnosis, cure, mitigation, treatment, or prevention of disease in individuals or animals; (3) controlled substances (other than food) intended to affect the structure or any function of the body of individuals or animals; and (4) controlled substances intended for use as a component of any article specified in (1), (2), or (3) of this subsection. The term does not include devices or their components, parts, or accessories.

(m) "Drug enforcement administration" means the drug enforcement administration in the United States Department of Justice, or its successor agency.

(n) "Electronic communication of prescription information" means the transmission of a prescription or refill authorization for a drug of a practitioner using computer systems. The term does not include a prescription or refill authorization verbally transmitted by telephone nor a facsimile manually signed by the practitioner.

(o) "Immediate precursor" means a substance:

(1) that the commission has found to be and by rule designates as being the principal compound commonly used, or produced primarily for use, in the manufacture of a controlled substance;

(2) that is an immediate chemical intermediary used or likely to be used in the manufacture of a controlled substance; and

(3) the control of which is necessary to prevent, curtail, or limit the manufacture of the controlled substance.

(p) "Isomer" means an optical isomer, but in subsection (z)(5) of this section, RCW 69.50.204(a) (12) and (34), and 69.50.206(b)(4), the term includes any geometrical isomer; in RCW 69.50.204(a) (8) and (42), and 69.50.210(c) the term includes any positional isomer; and in RCW 69.50.204(a)(35), 69.50.204(c), and 69.50.208(a) the term includes any positional or geometric isomer.

(q) "Lot" means a definite quantity of marijuana, useable marijuana, or marijuana-infused product identified by a lot number, every portion or package of which is uniform within recognized tolerances for the factors that appear in the labeling.

(r) "Lot number" shall identify the licensee by business or trade name and Washington state unified business identifier number, and the date of harvest or processing for each lot of marijuana, useable marijuana, or marijuana-infused product.

(s) "Manufacture" means the production, preparation, propagation, compounding, conversion, or processing of a controlled substance, either directly or indirectly or by extraction from substances of natural origin, or independently by means of chemical synthesis, or by a combination of extraction and chemical synthesis, and includes any packaging or repackaging of the substance or labeling or relabel-

ing of its container. The term does not include the preparation, compounding, packaging, repackaging, labeling, or relabeling of a controlled substance:

(1) by a practitioner as an incident to the practitioner's administering or dispensing of a controlled substance in the course of the practitioner's professional practice; or

(2) by a practitioner, or by the practitioner's authorized agent under the practitioner's supervision, for the purpose of, or as an incident to, research, teaching, or chemical analysis and not for sale.

(t) "Marijuana" or "marihuana" means all parts of the plant Cannabis, whether growing or not, with a THC concentration greater than 0.3 percent on a dry weight basis; the seeds thereof; the resin extracted from any part of the plant; and every compound, manufacture, salt, derivative, mixture, or preparation of the plant, its seeds or resin. The term does not include the mature stalks of the plant, fiber produced from the stalks, oil or cake made from the seeds of the plant, any other compound, manufacture, salt, derivative, mixture, or preparation of the mature stalks (except the resin extracted therefrom), fiber, oil, or cake, or the sterilized seed of the plant which is incapable of germination.

(u) "Marijuana concentrates" means products consisting wholly or in part of the resin extracted from any part of the plant Cannabis and having a THC concentration greater than sixty percent.

(v) "Marijuana processor" means a person licensed by the state liquor control board to process marijuana into useable marijuana and marijuana-infused products, package and label useable marijuana and marijuana-infused products for sale in retail outlets, and sell useable marijuana and marijuana-infused products at wholesale to marijuana retailers.

(w) "Marijuana producer" means a person licensed by the state liquor control board to produce and sell marijuana at wholesale to marijuana processors and other marijuana producers.

(x) "Marijuana-infused products" means products that contain marijuana or marijuana extracts, are intended for human use, and have a THC concentration greater than 0.3 percent and no greater than sixty percent. The term "marijuana-infused products" does not include either useable marijuana or marijuana concentrates.

(y) "Marijuana retailer" means a person licensed by the state liquor control board to sell useable marijuana and marijuana-infused products in a retail outlet.

(z) "Narcotic drug" means any of the following, whether produced directly or indirectly by extraction from substances of vegetable origin, or independently by means of chemical synthesis, or by a combination of extraction and chemical synthesis:

(1) Opium, opium derivative, and any derivative of opium or opium derivative, including their salts, isomers, and salts of isomers, whenever the existence of the salts, isomers, and salts of isomers is possible within the specific chemical designation. The term does not include the isoquinoline alkaloids of opium.

(2) Synthetic opiate and any derivative of synthetic opiate, including their isomers, esters, ethers, salts, and salts of isomers, esters, and ethers, whenever the existence of the isomers, esters, ethers, and salts is possible within the specific chemical designation.

(3) Poppy straw and concentrate of poppy straw.

(4) Coca leaves, except coca leaves and extracts of coca leaves from which cocaine, ecgonine, and derivatives or ecgonine or their salts have been removed.

(5) Cocaine, or any salt, isomer, or salt of isomer thereof.

(6) Cocaine base.

(7) Ecgonine, or any derivative, salt, isomer, or salt of isomer thereof.

(8) Any compound, mixture, or preparation containing any quantity of any substance referred to in subparagraphs (1) through (7).

(aa) "Opiate" means any substance having an addiction-forming or addiction-sustaining liability similar to morphine or being capable of conversion into a drug having addiction-forming or addiction-sustaining liability. The term includes opium, substances derived from opium (opium derivatives), and synthetic opiates. The term does not include, unless specifically designated as controlled under RCW 69.50.201, the dextrorotatory isomer of 3-methoxy-n-methylmorphinan and its salts (dextromethorphan). The term includes the racemic and levorotatory forms of dextromethorphan.

(bb) "Opium poppy" means the plant of the species Papaver somniferum L., except its seeds.

(cc) "Person" means individual, corporation, business trust, estate, trust, partnership, association, joint venture, government, governmental subdivision or agency, or any other legal or commercial entity.

(dd) "Poppy straw" means all parts, except the seeds, of the opium poppy, after mowing.

(ee) "Practitioner" means:

(1) A physician under chapter 18.71 RCW; a physician assistant under chapter 18.71A RCW; an osteopathic physician and surgeon under chapter 18.57 RCW; an osteopathic physician assistant under chapter 18.57A RCW who is licensed under RCW 18.57A.020 subject to any limitations in RCW 18.57A.040; an optometrist licensed under chapter 18.53 RCW who is certified by the optometry board under RCW 18.53.010 subject to any limitations in RCW 18.53.010; a dentist under chapter 18.32 RCW; a podiatric physician and surgeon under chapter 18.22 RCW; a veterinarian under chapter 18.92 RCW; a registered nurse, advanced registered nurse practitioner, or licensed practical nurse under chapter 18.79 RCW; a naturopathic physician under chapter 18.36A RCW who is licensed under RCW 18.36A.030 subject to any limitations in RCW 18.36A.040; a pharmacist under chapter 18.64 RCW or a scientific investigator under this chapter, licensed, registered or otherwise permitted insofar as is consistent with those licensing laws to distribute, dispense, conduct research with respect to or administer a controlled substance in the course of their professional practice or research in this state.

(2) A pharmacy, hospital or other institution licensed, registered, or otherwise permitted to distribute, dispense, conduct research with respect to or to administer a controlled substance in the course of professional practice or research in this state.

(3) A physician licensed to practice medicine and surgery, a physician licensed to practice osteopathic medicine and surgery, a dentist licensed to practice dentistry, a podiatric physician and surgeon licensed to practice podiatric medicine and surgery, a licensed physician assistant or a licensed

osteopathic physician assistant specifically approved to prescribe controlled substances by his or her state's medical quality assurance commission or equivalent and his or her supervising physician, an advanced registered nurse practitioner licensed to prescribe controlled substances, or a veterinarian licensed to practice veterinary medicine in any state of the United States.

(ff) "Prescription" means an order for controlled substances issued by a practitioner duly authorized by law or rule in the state of Washington to prescribe controlled substances within the scope of his or her professional practice for a legitimate medical purpose.

(gg) "Production" includes the manufacturing, planting, cultivating, growing, or harvesting of a controlled substance.

(hh) "Retail outlet" means a location licensed by the state liquor control board for the retail sale of useable marijuana and marijuana-infused products.

(ii) "Secretary" means the secretary of health or the secretary's designee.

(jj) "State," unless the context otherwise requires, means a state of the United States, the District of Columbia, the Commonwealth of Puerto Rico, or a territory or insular possession subject to the jurisdiction of the United States.

(kk) "THC concentration" means percent of delta-9 tetrahydrocannabinol content per dry weight of any part of the plant *Cannabis*, or per volume or weight of marijuana product, or the combined percent of delta-9 tetrahydrocannabinol and tetrahydrocannabinolic acid in any part of the plant *Cannabis* regardless of moisture content.

(ll) "Ultimate user" means an individual who lawfully possesses a controlled substance for the individual's own use or for the use of a member of the individual's household or for administering to an animal owned by the individual or by a member of the individual's household.

(mm) "Useable marijuana" means dried marijuana flowers. The term "useable marijuana" does not include either marijuana-infused products or marijuana concentrates. [2014 c 192 § 1. Prior: 2013 c 276 § 2; 2013 c 116 § 1; 2013 c 12 § 2; prior: 2013 c 3 § 2 (Initiative Measure No. 502, approved November 6, 2012); 2012 c 8 § 1; 2010 c 177 § 1; 2003 c 142 § 4; 1998 c 222 § 3; 1996 c 178 § 18; 1994 sp.s. c 9 § 739; 1993 c 187 § 1; prior: 1990 c 248 § 1; 1990 c 219 § 3; 1990 c 196 § 8; 1989 1st ex.s. c 9 § 429; 1987 c 144 § 2; 1986 c 124 § 1; 1984 c 153 § 18; 1980 c 71 § 2; 1973 2nd ex.s. c 38 § 1; 1971 ex.s. c 308 § 69.50.101.]

Effective date—2013 c 116: "This act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and takes effect immediately [May 1, 2013]." [2013 c 116 § 2.]

Intent—2013 c 3 (Initiative Measure No. 502): "The people intend to stop treating adult marijuana use as a crime and try a new approach that:

(1) Allows law enforcement resources to be focused on violent and property crimes;

(2) Generates new state and local tax revenue for education, health care, research, and substance abuse prevention; and

(3) Takes marijuana out of the hands of illegal drug organizations and brings it under a tightly regulated, state-licensed system similar to that for controlling hard alcohol.

This measure authorizes the state liquor control board to regulate and tax marijuana for persons twenty-one years of age and older, and add a new threshold for driving under the influence of marijuana." [2013 c 3 § 1 (Initiative Measure No. 502, approved November 6, 2012).]

Finding—1990 c 219: See note following RCW 69.41.030.

Additional notes found at www.leg.wa.gov

69.50.1011 Definition—Commission. "Commission" means the pharmacy quality assurance commission. [2013 c 19 § 86.]

69.50.102 Drug paraphernalia—Definitions. (a) As used in this chapter, "drug paraphernalia" means all equipment, products, and materials of any kind which are used, intended for use, or designed for use in planting, propagating, cultivating, growing, harvesting, manufacturing, compounding, converting, producing, processing, preparing, testing, analyzing, packaging, repackaging, storing, containing, concealing, injecting, ingesting, inhaling, or otherwise introducing into the human body a controlled substance. It includes, but is not limited to:

(1) Kits used, intended for use, or designed for use in planting, propagating, cultivating, growing, or harvesting of any species of plant which is a controlled substance or from which a controlled substance can be derived;

(2) Kits used, intended for use, or designed for use in manufacturing, compounding, converting, producing, processing, or preparing controlled substances;

(3) Isomerization devices used, intended for use, or designed for use in increasing the potency of any species of plant which is a controlled substance;

(4) Testing equipment used, intended for use, or designed for use in identifying or in analyzing the strength, effectiveness, or purity of controlled substances;

(5) Scales and balances used, intended for use, or designed for use in weighing or measuring controlled substances;

(6) Diluents and adulterants, such as quinine hydrochloride, mannitol, mannite, dextrose, and lactose, used, intended for use, or designed for use in cutting controlled substances;

(7) Separation gins and sifters used, intended for use, or designed for use in removing twigs and seeds from, or in otherwise cleaning or refining, marihuana;

(8) Blenders, bowls, containers, spoons, and mixing devices used, intended for use, or designed for use in compounding controlled substances;

(9) Capsules, balloons, envelopes, and other containers used, intended for use, or designed for use in packaging small quantities of controlled substances;

(10) Containers and other objects used, intended for use, or designed for use in storing or concealing controlled substances;

(11) Hypodermic syringes, needles, and other objects used, intended for use, or designed for use in parenterally injecting controlled substances into the human body;

(12) Objects used, intended for use, or designed for use in ingesting, inhaling, or otherwise introducing marihuana, cocaine, hashish, or hashish oil into the human body, such as:

(i) Metal, wooden, acrylic, glass, stone, plastic, or ceramic pipes with or without screens, permanent screens, hashish heads, or punctured metal bowls;

(ii) Water pipes;

(iii) Carburetion tubes and devices;

(iv) Smoking and carburetion masks;

(v) Roach clips: Meaning objects used to hold burning material, such as a marihuana cigarette, that has become too small or too short to be held in the hand;

(vi) Miniature cocaine spoons, and cocaine vials;

(vii) Chamber pipes;

(viii) Carburetor pipes;

(ix) Electric pipes;

(x) Air-driven pipes;

(xi) Chillums;

(xii) Bongs; and

(xiii) Ice pipes or chillers.

(b) In determining whether an object is drug paraphernalia under this section, a court or other authority should consider, in addition to all other logically relevant factors, the following:

(1) Statements by an owner or by anyone in control of the object concerning its use;

(2) Prior convictions, if any, of an owner, or of anyone in control of the object, under any state or federal law relating to any controlled substance;

(3) The proximity of the object, in time and space, to a direct violation of this chapter;

(4) The proximity of the object to controlled substances;

(5) The existence of any residue of controlled substances on the object;

(6) Direct or circumstantial evidence of the intent of an owner, or of anyone in control of the object, to deliver it to persons whom he or she knows, or should reasonably know, intend to use the object to facilitate a violation of this chapter; the innocence of an owner, or of anyone in control of the object, as to a direct violation of this chapter shall not prevent a finding that the object is intended or designed for use as drug paraphernalia;

(7) Instructions, oral or written, provided with the object concerning its use;

(8) Descriptive materials accompanying the object which explain or depict its use;

(9) National and local advertising concerning its use;

(10) The manner in which the object is displayed for sale;

(11) Whether the owner, or anyone in control of the object, is a legitimate supplier of like or related items to the community, such as a licensed distributor or dealer of tobacco products;

(12) Direct or circumstantial evidence of the ratio of sales of the object(s) to the total sales of the business enterprise;

(13) The existence and scope of legitimate uses for the object in the community; and

(14) Expert testimony concerning its use. [2012 c 117 § 366; 1981 c 48 § 1.]

Additional notes found at www.leg.wa.gov

ARTICLE II
STANDARDS AND SCHEDULES

69.50.201 Enforcement of chapter—Authority to change schedules of controlled substances. (a) The commission shall enforce this chapter and may add substances to or delete or reschedule substances listed in RCW 69.50.204, 69.50.206, 69.50.208, 69.50.210, or 69.50.212 pursuant to the procedures of chapter 34.05 RCW.

(1) In making a determination regarding a substance, the commission shall consider the following:

(i) the actual or relative potential for abuse;

(ii) the scientific evidence of its pharmacological effect, if known;

(iii) the state of current scientific knowledge regarding the substance;

(iv) the history and current pattern of abuse;

(v) the scope, duration, and significance of abuse;

(vi) the risk to the public health;

(vii) the potential of the substance to produce psychic or physiological dependence liability; and

(viii) whether the substance is an immediate precursor of a controlled substance.

(2) The commission may consider findings of the federal Food and Drug Administration or the Drug Enforcement Administration as prima facie evidence relating to one or more of the determinative factors.

(b) After considering the factors enumerated in subsection (a) of this section, the commission shall make findings with respect thereto and adopt and cause to be published a rule controlling the substance upon finding the substance has a potential for abuse.

(c) The commission, without regard to the findings required by subsection (a) of this section or RCW 69.50.203, 69.50.205, 69.50.207, 69.50.209, and 69.50.211 or the procedures prescribed by subsections (a) and (b) of this section, may place an immediate precursor in the same schedule in which the controlled substance of which it is an immediate precursor is placed or in any other schedule. If the commission designates a substance as an immediate precursor, substances that are precursors of the controlled precursor are not subject to control solely because they are precursors of the controlled precursor.

(d) If a substance is designated, rescheduled, or deleted as a controlled substance under federal law, the commission shall similarly control the substance under this chapter after the expiration of thirty days from the date of publication in the federal register of a final order designating the substance as a controlled substance or rescheduling or deleting the substance or from the date of issuance of an order of temporary scheduling under Section 508 of the federal Dangerous Drug Diversion Control Act of 1984, 21 U.S.C. Sec. 811(h), unless within that thirty-day period, the commission or an interested party objects to inclusion, rescheduling, temporary scheduling, or deletion. If no objection is made, the commission shall adopt and cause to be published, without the necessity of making determinations or findings as required by subsection (a) of this section or RCW 69.50.203, 69.50.205, 69.50.207, 69.50.209, and 69.50.211, a final rule, for which notice of proposed rule making is omitted, designating, rescheduling, temporarily scheduling, or deleting the substance. If an objection is made, the commission shall make a determination with respect to the designation, rescheduling, or deletion of the substance as provided by subsection (a) of this section. Upon receipt of an objection to inclusion, rescheduling, or deletion under this chapter by the commission, the commission shall publish notice of the receipt of the objection, and

control under this chapter is stayed until the commission adopts a rule as provided by subsection (a) of this section.

(e) The commission, by rule and without regard to the requirements of subsection (a) of this section, may schedule a substance in Schedule I regardless of whether the substance is substantially similar to a controlled substance in Schedule I or II if the commission finds that scheduling of the substance on an emergency basis is necessary to avoid an imminent hazard to the public safety and the substance is not included in any other schedule or no exemption or approval is in effect for the substance under Section 505 of the federal Food, Drug, and Cosmetic Act, 21 U.S.C. Sec. 355. Upon receipt of notice under RCW 69.50.214, the commission shall initiate scheduling of the controlled substance analog on an emergency basis pursuant to this subsection. The scheduling of a substance under this subsection expires one year after the adoption of the scheduling rule. With respect to the finding of an imminent hazard to the public safety, the commission shall consider whether the substance has been scheduled on a temporary basis under federal law or factors set forth in subsection (a)(1)(iv), (v), and (vi) of this section, and may also consider clandestine importation, manufacture, or distribution, and, if available, information concerning the other factors set forth in subsection (a)(1) of this section. A rule may not be adopted under this subsection until the commission initiates a rule-making proceeding under subsection (a) of this section with respect to the substance. A rule adopted under this subsection must be vacated upon the conclusion of the rule-making proceeding initiated under subsection (a) of this section with respect to the substance.

(f) Authority to control under this section does not extend to distilled spirits, wine, malt beverages, or tobacco as those terms are defined or used in Titles 66 and 26 RCW. [2013 c 19 § 87; 1998 c 245 § 108; 1993 c 187 § 2; 1989 1st ex.s. c 9 § 430; 1986 c 124 § 2; 1971 ex.s. c 308 § 69.50.201.]

Additional notes found at www.leg.wa.gov

69.50.202 Nomenclature. The controlled substances listed or to be listed in the schedules in RCW 69.50.204, 69.50.206, 69.50.208, 69.50.210, and 69.50.212 are included by whatever official, common, usual, chemical, or trade name designated. [1971 ex.s. c 308 § 69.50.202.]

69.50.203 Schedule I tests. (a) The commission shall place a substance in Schedule I upon finding that the substance:

(1) has high potential for abuse;

(2) has no currently accepted medical use in treatment in the United States; and

(3) lacks accepted safety for use in treatment under medical supervision.

(b) The commission may place a substance in Schedule I without making the findings required by subsection (a) of this section if the substance is controlled under Schedule I of the federal Controlled Substances Act by a federal agency as the result of an international treaty, convention, or protocol. [2013 c 19 § 88; 1993 c 187 § 3; 1971 ex.s. c 308 § 69.50.203.]

69.50.204 Schedule I. Unless specifically excepted by state or federal law or regulation or more specifically included in another schedule, the following controlled substances are listed in Schedule I:

(a) Any of the following opiates, including their isomers, esters, ethers, salts, and salts of isomers, esters, and ethers whenever the existence of these isomers, esters, ethers, and salts is possible within the specific chemical designation:

(1) Acetyl-alpha-methylfentanyl (N-[1-(1-methyl-2-phenethyl)-4-piperidinyl]-N-phenylacetamide);

(2) Acetylmethadol;

(3) Allylprodine;

(4) Alphacetylmethadol, except levo-alphacetylmethadol, also known as levo-alpha-acetylmethadol, levomethadyl acetate, or LAAM;

(5) Alphameprodine;

(6) Alphamethadol;

(7) Alpha-methylfentanyl (N-[1-(alpha-methyl-beta-phenyl) ethyl-4-piperidyl] propionanilide); (1-(1-methyl-2-phenylethyl)-4-(N-propanilido) piperidine);

(8) Alpha-methylthiofentanyl (N-[1-methyl-2-(2-thienyl)ethyl-4-piperidinyl]-N-phenylpropanamide);

(9) Benzethidine;

(10) Betacetylmethadol;

(11) Beta-hydroxyfentanyl (N-[1-(2-hydroxy-2-phenethyl)-4-piperidinyl]-N-phenylpropanamide);

(12) Beta-hydroxy-3-methylfentanyl, some trade or other names: N-[1-(2-hydrox-2-phenethyl)-3-methyl-4-piperidinyl]-N-phenylpropanamide;

(13) Betameprodine;

(14) Betamethadol;

(15) Betaprodine;

(16) Clonitazene;

(17) Dextromoramide;

(18) Diampromide;

(19) Diethylthiambutene;

(20) Difenoxin;

(21) Dimenoxadol;

(22) Dimepheptanol;

(23) Dimethylthiambutene;

(24) Dioxaphetyl butyrate;

(25) Dipipanone;

(26) Ethylmethylthiambutene;

(27) Etonitazene;

(28) Etoxeridine;

(29) Furethidine;

(30) Hydroxypethidine;

(31) Ketobemidone;

(32) Levomoramide;

(33) Levophenacylmorphan;

(34) 3-Methylfentanyl (N-[3-methyl-1-(2-phenylethyl)-4-piperidyl]-N-phenylprop anamide);

(35) 3-Methylthiofentanyl (N-[(3-methyl-1-(2-thienyl)ethyl-4-piperidinyl]-N-phenylpropanamide);

(36) Morpheridine;

(37) MPPP (1-methyl-4-phenyl-4-propionoxypiperidine);

(38) Noracymethadol;

(39) Norlevorphanol;

(40) Normethadone;

(41) Norpipanone;

(42) Para-fluorofentanyl (N-(4-fluorophenyl)-N-[1-(2-phenethyl)-4-piperidinyl] propanamide);

(43) PEPAP(1-(-2-phenethyl)-4-phenyl-4-acetoxypiperidine);

(44) Phenadoxone;

(45) Phenampromide;

(46) Phenomorphan;

(47) Phenoperidine;

(48) Piritramide;

(49) Proheptazine;

(50) Properidine;

(51) Propiram;

(52) Racemoramide;

(53) Thiofentanyl (N-phenyl-N-[1-(2-thienyl)ethyl-4-piperidinyl]-propanaminde);

(54) Tilidine;

(55) Trimeperidine.

(b) Opium derivatives. Unless specifically excepted or unless listed in another schedule, any of the following opium derivatives, including their salts, isomers, and salts of isomers whenever the existence of those salts, isomers, and salts of isomers is possible within the specific chemical designation:

(1) Acetorphine;

(2) Acetyldihydrocodeine;

(3) Benzylmorphine;

(4) Codeine methylbromide;

(5) Codeine-N-Oxide;

(6) Cyprenorphine;

(7) Desomorphine;

(8) Dihydromorphine;

(9) Drotebanol;

(10) Etorphine, except hydrochloride salt;

(11) Heroin;

(12) Hydromorphinol;

(13) Methyldesorphine;

(14) Methyldihydromorphine;

(15) Morphine methylbromide;

(16) Morphine methylsulfonate;

(17) Morphine-N-Oxide;

(18) Myrophine;

(19) Nicocodeine;

(20) Nicomorphine;

(21) Normorphine;

(22) Pholcodine;

(23) Thebacon.

(c) Hallucinogenic substances. Unless specifically excepted or unless listed in another schedule, any material, compound, mixture, or preparation which contains any quantity of the following hallucinogenic substances, including their salts, isomers, and salts of isomers whenever the existence of those salts, isomers, and salts of isomers is possible within the specific chemical designation. For the purposes of this subsection only, the term "isomer" includes the optical, position, and geometric isomers:

(1) Alpha-ethyltryptamine: Some trade or other names: Etryptamine; monase; a-ethyl-1H-indole-3-ethanamine; 3-(2-aminobutyl) indole; a-ET; and AET;

(2) 4-bromo-2,5-dimethoxy-amphetamine: Some trade or other names: 4-bromo-2,5-dimethoxy-a-methylphenethylamine; 4-bromo-2,5-DMA;

(3) 4-bromo-2,5-dimethoxyphenethylamine: Some trade or other names: 2-(4-bromo-2,5-dimethoxyphenyl)-1-aminoethane; alpha-desmethyl DOB; 2C-B, nexus;

(4) 2,5-dimethoxyamphetamine: Some trade or other names: 2,5-dimethoxy-a-methylphenethylamine; 2,5-DMA;

(5) 2,5-dimethoxy-4-ethylamphetamine (DOET);

(6) 2,5-dimethoxy-4-(n)-propylthiophenethylamine: Other name: 2C-T-7;

(7) 4-methoxyamphetamine: Some trade or other names: 4-methoxy-a-methylphenethylamine; paramethoxyamphetamine, PMA;

(8) 5-methoxy-3,4-methylenedioxy-amphetamine;

(9) 4-methyl-2,5-dimethoxy-amphetamine: Some trade and other names: 4-methyl-2,5-dimethoxy-a-methylphenethylamine; "DOM"; and "STP";

(10) 3,4-methylenedioxy amphetamine;

(11) 3,4-methylenedioxymethamphetamine (MDMA);

(12) 3,4-methylenedioxy-N-ethylamphetamine, also known as N-ethyl-alpha-methyl-3,4(methylenedioxy)phenethylamine, N-ethyl MDA, MDE, MDEA;

(13) N-hydroxy-3,4-methylenedioxyamphetamine also known as N-hydroxy-alpha-methyl-3,4(methylenedioxy)phenethylamine,N-hydroxy MDA;

(14) 3,4,5-trimethoxy amphetamine;

(15) Alpha-methyltryptamine: Other name: AMT;

(16) Bufotenine: Some trade or other names: 3-(beta-Dimethylaminoethyl)-5-hydroxindole; 3-(2-dimethylaminoethyl)-5-indolol; N, N-dimethylserotonin; 5-hydroxy-N,N-dimethyltryptamine; mappine;

(17) Diethyltryptamine: Some trade or other names: N,N-Diethyltryptamine; DET;

(18) Dimethyltryptamine: Some trade or other names: DMT;

(19) 5-methoxy-N,N-diisopropyltryptamine: Other name: 5-MeO-DIPT;

(20) Ibogaine: Some trade or other names: 7-Ethyl-6,6 beta,7,8,9,10,12,13,-octahydro-2-methoxy-6,9-methano-5H-pyndo (1',2' 1,2) azepino (5,4-b) indole; Tabernanthe iboga;

(21) Lysergic acid diethylamide;

(22) Marihuana or marijuana;

(23) Mescaline;

(24) Parahexyl-7374: Some trade or other names: 3-Hexyl-1-hydroxy-7, 8, 9, 10-tetrahydro-6, 6, 9-trimethyl-6H-dibenzo[b,d]pyran; synhexyl;

(25) Peyote, meaning all parts of the plant presently classified botanically as Lophophora Williamsii Lemaire, whether growing or not, the seeds thereof, any extract from any part of such plant, and every compound, manufacture, salts, derivative, mixture, or preparation of such plant, its seeds, or extracts; (interprets 21 U.S.C. Sec. 812 (c), Schedule I (c)(12));

(26) N-ethyl-3-piperidyl benzilate;

(27) N-methyl-3-piperidyl benzilate;

(28) Psilocybin;

(29) Psilocyn;

(30) Tetrahydrocannabinols, meaning tetrahydrocannabinols naturally contained in a plant of the genus Cannabis (cannabis plant), as well as synthetic equivalents of the substances contained in the plant, or in the resinous extractives of Cannabis, species, and/or synthetic substances, deriva-

tives, and their isomers with similar chemical structure and pharmacological activity such as the following:

(i) 1 - cis - or trans tetrahydrocannabinol, and their optical isomers, excluding tetrahydrocannabinol in sesame oil and encapsulated in a soft gelatin capsule in a drug product approved by the United States Food and Drug Administration;

(ii) 6 - cis - or trans tetrahydrocannabinol, and their optical isomers;

(iii) 3,4 - cis - or trans tetrahydrocannabinol, and its optical isomers;

(Since nomenclature of these substances is not internationally standardized, compounds of these structures, regardless of numerical designation of atomic positions covered.)

(31) Ethylamine analog of phencyclidine: Some trade or other names: N-ethyl-1phenylcyclohexalymine, (1-phenylcyclohexl) ethylamine; N-(1-phenylcyclohexyl)ethylamine; cyclohexamine; PCE;

(32) Pyrrolidine analog of phencyclidine: Some trade or other names: 1-(1-phencyclohexyl)pyrrolidine; PCPy; PHP;

(33) Thiophene analog of phencyclidine: Some trade or other names: 1-(1-[2-thenyl]-cyclohexly)-pipendine; 2-thienylanalog of phencyclidine; TPCP; TCP;

(34) 1-[1-(2-thienyl)cyclohexyl]pyrrolidine: A trade or other name is TCPy.

(d) Depressants. Unless specifically excepted or unless listed in another schedule, any material, compound, mixture, or preparation which contains any quantity of the following substances having a depressant effect on the central nervous system, including its salts, isomers, and salts of isomers whenever the existence of such salts, isomers, and salts of isomers is possible within the specific chemical designation.

(1) Gamma-hydroxybutyric acid: Some other names include GHB; gamma-hydroxybutyrate; 4-hydroxybutyrate; 4-hydroxybutanoic acid; sodium oxybate; sodium oxybutyrate;

(2) Mecloqualone;

(3) Methaqualone.

(e) Stimulants. Unless specifically excepted or unless listed in another schedule, any material, compound, mixture, or preparation which contains any quantity of the following substances having a stimulant effect on the central nervous system, including its salts, isomers, and salts of isomers:

(1) Aminorex: Some other names: aminoxaphen; 2-amino-5-phenyl-2-oxazoline; or 4, 5-dihydro-5-phenly-2-oxazolamine;

(2) N-Benzylpiperazine: Some other names: BZP,1-benzylpiperazine;

(3) Cathinone, also known as 2-amino-1-phenyl-1-propanone, alpha-aminopropiophenone, 2-aminopropiophenone and norephedrone;

(4) Fenethylline;

(5) Methcathinone: Some other names: 2-(methylamino)-propiophenone; alpha-(methylamino)propiophenone; 2-(methylamino)-1-phenylpropan-1-one; alpha-N-methylaminopropiophenone; monomethylpropion; ephedrone; N-methylcathinone; methylcathinone; AL-464; AL-422; AL-463 and UR1432, its salts, optical isomers, and salts of optical isomers;

(6) (+-)cis-4-methylaminorex ((+-)cis-4,5-dihydro-4-methyl-5-phenyl-2-oxazolamine);

(7) N-ethylamphetamine;

(8) N,N-dimethylamphetamine: Some trade or other names: N,N-alpha-trimethyl-benzeneethanamine; N,N-alpha-trimethylphenoethylene.

The controlled substances in this section may be added, rescheduled, or deleted as provided for in RCW 69.50.201. [2010 c 177 § 2; 1993 c 187 § 4; 1986 c 124 § 3; 1980 c 138 § 1; 1971 ex.s. c 308 § 69.50.204.]

Pharmacy quality assurance commission may change schedules of controlled substances: RCW 69.50.201.

69.50.205 Schedule II tests. (a) The commission shall place a substance in Schedule II upon finding that:

(1) the substance has high potential for abuse;

(2) the substance has currently accepted medical use in treatment in the United States, or currently accepted medical use with severe restrictions; and

(3) the abuse of the substance may lead to severe psychological or physical dependence.

(b) The commission may place a substance in Schedule II without making the findings required by subsection (a) of this section if the substance is controlled under Schedule II of the federal Controlled Substances Act by a federal agency as the result of an international treaty, convention, or protocol. [2013 c 19 § 89; 1993 c 187 § 5; 1971 ex.s. c 308 § 69.50.205.]

69.50.206 Schedule II. (a) The drugs and other substances listed in this section, by whatever official name, common or usual name, chemical name, or brand name designated, are included in Schedule II.

(b) Substances. (Vegetable origin or chemical synthesis.) Unless specifically excepted, any of the following substances, except those listed in other schedules, whether produced directly or indirectly by extraction from substances of vegetable origin, or independently by means of chemical synthesis, or by combination of extraction and chemical synthesis:

(1) Opium and opiate, and any salt, compound, derivative, or preparation of opium or opiate, excluding apomorphine, thebaine-derived butorphanol, dextrorphan, nalbuphine, nalmefene, naloxone, and naltrexone, and their respective salts, but including the following:

(i) Raw opium;

(ii) Opium extracts;

(iii) Opium fluid;

(iv) Powdered opium;

(v) Granulated opium;

(vi) Tincture of opium;

(vii) Codeine;

(viii) Dihydroetorphine;

(ix) Ethylmorphine;

(x) Etorphine hydrochloride;

(xi) Hydrocodone;

(xii) Hydromorphone;

(xiii) Metopon;

(xiv) Morphine;

(xv) Oripavine;

(xvi) Oxycodone;

(xvii) Oxymorphone; and

(xviii) Thebaine.

(2) Any salt, compound, isomer, derivative, or preparation thereof that is chemically equivalent or identical with any of the substances referred to in subsection (b)(1) of this section, but not including the isoquinoline alkaloids of opium.

(3) Opium poppy and poppy straw.

(4) Coca leaves and any salt, compound, derivative, or preparation of coca leaves including cocaine and ecgonine, and their salts, isomers, derivatives, and salts of isomers and derivatives, and any salt, compound, derivative, or preparation thereof which is chemically equivalent or identical with any of these substances, except that the substances shall not include decocainized coca leaves or extractions of coca leaves which do not contain cocaine or ecgonine.

(5) Concentrate of poppy straw (The crude extract of poppy straw in either liquid, solid, or powder form which contains the phenanthrene alkaloids of the opium poppy.)

(c) Opiates. Unless specifically excepted or unless in another schedule, any of the following synthetic opiates, including its isomers, esters, ethers, salts, and salts of isomers, esters, and ethers, whenever the existence of such isomers, esters, ethers, and salts is possible within the specific chemical designation, dextrorphan and levopropoxyphene excepted:

(1) Alfentanil;

(2) Alphaprodine;

(3) Anileridine;

(4) Bezitramide;

(5) Bulk dextropropoxyphene (nondosage forms);

(6) Carfentanil;

(7) Dihydrocodeine;

(8) Diphenoxylate;

(9) Fentanyl;

(10) Isomethadone;

(11) Levo-alphacetylmethadol, also known as levo-alpha-acetylmethadol, levomethadyl acetate, or LAAM;

(12) Levomethorphan;

(13) Levorphanol;

(14) Metazocine;

(15) Methadone;

(16) Methadone—Intermediate, 4-cyano-2-dimethylamino-4, 4-diphenyl butane;

(17) Moramide—Intermediate, 2-methyl-3-morpholino-1, 1-diphenylpropane-carboxylic acid;

(18) Pethidine (meperidine);

(19) Pethidine—Intermediate-A, 4-cyano-1-methyl-4-phenylpiperidine;

(20) Pethidine—Intermediate-B, ethyl-4-phenylpiperidine-4-carboxylate;

(21) Pethidine-Intermediate-C, 1-methyl-4-phenylpiperidine-4-carboxylic acid;

(22) Phenazocine;

(23) Piminodine;

(24) Racemethorphan;

(25) Racemorphan;

(26) Remifentanil;

(27) Sufentanil;

(28) Tapentadol.

(d) Stimulants. Unless specifically excepted or unless listed in another schedule, any material, compound, mixture, or preparation which contains any quantity of the following substances having a stimulant effect on the central nervous system:

(1) Amphetamine, its salts, optical isomers, and salts of its optical isomers;

(2) Methamphetamine, its salts, isomers, and salts of its isomers;

(3) Phenmetrazine and its salts;

(4) Methylphenidate;

(5) Lisdexamfetamine, its salts, isomers, and salts of its isomers.

(e) Depressants. Unless specifically excepted or unless listed in another schedule, any material, compound, mixture, or preparation which contains any quantity of the following substances having a depressant effect on the central nervous system, including its salts, isomers, and salts of isomers whenever the existence of such salts, isomers, and salts of isomers is possible within the specific chemical designation:

(1) Amobarbital;

(2) Glutethimide;

(3) Pentobarbital;

(4) Phencyclidine;

(5) Secobarbital.

(f) Hallucinogenic substances.

Nabilone: Some trade or other names are (±)-trans3-(1,1-dimethlheptyl)-6,6a,7,8,10,10a-hexahydro-1-hydroxy-6,6-dimethyl-9H-dibenzol[b,d]pyran-9-one.

(g) Immediate precursors. Unless specifically excepted or unless listed in another schedule, any material, compound, mixture, or preparation which contains any quantity of the following substances:

(1) Immediate precursor to amphetamine and methamphetamine:

(i) Phenylacetone: Some trade or other names phenyl-2-propanone, P2P, benzyl methyl ketone, methyl benzyl ketone.

(2) Immediate precursors to phencyclidine (PCP):

(i) 1-phenylcyclohexylamine;

(ii) 1-piperidinocyclohexanecarbonitrile (PCC).

The controlled substances in this section may be added, rescheduled, or deleted as provided for in RCW 69.50.201. [2010 c 177 § 3; 1993 c 187 § 6; 1986 c 124 § 4; 1980 c 138 § 2; 1971 ex.s. c 308 § 69.50.206.]

Pharmacy quality assurance commission may change schedules of controlled substances: RCW 69.50.201.

69.50.207 Schedule III tests. (a) The commission shall place a substance in Schedule III upon finding that:

(1) the substance has a potential for abuse less than the substances included in Schedules I and II;

(2) the substance has currently accepted medical use in treatment in the United States; and

(3) abuse of the substance may lead to moderate or low physical dependence or high psychological dependence.

(b) The commission may place a substance in Schedule III without making the findings required by subsection (a) of this section if the substance is controlled under Schedule III of the federal Controlled Substances Act by a federal agency as the result of an international treaty, convention, or protocol. [2013 c 19 § 90; 1993 c 187 § 7; 1971 ex.s. c 308 § 69.50.207.]

69.50.208 Schedule III. Unless specifically excepted by state or federal law or regulation or more specifically included in another schedule, the following controlled substances are listed in Schedule III:

(a) Stimulants. Any material, compound, mixture, or preparation containing any quantity of the following substances having a stimulant effect on the central nervous system, including their salts, isomers, whether optical, position, or geometric, and salts of isomers whenever the existence of those salts, isomers, and salts of isomers is possible within the specific chemical designation:

(1) Any compound, mixture, or preparation in dosage unit form containing any stimulant substance included in Schedule II and which was listed as an excepted compound on August 25, 1971, pursuant to the federal Controlled Substances Act, and any other drug of the quantitative composition shown in that list for those drugs or which is the same except for containing a lesser quantity of controlled substances;

(2) Benzphetamine;

(3) Chlorphentermine;

(4) Clortermine;

(5) Phendimetrazine.

(b) Depressants. Unless specifically excepted or unless listed in another schedule, any material, compound, mixture, or preparation which contains any quantity of the following substances having a depressant effect on the central nervous system:

(1) Any compound, mixture, or preparation containing:

(i) Amobarbital;

(ii) Secobarbital;

(iii) Pentobarbital;

or any salt thereof and one or more other active medicinal ingredients which are not listed in any schedule;

(2) Any suppository dosage form containing:

(i) Amobarbital;

(ii) Secobarbital;

(iii) Pentobarbital;

or any salt of any of these drugs and approved by the Food and Drug Administration for marketing only as a suppository;

(3) Any substance which contains any quantity of a derivative of barbituric acid, or any salt of a derivative of barbituric acid;

(4) Chlorhexadol;

(5) Embutramide;

(6) Any drug product containing gamma hydroxybutyric acid, including its salts, isomers, and salts of isomers, for which an application is approved under section 505 of the federal food, drug, and cosmetic act;

(7) Ketamine, its salts, isomers, and salts of isomers, some other names for ketamine: (<plus-minus>)-2-(2-chlorophenyl)-2-(methylamino)-cyclohexanone;

(8) Lysergic acid;

(9) Lysergic acid amide;

(10) Methyprylon;

(11) Sulfondiethylmethane;

(12) Sulfonethylmethane;

(13) Sulfonmethane;

(14) Tiletamine and zolazepam or any of their salts—some trade or other names for a tiletamine-zolazepam combination product: Telazol, some trade or other names for tiletamine: 2-(ethylamino)-2-(2-thienyl) cyclohexanone, some trade or other names for zolazepam: 4-(2-fluorophenyl)-6,8-dihydro-1,3,8-trimethylpyrazolo-[3,4-e][1,4]-diazepin-7(1H)-one flupyrazapon.

(c) Nalorphine.

(d) Narcotic drugs. Unless specifically excepted or unless listed in another schedule, any material, compound, mixture, or preparation containing limited quantities of any of the following narcotic drugs, or any salts thereof calculated as the free anhydrous base or alkaloid, in limited quantities as set forth in this subsection:

(1) Not more than 1.8 grams of codeine per 100 milliliters or not more than 90 milligrams per dosage unit, with an equal or greater quantity of an isoquinoline alkaloid of opium;

(2) Not more than 1.8 grams of codeine per 100 milliliters or not more than 90 milligrams per dosage unit, with one or more active, nonnarcotic ingredients in recognized therapeutic amounts;

(3) Not more than 300 milligrams of dihydrocodeinone (hydrocodone) per 100 milliliters or not more than 15 milligrams per dosage unit, with a fourfold or greater quantity of an isoquinoline alkaloid of opium;

(4) Not more than 300 milligrams of dihydrocodeinone (hydrocodone) per 100 milliliters or not more than 15 milligrams per dosage unit, with one or more active, nonnarcotic ingredients in recognized therapeutic amounts;

(5) Not more than 1.8 grams of dihydrocodeine per 100 milliliters or not more than 90 milligrams per dosage unit, with one or more active, nonnarcotic ingredients in recognized therapeutic amounts;

(6) Not more than 300 milligrams of ethylmorphine per 100 milliliters or not more than 15 milligrams per dosage unit, with one or more active, nonnarcotic ingredients in recognized therapeutic amounts;

(7) Not more than 500 milligrams of opium per 100 milliliters or per 100 grams, or not more than 25 milligrams per dosage unit, with one or more active, nonnarcotic ingredients in recognized therapeutic amounts; and

(8) Not more than 50 milligrams of morphine per 100 milliliters or per 100 grams with one or more active, nonnarcotic ingredients in recognized therapeutic amounts.

(e) Any material, compound, mixture, or preparation containing any of the following narcotic drugs or their salts: Buprenorphine.

(f) Hallucinogenic substances. Dronabinol (synthetic) in sesame oil and encapsulated in a soft gelatin capsule in a United States food and drug administration approved product. Some other names for dronabinol: [6a R-trans]-6a,7,8,10a-tetrahydro-6,6,9-trimethyl-3-pentyl-6H-dibenzo[b,d]pyran-i-ol, or (-)-delta-9-(trans)-tetrahydrocannabinol.

(g) Anabolic steroids. The term "anabolic steroids" means any drug or hormonal substance, chemically and pharmacologically related to testosterone, other than estrogens, progestins, corticosteroids, and dehydroepiandrosterone, that promotes muscle growth and includes:

(1) 3β,17-dihydroxy-5a-androstane;

(2) 3α,17β-dihydroxy-5a-androstane;

(3) 5α-androstan-3,17-dione;

(4) 1-androstenediol (3β,17β-dihydroxy-5α-androst-1-ene);

(5) 1-androstenediol (3α,17β-dihydroxy-5α-androst-1-ene);

(6) 4-androstenediol (3β,17β-dihydroxy-androst-4-ene);

(7) 5-androstenediol (3β,17β-dihydroxy-androst-5-ene);

(8) 1-androstenedione ([5α]-androst-1-en-3,17-dione);

(9) 4-androstenedione (androst-4-en-3,17-dione);

(10) 5-androstenedione (androst-5-en-3,17-dione);

(11) Bolasterone (7α,17α-dimethyl-17β-hydroxyandrost-4-en-3-one);

(12) Boldenone (17β-hydroxyandrost-1,4,-diene-3-one);

(13) Calusterone (7β,17α-dimethyl-17β-hydroxyandrost-4-en-3-one);

(14) Clostebol (4-chloro-17β-hydroxyandrost-4-en-3-one);

(15) Dehydrochloromethyltestosterone (4-chloro-17β-hydroxy-17α-methyl-androst-1,4-dien-3-one);

(16) Δ1-dihydrotestosterone (a.k.a. '1-testosterone') (17β-hydroxy-5α-androst-1-en-3-one);

(17) 4-dihydrotestosterone (17β-hydroxy-androstan-3-one);

(18) Drostanolone (17β-hydroxy-2α-methyl-5α-androstan-3-one);

(19) Ethylestrenol (17α-ethyl-17β-hydroxyestr-4-ene);

(20) Fluoxymesterone (9-fluoro-17α-methyl-11β,17β-dihydroxyandrost-4-en-3-one);

(21) Formebolone (2-formyl-17α-methyl-11α,17β-dihydroxyandrost-1,4-dien-3-one);

(22) Furazabol (17α-methyl-17β-hydroxyandrostano[2,3-c]-furazan);

(23) 13β-ethyl-17β-hydroxygon-4-en-3-one;

(24) 4-hydroxytestosterone (4,17β-dihydroxy-androst-4-en-3-one);

(25) 4-hydroxy-19-nortestosterone (4,17β-dihydroxy-estr-4-en-3-one);

(26) Mestanolone (17α-methyl-17β-hydroxy-5-androstan-3-one);

(27) Mesterolone (1α methyl-17β-hydroxy-[5α]-androstan-3-one);

(28) Methandienone (17α-methyl-17β-hydroxyandrost-1,4-dien-3-one);

(29) Methandriol (17α-methyl-3β,17β-dihydroxyandrost-5-ene);

(30) Methenolone (1-methyl-17β-hydroxy-5α-androst-1-en-3-one);

(31) 17α-methyl-3β,17β-dihydroxy-5a-androstane;

(32) 17α-methyl-3α,17β-dihydroxy-5a-androstane;

(33) 17α-methyl-3β,17β-dihydroxyandrost-4-ene;

(34) 17α-methyl-4-hydroxynandrolone (17α-methyl-4-hydroxy-17β-hydroxyestr-4-en-3-one);

(35) Methyldienolone (17α-methyl-17β-hydroxyestra-4,9(10)-dien-3-one);

(36) Methyltrienolone (17α-methyl-17β-hydroxyestra-4,9-11-trien-3-one);

(37) Methyltestosterone (17α-methyl-17β-hydroxyandrost-4-en-3-one);

(38) Mibolerone (7α,17α-dimethyl-17β-hydroxyestr-4-en-3-one);

(39) 17α-methyl-Δ1-dihydrotestosterone (17bβ-hydroxy-17α-methyl-5α-androst-1-en-3-one) (also known as '17-α-methyl-1-testosterone');

(40) Nandrolone (17β-hydroxyestr-4-en-3-one);

(41) 19-nor-4-androstenediol (3β, 17β-dihydroxyestr-4-ene);

(42) 19-nor-4-androstenediol (3α, 17β-dihydroxyestr-4-ene);

(43) 19-nor-5-androstenediol (3β, 17β-dihydroxyestr-5-ene);

(44) 19-nor-5-androstenediol (3α, 17β-dihydroxyestr-5-ene);

(45) 19-nor-4-androstenedione (estr-4-en-3,17-dione);

(46) 19-nor-5-androstenedione (estr-5-en-3,17-dione);

(47) Norbolethone (13β, 17α-diethyl-17β-hydroxygon-4-en-3-one);

(48) Norclostebol (4-chloro-17β-hydroxyestr-4-en-3-one);

(49) Norethandrolone (17α-ethyl-17β-hydroxyestr-4-en-3-one);

(50) Normethandrolone (17α-methyl-17β-hydroxyestr-4-en-3-one);

(51) Oxandrolone (17α-methyl-17β-hydroxy-2-oxa-[5α]-androstan-3-one);

(52) Oxymesterone (17α-methyl-4,17β-dihydroxyandrost-4-en-3-one);

(53) Oxymetholone (17α-methyl-2-hydroxymethylene-17β-hydroxy-[5α]-androstan-3-one);

(54) Stanozolol (17α-methyl-17β-hydroxy-[5α]-androst-2-eno[3,2-c]-pyrazole);

(55) Stenbolone (17β-hydroxy-2-methyl-[5α]-androst-1-en-3-one);

(56) Testolactone (13-hydroxy-3-oxo-13,17-secoandrosta-1,4-dien-17-oic acid lactone);

(57) Testosterone (17β-hydroxyandrost-4-en-3-one);

(58) Tetrahydrogestrinone (13β, 17α-diethyl-17β-hydroxygon-4,9,11-trien-3-one);

(59) Trenbolone (17β-hydroxyestr-4,9,11-trien-3-one); and

(60) Any salt, ester, or ether of a drug or substance described in this section. Such term does not include an anabolic steroid that is expressly intended for administration through implants to cattle or other nonhuman species and that has been approved by the secretary of the department of health and human services for such administration. If any person prescribes, dispenses, or distributes such steroid for human use, the person shall be considered to have prescribed, dispensed, or distributed an anabolic steroid within the meaning of this section.

The commission may except by rule any compound, mixture, or preparation containing any stimulant or depressant substance listed in subsection (a)(1) and (2) of this section from the application of all or any part of this chapter if the compound, mixture, or preparation contains one or more active medicinal ingredients not having a stimulant or depressant effect on the central nervous system, and if the admix-

tures are in combinations, quantity, proportion, or concentration that vitiate the potential for abuse of the substances having a stimulant or depressant effect on the central nervous system.

The controlled substances listed in this section may be added, rescheduled, or deleted as provided for in RCW 69.50.201. [2013 c 19 § 91; 2010 c 177 § 4; 1993 c 187 § 8; 1986 c 124 § 5; 1980 c 138 § 3; 1971 ex.s. c 308 § 69.50.208.]

Commission may change schedules of controlled substances: RCW 69.50.201.

69.50.209 Schedule IV tests. (a) The commission shall place a substance in Schedule IV upon finding that:

(1) the substance has a low potential for abuse relative to substances in Schedule III;

(2) the substance has currently accepted medical use in treatment in the United States; and

(3) abuse of the substance may lead to limited physical dependence or psychological dependence relative to the substances included in Schedule III.

(b) The commission may place a substance in Schedule IV without making the findings required by subsection (a) of this section if the substance is controlled under Schedule IV of the federal Controlled Substances Act by a federal agency as the result of an international treaty, convention, or protocol. [2013 c 19 § 92; 1993 c 187 § 9; 1971 ex.s. c 308 § 69.50.209.]

69.50.210 Schedule IV. Unless specifically excepted by state or federal law or regulation or more specifically included in another schedule, the following controlled substances are listed in Schedule IV:

(a) Any material, compound, mixture, or preparation containing any of the following narcotic drugs, or their salts calculated as the free anhydrous base or alkaloid, in limited quantities as set forth below:

(1) Not more than 1 milligram of difenoxin and not less than 25 micrograms of atropine sulfate per dosage unit.

(2) Dextropropoxyphene (alpha-(+)-4-dimethylamino-1,2-diphenyl-3-methyl-2-propionoxybutane).

(b) Depressants. Unless specifically excepted or unless listed in another schedule, any material, compound, mixture, or preparation containing any quantity of the following substances having a depressant effect on the central nervous system, including their salts, isomers, and salts of isomers whenever the existence of those salts, isomers, and salts of isomers is possible within the specific chemical designation:

(1) Alprazolam;
(2) Barbital;
(3) Bromazepam;
(4) Camazepam;
(5) Carisoprodol;
(6) Chloral betaine;
(7) Chloral hydrate;
(8) Chlordiazepoxide;
(9) Clobazam;
(10) Clonazepam;
(11) Clorazepate;
(12) Clotiazepam;
(13) Cloxazolam;
(14) Delorazepam;
(15) Diazepam;
(16) Dichloralphenazone;
(17) Estazolam;
(18) Ethchlorvynol;
(19) Ethinamate;
(20) Ethyl loflazepate;
(21) Fludiazepam;
(22) Flunitrazepam;
(23) Flurazepam;
(24) Halazepam;
(25) Haloxazolam;
(26) Ketazolam;
(27) Loprazolam;
(28) Lorazepam;
(29) Lormetazepam;
(30) Mebutamate;
(31) Medazepam;
(32) Meprobamate;
(33) Methohexital;
(34) Methylphenobarbital (mephobarbital);
(35) Midazolam;
(36) Nimetazepam;
(37) Nitrazepam;
(38) Nordiazepam;
(39) Oxazepam;
(40) Oxazolam;
(41) Paraldehyde;
(42) Petrichloral;
(43) Phenobarbital;
(44) Pinazepam;
(45) Prazepam;
(46) Quazepam;
(47) Temazepam;
(48) Tetrazepam;
(49) Triazolam;
(50) Zaleplon;
(51) Zolpidem; and
(52) Zopiclone.

(c) Fenfluramine. Any material, compound, mixture, or preparation containing any quantity of the following substance, including its salts, isomers, and salts of such isomers, whenever the existence of such salts, isomers, and salts of isomers is possible: Fenfluramine.

(d) Stimulants. Unless specifically excepted or unless listed in another schedule, any material, compound, mixture, or preparation containing any quantity of the following substances having a stimulant effect on the central nervous system, including their salts, isomers, and salts of isomers:

(1) Cathine((+)norpseudoephedrine);
(2) Diethylpropion;
(3) Fencamfamin;
(4) Fenproporex;
(5) Mazindol;
(6) Mefenorex;
(7) Modafinil;
(8) Pemoline (including organometallic complexes and chelates thereof);
(9) Phentermine;
(10) Pipradrol;
(11) Sibutramine;
(12) SPA ((-)-1-dimethylamino-1, 2-dephenylethane).

(e) Other substances. Unless specifically excepted or unless listed in another schedule, any material, compound, mixture, or preparation containing any quantity of the following substance, including its salts:

(1) Pentazocine;

(2) Butorphanol, including its optical isomers.

The commission may except by rule any compound, mixture, or preparation containing any depressant substance listed in subsection (b) of this section from the application of all or any part of this chapter if the compound, mixture, or preparation contains one or more active medicinal ingredients not having a depressant effect on the central nervous system, and if the admixtures are in combinations, quantity, proportion, or concentration that vitiate the potential for abuse of the substances having a depressant effect on the central nervous system.

The controlled substances listed in this section may be added, rescheduled, or deleted as provided for in RCW 69.50.201. [2013 c 19 § 93; 2010 c 177 § 5; 1993 c 187 § 10; 1986 c 124 § 6; 1981 c 147 § 2; 1980 c 138 § 4; 1971 ex.s. c 308 § 69.50.210.]

Commission may change schedules of controlled substances: RCW 69.50.201.

69.50.211 Schedule V tests. (a) The commission shall place a substance in Schedule V upon finding that:

(1) the substance has low potential for abuse relative to the controlled substances included in Schedule IV;

(2) the substance has currently accepted medical use in treatment in the United States; and

(3) abuse of the substance may lead to limited physical dependence or psychological dependence relative to the substances included in Schedule IV.

(b) The commission may place a substance in Schedule V without being required to make the findings required by subsection (a) of this section if the substance is controlled under Schedule V of the federal Controlled Substances Act by a federal agency as the result of an international treaty, convention, or protocol. [2013 c 19 § 94; 1993 c 187 § 11; 1971 ex.s. c 308 § 69.50.211.]

69.50.212 Schedule V. Unless specifically excepted by state or federal law or regulation or more specifically included in another schedule, the following controlled substances are listed in Schedule V:

(a) Any compound, mixture, or preparation containing any of the following narcotic drugs, or their salts calculated as the free anhydrous base or alkaloid, in limited quantities as set forth in this subsection, which also contains one or more nonnarcotic active medicinal ingredients in sufficient proportion to confer upon the compound, mixture, or preparation, valuable medicinal qualities other than those possessed by the narcotic drug alone:

(1) Not more than 200 milligrams of codeine per 100 milliliters or per 100 grams;

(2) Not more than 100 milligrams of dihydrocodeine per 100 milliliters or per 100 grams;

(3) Not more than 100 milligrams of ethylmorphine per 100 milliliters or per 100 grams;

(4) Not more than 2.5 milligrams of diphenoxylate and not less than 25 micrograms of atropine sulfate per dosage unit;

(5) Not more than 100 milligrams of opium per 100 milliliters or per 100 grams;

(6) Not more than 0.5 milligrams of difenoxin and not less than 25 micrograms of atropine sulfate per dosage unit.

(b) Stimulants. Unless specifically exempted or excluded or unless listed in another schedule, any material, compound, mixture, or preparation which contains any quantity of the following substances having a stimulant effect on the central nervous system, including its salts, isomers, and salts of isomers: Pyrovalerone.

(c) Depressants. Unless specifically exempted or excluded or unless listed in another schedule, any material, compound, mixture, or preparation which contains any quantity of the following substances having a depressant effect on the central nervous system, including its salts:

(1) Lacosamide[(R)-2-acetoamido-N-benzyl-3-methoxy-propionamide];

(2) Pregabalin{(S)-3-(aminomethyl)-5-methylhexanoic acid}.

The controlled substances listed in this section may be added, rescheduled, or deleted as provided for in RCW 69.50.201. [2010 c 177 § 6; 1993 c 187 § 12; 1986 c 124 § 7; 1980 c 138 § 5; 1971 ex.s. c 308 § 69.50.212.]

Pharmacy quality assurance commission may change schedules of controlled substances: RCW 69.50.201.

69.50.213 Republishing of schedules. The commission shall publish updated schedules annually. Failure to publish updated schedules is not a defense in any administrative or judicial proceeding under this chapter. [2013 c 19 § 95; 1993 c 187 § 13; 1971 ex.s. c 308 § 69.50.213.]

69.50.214 Controlled substance analog. A controlled substance analog, to the extent intended for human consumption, shall be treated, for the purposes of this chapter, as a substance included in Schedule I. Within thirty days after the initiation of prosecution with respect to a controlled substance analog by indictment or information, the prosecuting attorney shall notify the commission of information relevant to emergency scheduling as provided for in RCW 69.50.201(e). After final determination that the controlled substance analog should not be scheduled, no prosecution relating to that substance as a controlled substance analog may continue or take place. [2013 c 19 § 96; 1993 c 187 § 14.]

ARTICLE III
REGULATION OF MANUFACTURE, DISTRIBUTION, AND DISPENSING OF CONTROLLED SUBSTANCES

69.50.301 Rules—Fees. The commission may adopt rules and the department may charge reasonable fees, relating to the registration and control of the manufacture, distribution, and dispensing of controlled substances within this state. [2013 c 19 § 97; 1993 c 187 § 15; 1991 c 229 § 9; 1989 1st ex.s. c 9 § 431; 1971 ex.s. c 308 § 69.50.301.]

Additional notes found at www.leg.wa.gov

69.50.302 Registration requirements. (a) Every person who manufactures, distributes, or dispenses any controlled substance within this state or who proposes to engage in the manufacture, distribution, or dispensing of any controlled substance within this state, shall obtain annually a registration issued by the department in accordance with the commission's rules.

(b) A person registered by the department under this chapter to manufacture, distribute, dispense, or conduct research with controlled substances may possess, manufacture, distribute, dispense, or conduct research with those substances to the extent authorized by the registration and in conformity with this Article.

(c) The following persons need not register and may lawfully possess controlled substances under this chapter:

(1) An agent or employee of any registered manufacturer, distributor, or dispenser of any controlled substance if the agent or employee is acting in the usual course of business or employment. This exemption shall not include any agent or employee distributing sample controlled substances to practitioners without an order;

(2) A common or contract carrier or warehouse operator, or an employee thereof, whose possession of any controlled substance is in the usual course of business or employment;

(3) An ultimate user or a person in possession of any controlled substance pursuant to a lawful order of a practitioner or in lawful possession of a substance included in Schedule V.

(d) The commission may waive by rule the requirement for registration of certain manufacturers, distributors, or dispensers upon finding it consistent with the public health and safety. Personal practitioners licensed or registered in the state of Washington under the respective professional licensing acts shall not be required to be registered under this chapter unless the specific exemption is denied pursuant to RCW 69.50.305 for violation of any provisions of this chapter.

(e) A separate registration is required at each principal place of business or professional practice where the applicant manufactures, distributes, or dispenses controlled substances.

(f) The department may inspect the establishment of a registrant or applicant for registration in accordance with rules adopted by the commission. [2013 c 19 § 98; 2011 c 336 § 839; 1993 c 187 § 16; 1989 1st ex.s. c 9 § 432; 1971 ex.s. c 308 § 69.50.302.]

Additional notes found at www.leg.wa.gov

69.50.303 Registration. (a) The department shall register an applicant to manufacture or distribute controlled substances included in RCW 69.50.204, 69.50.206, 69.50.208, 69.50.210, and 69.50.212 unless the commission determines that the issuance of that registration would be inconsistent with the public interest. In determining the public interest, the commission shall consider the following factors:

(1) maintenance of effective controls against diversion of controlled substances into other than legitimate medical, scientific, research, or industrial channels;

(2) compliance with applicable state and local law;

(3) promotion of technical advances in the art of manufacturing controlled substances and the development of new substances;

(4) any convictions of the applicant under any laws of another country or federal or state laws relating to any controlled substance;

(5) past experience in the manufacture or distribution of controlled substances, and the existence in the applicant's establishment of effective controls against diversion of controlled substances into other than legitimate medical, scientific, research, or industrial channels;

(6) furnishing by the applicant of false or fraudulent material in any application filed under this chapter;

(7) suspension or revocation of the applicant's federal registration to manufacture, distribute, or dispense controlled substances as authorized by federal law; and

(8) any other factors relevant to and consistent with the public health and safety.

(b) Registration under subsection (a) of this section does not entitle a registrant to manufacture or distribute controlled substances included in Schedule I or II other than those specified in the registration.

(c) Practitioners must be registered, or exempted under RCW 69.50.302(d), to dispense any controlled substances or to conduct research with controlled substances included in Schedules II through V if they are authorized to dispense or conduct research under the law of this state. The commission need not require separate registration under this Article for practitioners engaging in research with nonnarcotic substances included in Schedules II through V where the registrant is already registered under this Article in another capacity. Practitioners registered under federal law to conduct research with substances included in Schedule I may conduct research with substances included in Schedule I within this state upon furnishing the commission evidence of that federal registration.

(d) A manufacturer or distributor registered under the federal Controlled Substances Act, 21 U.S.C. Sec. 801 et seq., may submit a copy of the federal application as an application for registration as a manufacturer or distributor under this section. The commission may require a manufacturer or distributor to submit information in addition to the application for registration under the federal act. [2013 c 19 § 99; 1993 c 187 § 17; 1989 1st ex.s. c 9 § 433; 1971 ex.s. c 308 § 69.50.303.]

Additional notes found at www.leg.wa.gov

69.50.304 Revocation and suspension of registration—Seizure or placement under seal of controlled substances. (a) A registration, or exemption from registration, under RCW 69.50.303 to manufacture, distribute, or dispense a controlled substance may be suspended or revoked by the commission upon finding that the registrant has:

(1) furnished false or fraudulent material information in any application filed under this chapter;

(2) been convicted of a felony under any state or federal law relating to any controlled substance;

(3) had the registrant's federal registration suspended or revoked and is no longer authorized by federal law to manufacture, distribute, or dispense controlled substances; or

(4) committed acts that would render registration under RCW 69.50.303 inconsistent with the public interest as determined under that section.

(b) The commission may limit revocation or suspension of a registration to the particular controlled substance or schedule of controlled substances, with respect to which grounds for revocation or suspension exist.

(c) If the commission suspends or revokes a registration, all controlled substances owned or possessed by the registrant at the time of suspension or the effective date of the revocation order may be placed under seal. No disposition may be made of substances under seal until the time for taking an appeal has elapsed or until all appeals have been concluded unless a court, upon application, orders the sale of perishable substances and the deposit of the proceeds of the sale with the court. Upon a revocation order becoming final, all controlled substances may be forfeited to the state.

(d) The department may seize or place under seal any controlled substance owned or possessed by a registrant whose registration has expired or who has ceased to practice or do business in the manner contemplated by the registration. The controlled substance must be held for the benefit of the registrant or the registrant's successor in interest. The department shall notify a registrant, or the registrant's successor in interest, who has any controlled substance seized or placed under seal, of the procedures to be followed to secure the return of the controlled substance and the conditions under which it will be returned. The department may not dispose of any controlled substance seized or placed under seal under this subsection until the expiration of one hundred eighty days after the controlled substance was seized or placed under seal. The costs incurred by the department in seizing, placing under seal, maintaining custody, and disposing of any controlled substance under this subsection may be recovered from the registrant, any proceeds obtained from the disposition of the controlled substance, or from both. Any balance remaining after the costs have been recovered from the proceeds of any disposition must be delivered to the registrant or the registrant's successor in interest.

(e) The department shall promptly notify the drug enforcement administration of all orders restricting, suspending, or revoking registration and all forfeitures of controlled substances. [2013 c 19 § 100; 1993 c 187 § 18; 1989 1st ex.s. c 9 § 434; 1986 c 124 § 8; 1971 ex.s. c 308 § 69.50.304.]

Additional notes found at www.leg.wa.gov

69.50.305 Procedure for denial, suspension, or revocation of registration. (a) Any registration, or exemption from registration, issued pursuant to the provisions of this chapter shall not be denied, suspended, or revoked unless the commission denies, suspends, or revokes such registration, or exemption from registration, by proceedings consistent with the administrative procedure act, chapter 34.05 RCW.

(b) The commission may suspend any registration simultaneously with the institution of proceedings under RCW 69.50.304, or where renewal of registration is refused, if it finds that there is an imminent danger to the public health or safety which warrants this action. The suspension shall continue in effect until the conclusion of the proceedings, including judicial review thereof, unless sooner withdrawn by the commission or dissolved by a court of competent jurisdiction. [2013 c 19 § 101; 1971 ex.s. c 308 § 69.50.305.]

69.50.306 Records of registrants. Persons registered, or exempted from registration under RCW 69.50.302(d), to manufacture, distribute, dispense, or administer controlled substances under this chapter shall keep records and maintain inventories in conformance with the recordkeeping and inventory requirements of federal law and with any additional rules the commission issues. [2013 c 19 § 102; 1971 ex.s. c 308 § 69.50.306.]

69.50.308 Prescriptions. (a) A controlled substance may be dispensed only as provided in this section. Prescriptions electronically communicated must also meet the requirements under RCW 69.50.312.

(b) Except when dispensed directly by a practitioner authorized to prescribe or administer a controlled substance, other than a pharmacy, to an ultimate user, a substance included in Schedule II may not be dispensed without the written or electronically communicated prescription of a practitioner.

(1) Schedule II narcotic substances may be dispensed by a pharmacy pursuant to a facsimile prescription under the following circumstances:

(i) The facsimile prescription is transmitted by a practitioner to the pharmacy; and

(ii) The facsimile prescription is for a patient in a long-term care facility or a hospice program certified or paid by medicare under Title XVIII of the federal social security act. "Long-term care facility" means nursing homes licensed under chapter 18.51 RCW, assisted living facilities licensed under chapter 18.20 RCW, and adult family homes licensed under chapter 70.128 RCW; or

(iii) The facsimile prescription is for a patient of a hospice program licensed by the state; and

(iv) The practitioner or the practitioner's agent notes on the facsimile prescription that the patient is a long-term care or hospice patient.

(2) Injectable Schedule II narcotic substances that are to be compounded for patient use may be dispensed by a pharmacy pursuant to a facsimile prescription if the facsimile prescription is transmitted by a practitioner to the pharmacy.

(3) Under (1) and (2) of this subsection the facsimile prescription shall serve as the original prescription and shall be maintained as other Schedule II narcotic substances prescriptions.

(c) In emergency situations, as defined by rule of the commission, a substance included in Schedule II may be dispensed upon oral prescription of a practitioner, reduced promptly to writing and filed by the pharmacy. Prescriptions shall be retained in conformity with the requirements of RCW 69.50.306.

(d) A prescription for a substance included in Schedule II may not be refilled. A prescription for a substance included in Schedule II may not be filled more than six months after the date the prescription was issued.

(e) Except when dispensed directly by a practitioner authorized to prescribe or administer a controlled substance, other than a pharmacy, to an ultimate user, a substance included in Schedule III, IV, or V, which is a prescription drug as determined under RCW 69.04.560, may not be dispensed without a written, oral, or electronically communi-

cated prescription of a practitioner. Any oral prescription must be promptly reduced to writing.

(f) The prescription for a substance included in Schedule III, IV, or V may not be filled or refilled more than six months after the date issued by the practitioner or be refilled more than five times, unless renewed by the practitioner.

(g) A valid prescription or lawful order of a practitioner, in order to be effective in legalizing the possession of controlled substances, must be issued in good faith for a legitimate medical purpose by one authorized to prescribe the use of such controlled substance. An order purporting to be a prescription not in the course of professional treatment is not a valid prescription or lawful order of a practitioner within the meaning and intent of this chapter; and the person who knows or should know that the person is filling such an order, as well as the person issuing it, can be charged with a violation of this chapter.

(h) A substance included in Schedule V must be distributed or dispensed only for a medical purpose.

(i) A practitioner may dispense or deliver a controlled substance to or for an individual or animal only for medical treatment or authorized research in the ordinary course of that practitioner's profession. Medical treatment includes dispensing or administering a narcotic drug for pain, including intractable pain.

(j) No administrative sanction, or civil or criminal liability, authorized or created by this chapter may be imposed on a pharmacist for action taken in reliance on a reasonable belief that an order purporting to be a prescription was issued by a practitioner in the usual course of professional treatment or in authorized research.

(k) An individual practitioner may not dispense a substance included in Schedule II, III, or IV for that individual practitioner's personal use. [2013 c 276 § 3; 2013 c 19 § 103; 2012 c 10 § 46; 2001 c 248 § 1; 1993 c 187 § 19; 1971 ex.s. c 308 § 69.50.308.]

Reviser's note: This section was amended by 2013 c 19 § 103 and by 2013 c 276 § 3, each without reference to the other. Both amendments are incorporated in the publication of this section under RCW 1.12.025(2). For rule of construction, see RCW 1.12.025(1).

Application—2012 c 10: See note following RCW 18.20.010.

69.50.309 Containers. A person to whom or for whose use any controlled substance has been prescribed, sold, or dispensed by a practitioner, and the owner of any animal for which such controlled substance has been prescribed, sold, or dispensed may lawfully possess it only in the container in which it was delivered to him or her by the person selling or dispensing the same. [2012 c 117 § 367; 1971 ex.s. c 308 § 69.50.309.]

69.50.310 Sodium pentobarbital—Registration of humane societies and animal control agencies for use in animal control. On and after September 21, 1977, a humane society and animal control agency may apply to the department for registration pursuant to the applicable provisions of this chapter for the sole purpose of being authorized to purchase, possess, and administer sodium pentobarbital to euthanize injured, sick, homeless, or unwanted domestic pets and animals. Any agency so registered shall not permit a person to administer sodium pentobarbital unless such person has demonstrated adequate knowledge of the potential hazards and proper techniques to be used in administering this drug.

The department may issue a limited registration to carry out the provisions of this section. The commission shall promulgate such rules as it deems necessary to insure strict compliance with the provisions of this section. The commission may suspend or revoke registration upon determination that the person administering sodium pentobarbital has not demonstrated adequate knowledge as herein provided. This authority is granted in addition to any other power to suspend or revoke registration as provided by law. [2013 c 19 § 104; 1989 1st ex.s. c 9 § 435; 1977 ex.s. c 197 § 1.]

Additional notes found at www.leg.wa.gov

69.50.311 Triplicate prescription form program—Compliance by health care practitioners. Any licensed health care practitioner with prescription or dispensing authority shall, as a condition of licensure and as directed by the practitioner's disciplinary board, consent to the requirement, if imposed, of complying with a triplicate prescription form program as may be established by rule by the department of health. [1989 1st ex.s. c 9 § 436; 1984 c 153 § 20.]

Additional notes found at www.leg.wa.gov

69.50.312 Electronic communication of prescription information—Commission may adopt rules. (1) Information concerning a prescription for a controlled substance included in Schedules II through V, or information concerning a refill authorization for a controlled substance included in Schedules III through V[,] may be electronically communicated to a pharmacy of the patient's choice pursuant to the provisions of this chapter if the electronically communicated prescription information complies with the following:

(a) Electronically communicated prescription information must comply with all applicable statutes and rules regarding the form, content, recordkeeping, and processing of a prescription for a legend drug;

(b) The system used for transmitting electronically communicated prescription information must be approved by the commission and in accordance with federal rules for electronically communicated prescriptions for controlled substance[s] included in Schedules II through V, as set forth in Title 21 C.F.R. Parts 1300, 1304, 1306, and 1311. This subsection does not apply to currently used facsimile equipment transmitting an exact visual image of the prescription. The commission shall maintain and provide, upon request, a list of systems used for electronically communicating prescription information currently approved by the commission;

(c) An explicit opportunity for practitioners must be made to indicate their preference on whether a therapeutically equivalent generic drug may be substituted;

(d) Prescription drug orders are confidential health information, and may be released only to the patient or the patient's authorized representative, the prescriber or other authorized practitioner then caring for the patient, or other persons specifically authorized by law to receive such information;

(e) To maintain confidentiality of prescription records, the electronic system shall have adequate security and systems safeguards designed to prevent and detect unauthorized access, modification, or manipulation of these records. The

pharmacist in charge shall establish or verify the existence of policies and procedures which ensure the integrity and confidentiality of prescription information transmitted to the pharmacy by electronic means. All managers, employees, and agents of the pharmacy are required to read, sign, and comply with the established policies and procedures; and

(f) The pharmacist shall exercise professional judgment regarding the accuracy, validity, and authenticity of the prescription drug order received by way of electronic transmission, consistent with federal and state laws and rules and guidelines of the commission.

(2) The commission may adopt rules implementing this section. [2013 c 276 § 4; 2013 c 19 § 105; 1998 c 222 § 4.]

Reviser's note: This section was amended by 2013 c 19 § 105 and by 2013 c 276 § 4, each without reference to the other. Both amendments are incorporated in the publication of this section under RCW 1.12.025(2). For rule of construction, see RCW 1.12.025(1).

69.50.315 Medical assistance—Drug-related overdose—Naloxone—Prosecution for possession. (1)(a) A person acting in good faith who seeks medical assistance for someone experiencing a drug-related overdose shall not be charged or prosecuted for possession of a controlled substance pursuant to RCW 69.50.4013, or penalized under RCW 69.50.4014, if the evidence for the charge of possession of a controlled substance was obtained as a result of the person seeking medical assistance.

(b) A person acting in good faith may receive a naloxone prescription, possess naloxone, and administer naloxone to an individual suffering from an apparent opiate-related overdose.

(2) A person who experiences a drug-related overdose and is in need of medical assistance shall not be charged or prosecuted for possession of a controlled substance pursuant to RCW 69.50.4013, or penalized under RCW 69.50.4014, if the evidence for the charge of possession of a controlled substance was obtained as a result of the overdose and the need for medical assistance.

(3) The protection in this section from prosecution for possession crimes under RCW 69.50.4013 shall not be grounds for suppression of evidence in other criminal charges. [2010 c 9 § 2.]

Intent—2010 c 9: "The legislature intends to save lives by increasing timely medical attention to drug overdose victims through the establishment of limited immunity from prosecution for people who seek medical assistance in a drug overdose situation. Drug overdose is the leading cause of unintentional injury death in Washington state, ahead of motor vehicle-related deaths. Washington state is one of sixteen states in which drug overdoses cause more deaths than traffic accidents. Drug overdose mortality rates have increased significantly since the 1990s, according to the centers for disease control and prevention, and illegal and prescription drug overdoses killed more than thirty-eight thousand people nationwide in 2006, the last year for which firm data is available. The Washington state department of health reports that in 1999 unintentional drug poisoning was responsible for four hundred three deaths in this state; in 2007, the number had increased to seven hundred sixty-one, compared with six hundred ten motor vehicle-related deaths that same year. Many drug overdose fatalities occur because peers delay or forego calling 911 for fear of arrest or police involvement, which researchers continually identify as the most significant barrier to the ideal first response of calling emergency services." [2010 c 9 § 1.]

69.50.320 Registration of department of fish and wildlife for use in chemical capture programs—Rules. The department of fish and wildlife may apply to the department of health for registration pursuant to the applicable provisions of this chapter to purchase, possess, and administer controlled substances for use in chemical capture programs. The department of fish and wildlife must not permit a person to administer controlled substances unless the person has demonstrated adequate knowledge of the potential hazards and proper techniques to be used in administering controlled substances.

The department of health may issue a limited registration to carry out the provisions of this section. The commission may adopt rules to ensure strict compliance with the provisions of this section. The commission, in consultation with the department of fish and wildlife, must by rule add or remove additional controlled substances for use in chemical capture programs. The commission shall suspend or revoke registration upon determination that the person administering controlled substances has not demonstrated adequate knowledge as required by this section. This authority is granted in addition to any other power to suspend or revoke registration as provided by law. [2013 c 19 § 106; 2003 c 175 § 2.]

Findings—2003 c 175: "The legislature finds that the department of fish and wildlife is responsible for the proper management of the state's diverse wildlife resources. Wildlife management often requires the department of fish and wildlife to immobilize individual animals in order for the animals to be moved, treated, examined, or for other legitimate purposes. The legislature finds that it is often necessary for the department to use certain controlled substances to accomplish these purposes. Therefore, the legislature finds that the department of fish and wildlife, in coordination with the *board of pharmacy, must be enabled to use approved controlled substances in order to accomplish its legitimate wildlife management goals." [2003 c 175 § 1.]

***Reviser's note:** Chapter 19, Laws of 2013 changed "board of pharmacy" to "pharmacy quality assurance commission."

69.50.325 Marijuana producer's license. (1) There shall be a marijuana producer's license to produce marijuana for sale at wholesale to marijuana processors and other marijuana producers, regulated by the state liquor control board and subject to annual renewal. The production, possession, delivery, distribution, and sale of marijuana in accordance with the provisions of chapter 3, Laws of 2013 and the rules adopted to implement and enforce it, by a validly licensed marijuana producer, shall not be a criminal or civil offense under Washington state law. Every marijuana producer's license shall be issued in the name of the applicant, shall specify the location at which the marijuana producer intends to operate, which must be within the state of Washington, and the holder thereof shall not allow any other person to use the license. The application fee for a marijuana producer's license shall be two hundred fifty dollars. The annual fee for issuance and renewal of a marijuana producer's license shall be one thousand dollars. A separate license shall be required for each location at which a marijuana producer intends to produce marijuana.

(2) There shall be a marijuana processor's license to process, package, and label marijuana concentrates, useable marijuana, and marijuana-infused products for sale at wholesale to marijuana processors and marijuana retailers, regulated by the state liquor control board and subject to annual renewal. The processing, packaging, possession, delivery, distribution, and sale of marijuana, useable marijuana, marijuana-infused products, and marijuana concentrates in accordance with the provisions of chapter 3, Laws of 2013 and the rules adopted to implement and enforce it, by a validly

licensed marijuana processor, shall not be a criminal or civil offense under Washington state law. Every marijuana processor's license shall be issued in the name of the applicant, shall specify the location at which the licensee intends to operate, which must be within the state of Washington, and the holder thereof shall not allow any other person to use the license. The application fee for a marijuana processor's license shall be two hundred fifty dollars. The annual fee for issuance and renewal of a marijuana processor's license shall be one thousand dollars. A separate license shall be required for each location at which a marijuana processor intends to process marijuana.

(3) There shall be a marijuana retailer's license to sell marijuana concentrates, useable marijuana, and marijuana-infused products at retail in retail outlets, regulated by the state liquor control board and subject to annual renewal. The possession, delivery, distribution, and sale of marijuana concentrates, useable marijuana, and marijuana-infused products in accordance with the provisions of chapter 3, Laws of 2013 and the rules adopted to implement and enforce it, by a validly licensed marijuana retailer, shall not be a criminal or civil offense under Washington state law. Every marijuana retailer's license shall be issued in the name of the applicant, shall specify the location of the retail outlet the licensee intends to operate, which must be within the state of Washington, and the holder thereof shall not allow any other person to use the license. The application fee for a marijuana retailer's license shall be two hundred fifty dollars. The annual fee for issuance and renewal of a marijuana retailer's license shall be one thousand dollars. A separate license shall be required for each location at which a marijuana retailer intends to sell marijuana concentrates, useable marijuana, and marijuana-infused products. [2014 c 192 § 2; 2013 c 3 § 4 (Initiative Measure No. 502, approved November 6, 2012).]

Intent—2013 c 3 (Initiative Measure No. 502): See note following RCW 69.50.101.

69.50.328 Marijuana producers, processors—No direct or indirect financial interest in licensed marijuana retailers. Neither a licensed marijuana producer nor a licensed marijuana processor shall have a direct or indirect financial interest in a licensed marijuana retailer. [2013 c 3 § 5 (Initiative Measure No. 502, approved November 6, 2012).]

Intent—2013 c 3 (Initiative Measure No. 502): See note following RCW 69.50.101.

69.50.331 Application for license. (1) For the purpose of considering any application for a license to produce, process, or sell marijuana, or for the renewal of a license to produce, process, or sell marijuana, the state liquor control board may cause an inspection of the premises to be made, and may inquire into all matters in connection with the construction and operation of the premises. For the purpose of reviewing any application for a license and for considering the denial, suspension, revocation, or renewal or denial thereof, of any license, the state liquor control board may consider any prior criminal conduct of the applicant including an administrative violation history record with the state liquor control board and a criminal history record information check. The state liquor control board may submit the criminal history record information check to the Washington state patrol and to the identification division of the federal bureau of investigation in order that these agencies may search their records for prior arrests and convictions of the individual or individuals who filled out the forms. The state liquor control board shall require fingerprinting of any applicant whose criminal history record information check is submitted to the federal bureau of investigation. The provisions of RCW 9.95.240 and of chapter 9.96A RCW shall not apply to these cases. Subject to the provisions of this section, the state liquor control board may, in its discretion, grant or deny the renewal or license applied for. Denial may be based on, without limitation, the existence of chronic illegal activity documented in objections submitted pursuant to subsections (7)(c) and (9) of this section. Authority to approve an uncontested or unopposed license may be granted by the state liquor control board to any staff member the board designates in writing. Conditions for granting this authority shall be adopted by rule. No license of any kind may be issued to:

(a) A person under the age of twenty-one years;

(b) A person doing business as a sole proprietor who has not lawfully resided in the state for at least three months prior to applying to receive a license;

(c) A partnership, employee cooperative, association, nonprofit corporation, or corporation unless formed under the laws of this state, and unless all of the members thereof are qualified to obtain a license as provided in this section; or

(d) A person whose place of business is conducted by a manager or agent, unless the manager or agent possesses the same qualifications required of the licensee.

(2)(a) The state liquor control board may, in its discretion, subject to the provisions of RCW 69.50.334, suspend or cancel any license; and all protections of the licensee from criminal or civil sanctions under state law for producing, processing, or selling marijuana, useable marijuana, or marijuana-infused products thereunder shall be suspended or terminated, as the case may be.

(b) The state liquor control board shall immediately suspend the license of a person who has been certified pursuant to RCW 74.20A.320 by the department of social and health services as a person who is not in compliance with a support order. If the person has continued to meet all other requirements for reinstatement during the suspension, reissuance of the license shall be automatic upon the state liquor control board's receipt of a release issued by the department of social and health services stating that the licensee is in compliance with the order.

(c) The state liquor control board may request the appointment of administrative law judges under chapter 34.12 RCW who shall have power to administer oaths, issue subpoenas for the attendance of witnesses and the production of papers, books, accounts, documents, and testimony, examine witnesses, and to receive testimony in any inquiry, investigation, hearing, or proceeding in any part of the state, under rules and regulations the state liquor control board may adopt.

(d) Witnesses shall be allowed fees and mileage each way to and from any inquiry, investigation, hearing, or proceeding at the rate authorized by RCW 34.05.446. Fees need not be paid in advance of appearance of witnesses to testify or to produce books, records, or other legal evidence.

(e) In case of disobedience of any person to comply with the order of the state liquor control board or a subpoena issued by the state liquor control board, or any of its members, or administrative law judges, or on the refusal of a witness to testify to any matter regarding which he or she may be lawfully interrogated, the judge of the superior court of the county in which the person resides, on application of any member of the board or administrative law judge, shall compel obedience by contempt proceedings, as in the case of disobedience of the requirements of a subpoena issued from said court or a refusal to testify therein.

(3) Upon receipt of notice of the suspension or cancellation of a license, the licensee shall forthwith deliver up the license to the state liquor control board. Where the license has been suspended only, the state liquor control board shall return the license to the licensee at the expiration or termination of the period of suspension. The state liquor control board shall notify all other licensees in the county where the subject licensee has its premises of the suspension or cancellation of the license; and no other licensee or employee of another licensee may allow or cause any marijuana, useable marijuana, or marijuana-infused products to be delivered to or for any person at the premises of the subject licensee.

(4) Every license issued under chapter 3, Laws of 2013 shall be subject to all conditions and restrictions imposed by chapter 3, Laws of 2013 or by rules adopted by the state liquor control board to implement and enforce chapter 3, Laws of 2013. All conditions and restrictions imposed by the state liquor control board in the issuance of an individual license shall be listed on the face of the individual license along with the trade name, address, and expiration date.

(5) Every licensee shall post and keep posted its license, or licenses, in a conspicuous place on the premises.

(6) No licensee shall employ any person under the age of twenty-one years.

(7)(a) Before the state liquor control board issues a new or renewed license to an applicant it shall give notice of the application to the chief executive officer of the incorporated city or town, if the application is for a license within an incorporated city or town, or to the county legislative authority, if the application is for a license outside the boundaries of incorporated cities or towns.

(b) The incorporated city or town through the official or employee selected by it, or the county legislative authority or the official or employee selected by it, shall have the right to file with the state liquor control board within twenty days after the date of transmittal of the notice for applications, or at least thirty days prior to the expiration date for renewals, written objections against the applicant or against the premises for which the new or renewed license is asked. The state liquor control board may extend the time period for submitting written objections.

(c) The written objections shall include a statement of all facts upon which the objections are based, and in case written objections are filed, the city or town or county legislative authority may request, and the state liquor control board may in its discretion hold, a hearing subject to the applicable provisions of Title 34 RCW. If the state liquor control board makes an initial decision to deny a license or renewal based on the written objections of an incorporated city or town or county legislative authority, the applicant may request a hearing subject to the applicable provisions of Title 34 RCW. If a hearing is held at the request of the applicant, state liquor control board representatives shall present and defend the state liquor control board's initial decision to deny a license or renewal.

(d) Upon the granting of a license under this title the state liquor control board shall send written notification to the chief executive officer of the incorporated city or town in which the license is granted, or to the county legislative authority if the license is granted outside the boundaries of incorporated cities or towns.

(8) The state liquor control board shall not issue a license for any premises within one thousand feet of the perimeter of the grounds of any elementary or secondary school, playground, recreation center or facility, child care center, public park, public transit center, or library, or any game arcade admission to which is not restricted to persons aged twenty-one years or older.

(9) In determining whether to grant or deny a license or renewal of any license, the state liquor control board shall give substantial weight to objections from an incorporated city or town or county legislative authority based upon chronic illegal activity associated with the applicant's operations of the premises proposed to be licensed or the applicant's operation of any other licensed premises, or the conduct of the applicant's patrons inside or outside the licensed premises. "Chronic illegal activity" means (a) a pervasive pattern of activity that threatens the public health, safety, and welfare of the city, town, or county including, but not limited to, open container violations, assaults, disturbances, disorderly conduct, or other criminal law violations, or as documented in crime statistics, police reports, emergency medical response data, calls for service, field data, or similar records of a law enforcement agency for the city, town, county, or any other municipal corporation or any state agency; or (b) an unreasonably high number of citations for violations of RCW 46.61.502 associated with the applicant's or licensee's operation of any licensed premises as indicated by the reported statements given to law enforcement upon arrest. [2013 c 3 § 6 (Initiative Measure No. 502, approved November 6, 2012).]

Intent—2013 c 3 (Initiative Measure No. 502): See note following RCW 69.50.101.

69.50.334 Denial of application—Opportunity for hearing. The action, order, or decision of the state liquor control board as to any denial of an application for the reissuance of a license to produce, process, or sell marijuana, or as to any revocation, suspension, or modification of any license to produce, process, or sell marijuana, shall be an adjudicative proceeding and subject to the applicable provisions of chapter 34.05 RCW.

(1) An opportunity for a hearing may be provided to an applicant for the reissuance of a license prior to the disposition of the application, and if no opportunity for a prior hearing is provided then an opportunity for a hearing to reconsider the application must be provided the applicant.

(2) An opportunity for a hearing must be provided to a licensee prior to a revocation or modification of any license and, except as provided in subsection (4) of this section, prior to the suspension of any license.

(3) No hearing shall be required until demanded by the applicant or licensee.

(4) The state liquor control board may summarily suspend a license for a period of up to one hundred eighty days without a prior hearing if it finds that public health, safety, or welfare imperatively require emergency action, and it incorporates a finding to that effect in its order. Proceedings for revocation or other action must be promptly instituted and determined. An administrative law judge may extend the summary suspension period for up to one calendar year from the first day of the initial summary suspension in the event the proceedings for revocation or other action cannot be completed during the initial one hundred eighty-day period due to actions by the licensee. The state liquor control board's enforcement division shall complete a preliminary staff investigation of the violation before requesting an emergency suspension by the state liquor control board. [2013 c 3 § 7 (Initiative Measure No. 502, approved November 6, 2012).]

Intent—2013 c 3 (Initiative Measure No. 502): See note following RCW 69.50.101.

69.50.339 Transfer of license to produce, process, or sell marijuana—Reporting of proposed sales of outstanding or issued stock of a corporation. (1) If the state liquor control board approves, a license to produce, process, or sell marijuana may be transferred, without charge, to the surviving spouse or domestic partner of a deceased licensee if the license was issued in the names of one or both of the parties. For the purpose of considering the qualifications of the surviving party to receive a marijuana producer's, marijuana processor's, or marijuana retailer's license, the state liquor control board may require a criminal history record information check. The state liquor control board may submit the criminal history record information check to the Washington state patrol and to the identification division of the federal bureau of investigation in order that these agencies may search their records for prior arrests and convictions of the individual or individuals who filled out the forms. The state liquor control board shall require fingerprinting of any applicant whose criminal history record information check is submitted to the federal bureau of investigation.

(2) The proposed sale of more than ten percent of the outstanding or issued stock of a corporation licensed under chapter 3, Laws of 2013, or any proposed change in the officers of such a corporation, must be reported to the state liquor control board, and state liquor control board approval must be obtained before the changes are made. A fee of seventy-five dollars will be charged for the processing of the change of stock ownership or corporate officers. [2013 c 3 § 8 (Initiative Measure No. 502, approved November 6, 2012).]

Intent—2013 c 3 (Initiative Measure No. 502): See note following RCW 69.50.101.

69.50.342 State liquor control board may adopt rules. For the purpose of carrying into effect the provisions of chapter 3, Laws of 2013 according to their true intent or of supplying any deficiency therein, the state liquor control board may adopt rules not inconsistent with the spirit of chapter 3, Laws of 2013 as are deemed necessary or advisable. Without limiting the generality of the preceding sentence, the state liquor control board is empowered to adopt rules regarding the following:

(1) The equipment and management of retail outlets and premises where marijuana is produced or processed, and inspection of the retail outlets and premises;

(2) The books and records to be created and maintained by licensees, the reports to be made thereon to the state liquor control board, and inspection of the books and records;

(3) Methods of producing, processing, and packaging marijuana, useable marijuana, and marijuana-infused products; conditions of sanitation; and standards of ingredients, quality, and identity of marijuana, useable marijuana, and marijuana-infused products produced, processed, packaged, or sold by licensees;

(4) Security requirements for retail outlets and premises where marijuana is produced or processed, and safety protocols for licensees and their employees;

(5) Screening, hiring, training, and supervising employees of licensees;

(6) Retail outlet locations and hours of operation;

(7) Labeling requirements and restrictions on advertisement of marijuana, useable marijuana, and marijuana-infused products;

(8) Forms to be used for purposes of chapter 3, Laws of 2013 or the rules adopted to implement and enforce it, the terms and conditions to be contained in licenses issued under chapter 3, Laws of 2013, and the qualifications for receiving a license issued under chapter 3, Laws of 2013, including a criminal history record information check. The state liquor control board may submit any criminal history record information check to the Washington state patrol and to the identification division of the federal bureau of investigation in order that these agencies may search their records for prior arrests and convictions of the individual or individuals who filled out the forms. The state liquor control board shall require fingerprinting of any applicant whose criminal history record information check is submitted to the federal bureau of investigation;

(9) Application, reinstatement, and renewal fees for licenses issued under chapter 3, Laws of 2013, and fees for anything done or permitted to be done under the rules adopted to implement and enforce chapter 3, Laws of 2013;

(10) The manner of giving and serving notices required by chapter 3, Laws of 2013 or rules adopted to implement or enforce it;

(11) Times and periods when, and the manner, methods, and means by which, licensees shall transport and deliver marijuana, useable marijuana, and marijuana-infused products within the state;

(12) Identification, seizure, confiscation, destruction, or donation to law enforcement for training purposes of all marijuana, useable marijuana, and marijuana-infused products produced, processed, sold, or offered for sale within this state which do not conform in all respects to the standards prescribed by chapter 3, Laws of 2013 or the rules adopted to implement and enforce it: PROVIDED, That nothing in chapter 3, Laws of 2013 shall be construed as authorizing the state liquor control board to seize, confiscate, destroy, or donate to law enforcement marijuana, useable marijuana, or marijuana-infused products produced, processed, sold, offered for sale, or possessed in compliance with the Washington state medi-

cal use of cannabis act, chapter 69.51A RCW. [2013 c 3 § 9 (Initiative Measure No. 502, approved November 6, 2012).]

Intent—2013 c 3 (Initiative Measure No. 502): See note following RCW 69.50.101.

69.50.345 State liquor control board—Rules—Procedures and criteria. The state liquor control board, subject to the provisions of chapter 3, Laws of 2013, must adopt rules by December 1, 2013, that establish the procedures and criteria necessary to implement the following:

(1) Licensing of marijuana producers, marijuana processors, and marijuana retailers, including prescribing forms and establishing application, reinstatement, and renewal fees;

(2) Determining, in consultation with the office of financial management, the maximum number of retail outlets that may be licensed in each county, taking into consideration:

(a) Population distribution;

(b) Security and safety issues; and

(c) The provision of adequate access to licensed sources of useable marijuana and marijuana-infused products to discourage purchases from the illegal market;

(3) Determining the maximum quantity of marijuana a marijuana producer may have on the premises of a licensed location at any time without violating Washington state law;

(4) Determining the maximum quantities of marijuana, useable marijuana, and marijuana-infused products a marijuana processor may have on the premises of a licensed location at any time without violating Washington state law;

(5) Determining the maximum quantities of useable marijuana and marijuana-infused products a marijuana retailer may have on the premises of a retail outlet at any time without violating Washington state law;

(6) In making the determinations required by subsections (3) through (5) of this section, the state liquor control board shall take into consideration:

(a) Security and safety issues;

(b) The provision of adequate access to licensed sources of marijuana, useable marijuana, and marijuana-infused products to discourage purchases from the illegal market; and

(c) Economies of scale, and their impact on licensees' ability to both comply with regulatory requirements and undercut illegal market prices;

(7) Determining the nature, form, and capacity of all containers to be used by licensees to contain marijuana, useable marijuana, and marijuana-infused products, and their labeling requirements, to include but not be limited to:

(a) The business or trade name and Washington state unified business identifier number of the licensees that grew, processed, and sold the marijuana, useable marijuana, or marijuana-infused product;

(b) Lot numbers of the marijuana, useable marijuana, or marijuana-infused product;

(c) THC concentration of the marijuana, useable marijuana, or marijuana-infused product;

(d) Medically and scientifically accurate information about the health and safety risks posed by marijuana use; and

(e) Language required by RCW 69.04.480;

(8) In consultation with the department of agriculture, establishing classes of marijuana, useable marijuana, and marijuana-infused products according to grade, condition, cannabinoid profile, THC concentration, or other qualitative measurements deemed appropriate by the state liquor control board;

(9) Establishing reasonable time, place, and manner restrictions and requirements regarding advertising of marijuana, useable marijuana, and marijuana-infused products that are not inconsistent with the provisions of chapter 3, Laws of 2013, taking into consideration:

(a) Federal laws relating to marijuana that are applicable within Washington state;

(b) Minimizing exposure of people under twenty-one years of age to the advertising; and

(c) The inclusion of medically and scientifically accurate information about the health and safety risks posed by marijuana use in the advertising;

(10) Specifying and regulating the time and periods when, and the manner, methods, and means by which, licensees shall transport and deliver marijuana, useable marijuana, and marijuana-infused products within the state;

(11) In consultation with the department and the department of agriculture, establishing accreditation requirements for testing laboratories used by licensees to demonstrate compliance with standards adopted by the state liquor control board, and prescribing methods of producing, processing, and packaging marijuana, useable marijuana, and marijuana-infused products; conditions of sanitation; and standards of ingredients, quality, and identity of marijuana, useable marijuana, and marijuana-infused products produced, processed, packaged, or sold by licensees;

(12) Specifying procedures for identifying, seizing, confiscating, destroying, and donating to law enforcement for training purposes all marijuana, useable marijuana, and marijuana-infused products produced, processed, packaged, labeled, or offered for sale in this state that do not conform in all respects to the standards prescribed by chapter 3, Laws of 2013 or the rules of the state liquor control board. [2013 c 3 § 10 (Initiative Measure No. 502, approved November 6, 2012).]

Intent—2013 c 3 (Initiative Measure No. 502): See note following RCW 69.50.101.

69.50.348 Representative samples of marijuana, useable marijuana, or marijuana-infused products. (1) On a schedule determined by the state liquor control board, every licensed marijuana producer and processor must submit representative samples of marijuana, useable marijuana, or marijuana-infused products produced or processed by the licensee to an independent, third-party testing laboratory meeting the accreditation requirements established by the state liquor control board, for inspection and testing to certify compliance with standards adopted by the state liquor control board. Any sample remaining after testing shall be destroyed by the laboratory or returned to the licensee.

(2) Licensees must submit the results of this inspection and testing to the state liquor control board on a form developed by the state liquor control board.

(3) If a representative sample inspected and tested under this section does not meet the applicable standards adopted by the state liquor control board, the entire lot from which the sample was taken must be destroyed. [2013 c 3 § 11 (Initiative Measure No. 502, approved November 6, 2012).]

Intent—2013 c 3 (Initiative Measure No. 502): See note following RCW 69.50.101.

69.50.351 Interest—Members and employees of state liquor control board. Except as provided by chapter 42.52 RCW, no member of the state liquor control board and no employee of the state liquor control board shall have any interest, directly or indirectly, in the producing, processing, or sale of marijuana, useable marijuana, or marijuana-infused products, or derive any profit or remuneration from the sale of marijuana, useable marijuana, or marijuana-infused products other than the salary or wages payable to him or her in respect of his or her office or position, and shall receive no gratuity from any person in connection with the business. [2013 c 3 § 12 (Initiative Measure No. 502, approved November 6, 2012).]

Intent—2013 c 3 (Initiative Measure No. 502): See note following RCW 69.50.101.

69.50.354 Retail outlet licenses. There may be licensed, in no greater number in each of the counties of the state than as the state liquor control board shall deem advisable, retail outlets established for the purpose of making marijuana concentrates, useable marijuana, and marijuana-infused products available for sale to adults aged twenty-one and over. Retail sale of marijuana concentrates, useable marijuana, and marijuana-infused products in accordance with the provisions of chapter 3, Laws of 2013 and the rules adopted to implement and enforce it, by a validly licensed marijuana retailer or retail outlet employee, shall not be a criminal or civil offense under Washington state law. [2014 c 192 § 3; 2013 c 3 § 13 (Initiative Measure No. 502, approved November 6, 2012).]

Intent—2013 c 3 (Initiative Measure No. 502): See note following RCW 69.50.101.

69.50.357 Retail outlets—Rules. (1) Retail outlets shall sell no products or services other than marijuana concentrates, useable marijuana, marijuana-infused products, or paraphernalia intended for the storage or use of marijuana concentrates, useable marijuana, or marijuana-infused products.

(2) Licensed marijuana retailers shall not employ persons under twenty-one years of age or allow persons under twenty-one years of age to enter or remain on the premises of a retail outlet.

(3) Licensed marijuana retailers shall not display any signage in a window, on a door, or on the outside of the premises of a retail outlet that is visible to the general public from a public right-of-way, other than a single sign no larger than one thousand six hundred square inches identifying the retail outlet by the licensee's business or trade name.

(4) Licensed marijuana retailers shall not display useable marijuana or marijuana-infused products in a manner that is visible to the general public from a public right-of-way.

(5) No licensed marijuana retailer or employee of a retail outlet shall open or consume, or allow to be opened or consumed, any marijuana concentrates, useable marijuana, or marijuana-infused product on the outlet premises.

(6) The state liquor control board shall fine a licensee one thousand dollars for each violation of any subsection of this section. Fines collected under this section must be deposited into the dedicated marijuana fund created under RCW 69.50.530. [2014 c 192 § 4; 2013 c 3 § 14 (Initiative Measure No. 502, approved November 6, 2012).]

Intent—2013 c 3 (Initiative Measure No. 502): See note following RCW 69.50.101.

69.50.360 Marijuana retailers, employees of retail outlets—Certain acts not criminal or civil offenses. The following acts, when performed by a validly licensed marijuana retailer or employee of a validly licensed retail outlet in compliance with rules adopted by the state liquor control board to implement and enforce chapter 3, Laws of 2013, shall not constitute criminal or civil offenses under Washington state law:

(1) Purchase and receipt of marijuana concentrates, useable marijuana, or marijuana-infused products that have been properly packaged and labeled from a marijuana processor validly licensed under chapter 3, Laws of 2013;

(2) Possession of quantities of marijuana concentrates, useable marijuana, or marijuana-infused products that do not exceed the maximum amounts established by the state liquor control board under RCW 69.50.345(5); and

(3) Delivery, distribution, and sale, on the premises of the retail outlet, of any combination of the following amounts of marijuana concentrates, useable marijuana, or marijuana-infused product to any person twenty-one years of age or older:

(a) One ounce of useable marijuana;

(b) Sixteen ounces of marijuana-infused product in solid form;

(c) Seventy-two ounces of marijuana-infused product in liquid form; or

(d) Seven grams of marijuana concentrate. [2014 c 192 § 5; 2013 c 3 § 15 (Initiative Measure No. 502, approved November 6, 2012).]

Intent—2013 c 3 (Initiative Measure No. 502): See note following RCW 69.50.101.

69.50.363 Marijuana processors, employees—Certain acts not criminal or civil offenses. The following acts, when performed by a validly licensed marijuana processor or employee of a validly licensed marijuana processor in compliance with rules adopted by the state liquor control board to implement and enforce chapter 3, Laws of 2013, shall not constitute criminal or civil offenses under Washington state law:

(1) Purchase and receipt of marijuana that has been properly packaged and labeled from a marijuana producer validly licensed under chapter 3, Laws of 2013;

(2) Possession, processing, packaging, and labeling of quantities of marijuana, useable marijuana, and marijuana-infused products that do not exceed the maximum amounts established by the state liquor control board under RCW 69.50.345(4); and

(3) Delivery, distribution, and sale of useable marijuana or marijuana-infused products to a marijuana retailer validly licensed under chapter 3, Laws of 2013. [2013 c 3 § 16 (Initiative Measure No. 502, approved November 6, 2012).]

Intent—2013 c 3 (Initiative Measure No. 502): See note following RCW 69.50.101.

69.50.366 Marijuana producers, employees—Certain acts not criminal or civil offenses. The following acts, when performed by a validly licensed marijuana producer or employee of a validly licensed marijuana producer in compliance with rules adopted by the state liquor control board to implement and enforce chapter 3, Laws of 2013, shall not constitute criminal or civil offenses under Washington state law:

(1) Production or possession of quantities of marijuana that do not exceed the maximum amounts established by the state liquor control board under RCW 69.50.345(3); and

(2) Delivery, distribution, and sale of marijuana to a marijuana processor or another marijuana producer validly licensed under chapter 3, Laws of 2013. [2013 c 3 § 17 (Initiative Measure No. 502, approved November 6, 2012).]

Intent—2013 c 3 (Initiative Measure No. 502): See note following RCW 69.50.101.

69.50.369 Marijuana producers, processors, retailers—Advertisements—Penalty. (1) No licensed marijuana producer, processor, or retailer shall place or maintain, or cause to be placed or maintained, an advertisement of marijuana, useable marijuana, or a marijuana-infused product in any form or through any medium whatsoever:

(a) Within one thousand feet of the perimeter of a school grounds, playground, recreation center or facility, child care center, public park, or library, or any game arcade admission to which is not restricted to persons aged twenty-one years or older;

(b) On or in a public transit vehicle or public transit shelter; or

(c) On or in a publicly owned or operated property.

(2) Merchandising within a retail outlet is not advertising for the purposes of this section.

(3) This section does not apply to a noncommercial message.

(4) The state liquor control board shall fine a licensee one thousand dollars for each violation of subsection (1) of this section. Fines collected under this subsection must be deposited into the dedicated marijuana fund created under RCW 69.50.530. [2013 c 3 § 18 (Initiative Measure No. 502, approved November 6, 2012).]

Intent—2013 c 3 (Initiative Measure No. 502): See note following RCW 69.50.101.

ARTICLE IV
OFFENSES AND PENALTIES

69.50.401 Prohibited acts: A—Penalties. (1) Except as authorized by this chapter, it is unlawful for any person to manufacture, deliver, or possess with intent to manufacture or deliver, a controlled substance.

(2) Any person who violates this section with respect to:

(a) A controlled substance classified in Schedule I or II which is a narcotic drug or flunitrazepam, including its salts, isomers, and salts of isomers, classified in Schedule IV, is guilty of a class B felony and upon conviction may be imprisoned for not more than ten years, or (i) fined not more than twenty-five thousand dollars if the crime involved less than two kilograms of the drug, or both such imprisonment and fine; or (ii) if the crime involved two or more kilograms of the drug, then fined not more than one hundred thousand dollars for the first two kilograms and not more than fifty dollars for each gram in excess of two kilograms, or both such imprisonment and fine;

(b) Amphetamine, including its salts, isomers, and salts of isomers, or methamphetamine, including its salts, isomers, and salts of isomers, is guilty of a class B felony and upon conviction may be imprisoned for not more than ten years, or (i) fined not more than twenty-five thousand dollars if the crime involved less than two kilograms of the drug, or both such imprisonment and fine; or (ii) if the crime involved two or more kilograms of the drug, then fined not more than one hundred thousand dollars for the first two kilograms and not more than fifty dollars for each gram in excess of two kilograms, or both such imprisonment and fine. Three thousand dollars of the fine may not be suspended. As collected, the first three thousand dollars of the fine must be deposited with the law enforcement agency having responsibility for cleanup of laboratories, sites, or substances used in the manufacture of the methamphetamine, including its salts, isomers, and salts of isomers. The fine moneys deposited with that law enforcement agency must be used for such clean-up cost;

(c) Any other controlled substance classified in Schedule I, II, or III, is guilty of a class C felony punishable according to chapter 9A.20 RCW;

(d) A substance classified in Schedule IV, except flunitrazepam, including its salts, isomers, and salts of isomers, is guilty of a class C felony punishable according to chapter 9A.20 RCW; or

(e) A substance classified in Schedule V, is guilty of a class C felony punishable according to chapter 9A.20 RCW.

(3) The production, manufacture, processing, packaging, delivery, distribution, sale, or possession of marijuana in compliance with the terms set forth in RCW 69.50.360, 69.50.363, or 69.50.366 shall not constitute a violation of this section, this chapter, or any other provision of Washington state law. [2013 c 3 § 19 (Initiative Measure No. 502, approved November 6, 2012); 2005 c 218 § 1; 2003 c 53 § 331. Prior: 1998 c 290 § 1; 1998 c 82 § 2; 1997 c 71 § 2; 1996 c 205 § 2; 1989 c 271 § 104; 1987 c 458 § 4; 1979 c 67 § 1; 1973 2nd ex.s. c 2 § 1; 1971 ex.s. c 308 § 69.50.401.]

Intent—2013 c 3 (Initiative Measure No. 502): See note following RCW 69.50.101.

Intent—Effective date—2003 c 53: See notes following RCW 2.48.180.

Serious drug offenders, notice of release or escape: RCW 72.09.710.

Additional notes found at www.leg.wa.gov

69.50.4011 Counterfeit substances—Penalties. (1) Except as authorized by this chapter, it is unlawful for any person to create, deliver, or possess a counterfeit substance.

(2) Any person who violates this section with respect to:

(a) A counterfeit substance classified in Schedule I or II which is a narcotic drug, or flunitrazepam classified in Schedule IV, is guilty of a class B felony and upon conviction may be imprisoned for not more than ten years, fined not more than twenty-five thousand dollars, or both;

(b) A counterfeit substance which is methamphetamine, is guilty of a class B felony and upon conviction may be imprisoned for not more than ten years, fined not more than twenty-five thousand dollars, or both;

(c) Any other counterfeit substance classified in Schedule I, II, or III, is guilty of a class C felony punishable according to chapter 9A.20 RCW;

(d) A counterfeit substance classified in Schedule IV, except flunitrazepam, is guilty of a class C felony punishable according to chapter 9A.20 RCW;

(e) A counterfeit substance classified in Schedule V, is guilty of a class C felony punishable according to chapter 9A.20 RCW. [2003 c 53 § 332.]

Intent—Effective date—2003 c 53: See notes following RCW 2.48.180.

69.50.4012 Delivery of substance in lieu of controlled substance—Penalty. (1) It is unlawful, except as authorized in this chapter and chapter 69.41 RCW, for any person to offer, arrange, or negotiate for the sale, gift, delivery, dispensing, distribution, or administration of a controlled substance to any person and then sell, give, deliver, dispense, distribute, or administer to that person any other liquid, substance, or material in lieu of such controlled substance.

(2) Any person who violates this section is guilty of a class C felony punishable according to chapter 9A.20 RCW. [2003 c 53 § 333.]

Intent—Effective date—2003 c 53: See notes following RCW 2.48.180.

69.50.4013 Possession of controlled substance—Penalty—Possession of useable marijuana or marijuana-infused products. (1) It is unlawful for any person to possess a controlled substance unless the substance was obtained directly from, or pursuant to, a valid prescription or order of a practitioner while acting in the course of his or her professional practice, or except as otherwise authorized by this chapter.

(2) Except as provided in RCW 69.50.4014, any person who violates this section is guilty of a class C felony punishable under chapter 9A.20 RCW.

(3) The possession, by a person twenty-one years of age or older, of useable marijuana or marijuana-infused products in amounts that do not exceed those set forth in RCW 69.50.360(3) is not a violation of this section, this chapter, or any other provision of Washington state law. [2013 c 3 § 20 (Initiative Measure No. 502, approved November 6, 2012); 2003 c 53 § 334.]

Intent—2013 c 3 (Initiative Measure No. 502): See note following RCW 69.50.101.

Intent—Effective date—2003 c 53: See notes following RCW 2.48.180.

69.50.4014 Possession of forty grams or less of marihuana—Penalty. Except as provided in RCW 69.50.401(2)(c), any person found guilty of possession of forty grams or less of marihuana is guilty of a misdemeanor. [2003 c 53 § 335.]

Intent—Effective date—2003 c 53: See notes following RCW 2.48.180.

69.50.4015 Involving a person under eighteen in unlawful controlled substance transaction—Penalty. (1) It is unlawful to compensate, threaten, solicit, or in any other manner involve a person under the age of eighteen years in a transaction unlawfully to manufacture, sell, or deliver a controlled substance.

(2) A violation of this section is a class C felony punishable according to chapter 9A.20 RCW. [2003 c 53 § 336.]

Intent—Effective date—2003 c 53: See notes following RCW 2.48.180.

69.50.4016 Provisions not applicable to offenses under RCW 69.50.410. RCW 69.50.401 through 69.50.4015 shall not apply to offenses defined and punishable under the provisions of RCW 69.50.410. [2003 c 53 § 337.]

Intent—Effective date—2003 c 53: See notes following RCW 2.48.180.

69.50.402 Prohibited acts: B—Penalties. (1) It is unlawful for any person:

(a) Who is subject to Article III to distribute or dispense a controlled substance in violation of RCW 69.50.308;

(b) Who is a registrant, to manufacture a controlled substance not authorized by his or her registration, or to distribute or dispense a controlled substance not authorized by his or her registration to another registrant or other authorized person;

(c) Who is a practitioner, to prescribe, order, dispense, administer, supply, or give to any person:

(i) Any amphetamine, including its salts, optical isomers, and salts of optical isomers classified as a schedule II controlled substance by the commission pursuant to chapter 34.05 RCW; or

(ii) Any nonnarcotic stimulant classified as a schedule II controlled substance and designated as a nonnarcotic stimulant by the commission pursuant to chapter 34.05 RCW;

except for the treatment of narcolepsy or for the treatment of hyperkinesis, or for the treatment of drug-induced brain dysfunction, or for the treatment of epilepsy, or for the differential diagnostic psychiatric evaluation of depression, or for the treatment of depression shown to be refractory to other therapeutic modalities, or for the treatment of multiple sclerosis, or for the clinical investigation of the effects of such drugs or compounds, in which case an investigative protocol therefor shall have been submitted to and reviewed and approved by the commission before the investigation has been begun: PROVIDED, That the commission, in consultation with the medical quality assurance commission and the osteopathic disciplinary board, may establish by rule, pursuant to chapter 34.05 RCW, disease states or conditions in addition to those listed in this subsection for the treatment of which Schedule II nonnarcotic stimulants may be prescribed, ordered, dispensed, administered, supplied, or given to patients by practitioners: AND PROVIDED, FURTHER, That investigations by the commission of abuse of prescriptive authority by physicians, licensed pursuant to chapter 18.71 RCW, pursuant to subsection (1)(c) of this section shall be done in consultation with the medical quality assurance commission;

(d) To refuse or fail to make, keep or furnish any record, notification, order form, statement, invoice, or information required under this chapter;

(e) To refuse an entry into any premises for any inspection authorized by this chapter; or

(f) Knowingly to keep or maintain any store, shop, warehouse, dwelling, building, vehicle, boat, aircraft, or other structure or place, which is resorted to by persons using controlled substances in violation of this chapter for the purpose of using these substances, or which is used for keeping or selling them in violation of this chapter.

(2) Any person who violates this section is guilty of a class C felony and upon conviction may be imprisoned for not more than two years, fined not more than two thousand dollars, or both. [2013 c 19 § 107; 2010 c 177 § 7; 2003 c 53 § 338; 1994 sp.s. c 9 § 740; 1980 c 138 § 6; 1979 ex.s. c 119 § 1; 1971 ex.s. c 308 § 69.50.402.]

Intent—Effective date—2003 c 53: See notes following RCW 2.48.180.

Additional notes found at www.leg.wa.gov

69.50.403 Prohibited acts: C—Penalties. (1) It is unlawful for any person knowingly or intentionally:

(a) To distribute as a registrant a controlled substance classified in Schedules I or II, except pursuant to an order form as required by *RCW 69.50.307;

(b) To use in the course of the manufacture, distribution, or dispensing of a controlled substance, or to use for the purpose of acquiring or obtaining a controlled substance, a registration number which is fictitious, revoked, suspended, or issued to another person;

(c) To obtain or attempt to obtain a controlled substance, or procure or attempt to procure the administration of a controlled substance, (i) by fraud, deceit, misrepresentation, or subterfuge; or (ii) by forgery or alteration of a prescription or any written order; or (iii) by the concealment of material fact; or (iv) by the use of a false name or the giving of a false address;

(d) To falsely assume the title of, or represent herself or himself to be, a manufacturer, wholesaler, pharmacist, physician, dentist, veterinarian, or other authorized person for the purpose of obtaining a controlled substance;

(e) To make or utter any false or forged prescription or false or forged written order;

(f) To affix any false or forged label to a package or receptacle containing controlled substances;

(g) To furnish false or fraudulent material information in, or omit any material information from, any application, report, or other document required to be kept or filed under this chapter, or any record required to be kept by this chapter;

(h) To possess a false or fraudulent prescription with intent to obtain a controlled substance; or

(i) To attempt to illegally obtain controlled substances by providing more than one name to a practitioner when obtaining a prescription for a controlled substance. If a person's name is legally changed during the time period that he or she is receiving health care from a practitioner, the person shall inform all providers of care so that the medical and pharmacy records for the person may be filed under a single name identifier.

(2) Information communicated to a practitioner in an effort unlawfully to procure a controlled substance or unlawfully to procure the administration of such substance, shall not be deemed a privileged communication.

(3) A person who violates this section is guilty of a class C felony and upon conviction may be imprisoned for not more than two years, or fined not more than two thousand dollars, or both. [2003 c 53 § 339; 1996 c 255 § 1; 1993 c 187 § 21; 1971 ex.s. c 308 § 69.50.403.]

***Reviser's note:** RCW 69.50.307 was repealed by 2001 c 248 § 2.

Intent—Effective date—2003 c 53: See notes following RCW 2.48.180.

69.50.404 Penalties under other laws. Any penalty imposed for violation of this chapter is in addition to, and not in lieu of, any civil or administrative penalty or sanction otherwise authorized by law. [1971 ex.s. c 308 § 69.50.404.]

69.50.405 Bar to prosecution. If a violation of this chapter is a violation of a federal law or the law of another state, a conviction or acquittal under federal law or the law of another state for the same act is a bar to prosecution in this state. [1971 ex.s. c 308 § 69.50.405.]

69.50.406 Distribution to persons under age eighteen. (1) Any person eighteen years of age or over who violates RCW 69.50.401 by distributing a controlled substance listed in Schedules I or II which is a narcotic drug or methamphetamine, including its salts, isomers, and salts of isomers, or flunitrazepam, including its salts, isomers, and salts of isomers, listed in Schedule IV, to a person under eighteen years of age is guilty of a class A felony punishable by the fine authorized by RCW 69.50.401(2) (a) or (b), by a term of imprisonment of up to twice that authorized by RCW 69.50.401(2) (a) or (b), or by both.

(2) Any person eighteen years of age or over who violates RCW 69.50.401 by distributing any other controlled substance listed in Schedules I, II, III, IV, and V to a person under eighteen years of age who is at least three years his or her junior is guilty of a class B felony punishable by the fine authorized by RCW 69.50.401(2) (c), (d), or (e), by a term of imprisonment up to twice that authorized by RCW 69.50.401(2) (c), (d), or (e), or both. [2005 c 218 § 2; 2003 c 53 § 340; 1998 c 290 § 2; 1996 c 205 § 7; 1987 c 458 § 5; 1971 ex.s. c 308 § 69.50.406.]

Intent—Effective date—2003 c 53: See notes following RCW 2.48.180.

Additional notes found at www.leg.wa.gov

69.50.407 Conspiracy. Any person who attempts or conspires to commit any offense defined in this chapter is punishable by imprisonment or fine or both which may not exceed the maximum punishment prescribed for the offense, the commission of which was the object of the attempt or conspiracy. [1971 ex.s. c 308 § 69.50.407.]

69.50.408 Second or subsequent offenses. (1) Any person convicted of a second or subsequent offense under this chapter may be imprisoned for a term up to twice the term otherwise authorized, fined an amount up to twice that otherwise authorized, or both.

(2) For purposes of this section, an offense is considered a second or subsequent offense, if, prior to his or her conviction of the offense, the offender has at any time been convicted under this chapter or under any statute of the United States or of any state relating to narcotic drugs, marihuana, depressant, stimulant, or hallucinogenic drugs.

(3) This section does not apply to offenses under RCW 69.50.4013. [2003 c 53 § 341; 1989 c 8 § 3; 1971 ex.s. c 308 § 69.50.408.]

Intent—Effective date—2003 c 53: See notes following RCW 2.48.180.

69.50.410 Prohibited acts: D—Penalties. (1) Except as authorized by this chapter it is a class C felony for any person to sell for profit any controlled substance or counterfeit substance classified in Schedule I, RCW 69.50.204, except leaves and flowering tops of marihuana.

For the purposes of this section only, the following words and phrases shall have the following meanings:

(a) "To sell" means the passing of title and possession of a controlled substance from the seller to the buyer for a price whether or not the price is paid immediately or at a future date.

(b) "For profit" means the obtaining of anything of value in exchange for a controlled substance.

(c) "Price" means anything of value.

(2)(a) Any person convicted of a violation of subsection (1) of this section shall receive a sentence of not more than five years in a correctional facility of the department of social and health services for the first offense.

(b) Any person convicted on a second or subsequent cause, the sale having transpired after prosecution and conviction on the first cause, of subsection (1) of this section shall receive a mandatory sentence of five years in a correctional facility of the department of social and health services and no judge of any court shall suspend or defer the sentence imposed for the second or subsequent violation of subsection (1) of this section.

(3)(a) Any person convicted of a violation of subsection (1) of this section by selling heroin shall receive a mandatory sentence of two years in a correctional facility of the department of social and health services and no judge of any court shall suspend or defer the sentence imposed for such violation.

(b) Any person convicted on a second or subsequent sale of heroin, the sale having transpired after prosecution and conviction on the first cause of the sale of heroin shall receive a mandatory sentence of ten years in a correctional facility of the department of social and health services and no judge of any court shall suspend or defer the sentence imposed for this second or subsequent violation: PROVIDED, That the indeterminate sentence review board under RCW 9.95.040 shall not reduce the minimum term imposed for a violation under this subsection.

(4) Whether or not a mandatory minimum term has expired, an offender serving a sentence under this section may be granted an extraordinary medical placement when authorized under *RCW 9.94A.728(4).

(5) In addition to the sentences provided in subsection (2) of this section, any person convicted of a violation of subsection (1) of this section shall be fined in an amount calculated to at least eliminate any and all proceeds or profits directly or indirectly gained by such person as a result of sales of controlled substances in violation of the laws of this or other states, or the United States, up to the amount of five hundred thousand dollars on each count.

(6) Any person, addicted to the use of controlled substances, who voluntarily applies to the department of social and health services for the purpose of participating in a rehabilitation program approved by the department for addicts of controlled substances shall be immune from prosecution for subsection (1) offenses unless a filing of an information or indictment against such person for a violation of subsection (1) of this section is made prior to his or her voluntary participation in the program of the department of social and health services. All applications for immunity under this section shall be sent to the department of social and health services in Olympia. It shall be the duty of the department to stamp each application received pursuant to this section with the date and time of receipt.

(7) This section shall not apply to offenses defined and punishable under the provisions of RCW 69.50.401 through 69.50.4015. [2003 c 53 § 342; 1999 c 324 § 6; 1975-'76 2nd ex.s. c 103 § 1; 1973 2nd ex.s. c 2 § 2.]

***Reviser's note:** RCW 9.94A.728 was amended by 2009 c 455 § 2, changing subsection (4) to subsection (3).

Intent—Effective date—2003 c 53: See notes following RCW 2.48.180.

69.50.412 Prohibited acts: E—Penalties *(as amended by 2012 c 117)*. (1) It is unlawful for any person to use drug paraphernalia to plant, propagate, cultivate, grow, harvest, manufacture, compound, convert, produce, process, prepare, test, analyze, pack, repack, store, contain, conceal, inject, ingest, inhale, or otherwise introduce into the human body a controlled substance. Any person who violates this subsection is guilty of a misdemeanor.

(2) It is unlawful for any person to deliver, possess with intent to deliver, or manufacture with intent to deliver drug paraphernalia, knowing, or under circumstances where one reasonably should know, that it will be used to plant, propagate, cultivate, grow, harvest, manufacture, compound, convert, produce, process, prepare, test, analyze, pack, repack, store, contain, conceal, inject, ingest, inhale, or otherwise introduce into the human body a controlled substance. Any person who violates this subsection is guilty of a misdemeanor.

(3) Any person eighteen years of age or over who violates subsection (2) of this section by delivering drug paraphernalia to a person under eighteen years of age who is at least three years his <u>or her</u> junior is guilty of a gross misdemeanor.

(4) It is unlawful for any person to place in any newspaper, magazine, handbill, or other publication any advertisement, knowing, or under circumstances where one reasonably should know, that the purpose of the advertisement, in whole or in part, is to promote the sale of objects designed or intended for use as drug paraphernalia. Any person who violates this subsection is guilty of a misdemeanor.

(5) It is lawful for any person over the age of eighteen to possess sterile hypodermic syringes and needles for the purpose of reducing blood-borne diseases. [2012 c 117 § 368; 2002 c 213 § 1; 1981 c 48 § 2.]

69.50.412 Prohibited acts: E—Penalties *(as amended by 2013 c 3)*. (1) It is unlawful for any person to use drug paraphernalia to plant, propagate, cultivate, grow, harvest, manufacture, compound, convert, produce, process, prepare, test, analyze, pack, repack, store, contain, conceal, inject, ingest, inhale, or otherwise introduce into the human body a controlled substance <u>other than marijuana</u>. Any person who violates this subsection is guilty of a misdemeanor.

(2) It is unlawful for any person to deliver, possess with intent to deliver, or manufacture with intent to deliver drug paraphernalia, knowing, or under circumstances where one reasonably should know, that it will be used to plant, propagate, cultivate, grow, harvest, manufacture, compound, convert, produce, process, prepare, test, analyze, pack, repack, store, contain, conceal, inject, ingest, inhale, or otherwise introduce into the human body a controlled substance <u>other than marijuana</u>. Any person who violates this subsection is guilty of a misdemeanor.

(3) Any person eighteen years of age or over who violates subsection (2) of this section by delivering drug paraphernalia to a person under eigh-

teen years of age who is at least three years his junior is guilty of a gross misdemeanor.

(4) It is unlawful for any person to place in any newspaper, magazine, handbill, or other publication any advertisement, knowing, or under circumstances where one reasonably should know, that the purpose of the advertisement, in whole or in part, is to promote the sale of objects designed or intended for use as drug paraphernalia. Any person who violates this subsection is guilty of a misdemeanor.

(5) It is lawful for any person over the age of eighteen to possess sterile hypodermic syringes and needles for the purpose of reducing blood-borne diseases. [2013 c 3 § 22 (Initiative Measure No. 502, approved November 6, 2012); 2002 c 213 § 1; 1981 c 48 § 2.]

Reviser's note: This section did not amend the most current version of the RCW. It was amended by 2013 c 3 § 22 (Initiative Measure No. 502) without cognizance of its amendment by 2012 c 117 § 368.

Intent—2013 c 3 (Initiative Measure No. 502): See note following RCW 69.50.101.

Additional notes found at www.leg.wa.gov

69.50.4121 Drug paraphernalia—Selling or giving—Penalty. (1) Every person who sells or gives, or permits to be sold or given to any person any drug paraphernalia in any form commits a class I civil infraction under chapter 7.80 RCW. For purposes of this subsection, "drug paraphernalia" means all equipment, products, and materials of any kind which are used, intended for use, or designed for use in planting, propagating, cultivating, growing, harvesting, manufacturing, compounding, converting, producing, processing, preparing, testing, analyzing, packaging, repackaging, storing, containing, concealing, injecting, ingesting, inhaling, or otherwise introducing into the human body a controlled substance other than marijuana. Drug paraphernalia includes, but is not limited to objects used, intended for use, or designed for use in ingesting, inhaling, or otherwise introducing cocaine into the human body, such as:

(a) Metal, wooden, acrylic, glass, stone, plastic, or ceramic pipes with or without screens, permanent screens, hashish heads, or punctured metal bowls;

(b) Water pipes;

(c) Carburetion tubes and devices;

(d) Smoking and carburetion masks;

(e) Miniature cocaine spoons and cocaine vials;

(f) Chamber pipes;

(g) Carburetor pipes;

(h) Electric pipes;

(i) Air-driven pipes; and

(j) Ice pipes or chillers.

(2) It shall be no defense to a prosecution for a violation of this section that the person acted, or was believed by the defendant to act, as agent or representative of another.

(3) Nothing in subsection (1) of this section prohibits legal distribution of injection syringe equipment through public health and community based HIV prevention programs, and pharmacies. [2013 c 3 § 23 (Initiative Measure No. 502, approved November 6, 2012); 2002 c 213 § 2; 1998 c 317 § 1.]

Intent—2013 c 3 (Initiative Measure No. 502): See note following RCW 69.50.101.

69.50.413 Health care practitioners—Suspension of license for violation of chapter. The license of any licensed health care practitioner shall be suspended for any violation of this chapter. The suspension shall run concurrently with, and not less than, the term of the sentence for the violation. [1984 c 153 § 21.]

69.50.414 Sale or transfer of controlled substance to minor—Cause of action by parent—Damages. The parent or legal guardian of any minor to whom a controlled substance, as defined in RCW 69.50.101, is sold or transferred, shall have a cause of action against the person who sold or transferred the controlled substance for all damages to the minor or his or her parent or legal guardian caused by such sale or transfer. Damages shall include: (a) Actual damages, including the cost for treatment or rehabilitation of the minor child's drug dependency, (b) forfeiture to the parent or legal guardian of the cash value of any proceeds received from such sale or transfer of a controlled substance, and (c) reasonable attorney fees.

This section shall not apply to a practitioner, as defined in *RCW 69.50.101(t), who sells or transfers a controlled substance to a minor pursuant to a valid prescription or order. [1986 c 124 § 10.]

***Reviser's note:** The reference to RCW 69.50.101(t) is erroneous. "Practitioner" is defined in (w) of that section. RCW 69.50.101 was amended by 2013 c 3 § 2, changing subsection (w) to subsection (cc). RCW 69.50.101 was subsequently alphabetized pursuant to RCW 1.08.015(2)(k), changing subsection (cc) to subsection (dd). RCW 69.50.101 was subsequently amended by 2014 c 192 § 1, changing subsection (dd) to subsection (ee).

69.50.415 Controlled substances homicide—Penalty. (1) A person who unlawfully delivers a controlled substance in violation of RCW 69.50.401(2) (a), (b), or (c) which controlled substance is subsequently used by the person to whom it was delivered, resulting in the death of the user, is guilty of controlled substances homicide.

(2) Controlled substances homicide is a class B felony punishable according to chapter 9A.20 RCW. [2003 c 53 § 343; 1996 c 205 § 8; 1987 c 458 § 2.]

Intent—Effective date—2003 c 53: See notes following RCW 2.48.180.

Additional notes found at www.leg.wa.gov

69.50.416 Counterfeit substances prohibited—Penalties. (1) It is unlawful for any person knowingly or intentionally to manufacture, deliver, or possess with intent to manufacture or deliver, a controlled substance which, or the container or labeling of which, without authorization, bears the trademark, trade name, or other identifying mark, imprint, number, or device, or any likeness thereof, of a manufacturer, distributor, or dispenser, other than the person who in fact manufactured, distributed, or dispensed the substance.

(2) It is unlawful for any person knowingly or intentionally to make, distribute, or possess a punch, die, plate, stone, or other thing designed to print, imprint, or reproduce the trademark, trade name, or other identifying mark, imprint, or device of another or any likeness of any of the foregoing upon any drug or container or labeling thereof.

(3) A person who violates this section is guilty of a class C felony and upon conviction may be imprisoned for not more than two years, fined not more than two thousand dollars, or both. [2003 c 53 § 344; 1993 c 187 § 22.]

Intent—Effective date—2003 c 53: See notes following RCW 2.48.180.

69.50.420 Violations—Juvenile driving privileges. (1) If a juvenile thirteen years of age or older and under the age of twenty-one is found by a court to have committed any offense that is a violation of this chapter, the court shall notify the department of licensing within twenty-four hours after entry of the judgment.

(2) Except as otherwise provided in subsection (3) of this section, upon petition of a juvenile whose privilege to drive has been revoked pursuant to RCW 46.20.265, the court may at any time the court deems appropriate notify the department of licensing to reinstate the juvenile's privilege to drive.

(3) If the conviction is for the juvenile's first violation of this chapter or chapter 66.44, 69.41, or 69.52 RCW, the juvenile may not petition the court for reinstatement of the juvenile's privilege to drive revoked pursuant to RCW 46.20.265 until the later of ninety days after the date the juvenile turns sixteen or ninety days after the judgment was entered. If the conviction was for the juvenile's second or subsequent violation of this chapter or chapter 66.44, 69.41, or 69.52 RCW, the juvenile may not petition the court for reinstatement of the juvenile's privilege to drive revoked pursuant to RCW 46.20.265 until the later of the date the juvenile turns seventeen or one year after the date judgment was entered. [1989 c 271 § 120; 1988 c 148 § 5.]

Legislative finding—Severability—1988 c 148: See notes following RCW 13.40.265.

Additional notes found at www.leg.wa.gov

69.50.425 Misdemeanor violations—Minimum penalties. A person who is convicted of a misdemeanor violation of any provision of this chapter shall be punished by imprisonment for not less than twenty-four consecutive hours, and by a fine of not less than two hundred fifty dollars. On a second or subsequent conviction, the fine shall not be less than five hundred dollars. These fines shall be in addition to any other fine or penalty imposed. Unless the court finds that the imposition of the minimum imprisonment will pose a substantial risk to the defendant's physical or mental well-being or that local jail facilities are in an overcrowded condition, the minimum term of imprisonment shall not be suspended or deferred. If the court finds such risk or overcrowding exists, it shall sentence the defendant to a minimum of forty hours of community restitution. If a minimum term of imprisonment is suspended or deferred, the court shall state in writing the reason for granting the suspension or deferral and the facts upon which the suspension or deferral is based. Unless the court finds the person to be indigent, the minimum fine shall not be suspended or deferred. [2002 c 175 § 44; 1989 c 271 § 105.]

Additional notes found at www.leg.wa.gov

69.50.430 Additional fine for certain felony violations. (1) Every person convicted of a felony violation of RCW 69.50.401 through 69.50.4013, 69.50.4015, 69.50.402, 69.50.403, 69.50.406, 69.50.407, 69.50.410, or 69.50.415 shall be fined one thousand dollars in addition to any other fine or penalty imposed. Unless the court finds the person to be indigent, this additional fine shall not be suspended or deferred by the court.

(2) On a second or subsequent conviction for violation of any of the laws listed in subsection (1) of this section, the person shall be fined two thousand dollars in addition to any other fine or penalty imposed. Unless the court finds the person to be indigent, this additional fine shall not be suspended or deferred by the court. [2003 c 53 § 345; 1989 c 271 § 106.]

Intent—Effective date—2003 c 53: See notes following RCW 2.48.180.

Additional notes found at www.leg.wa.gov

69.50.435 Violations committed in or on certain public places or facilities—Additional penalty—Defenses—Construction—Definitions. (1) Any person who violates RCW 69.50.401 by manufacturing, selling, delivering, or possessing with the intent to manufacture, sell, or deliver a controlled substance listed under RCW 69.50.401 or who violates RCW 69.50.410 by selling for profit any controlled substance or counterfeit substance classified in schedule I, RCW 69.50.204, except leaves and flowering tops of marihuana to a person:

(a) In a school;

(b) On a school bus;

(c) Within one thousand feet of a school bus route stop designated by the school district;

(d) Within one thousand feet of the perimeter of the school grounds;

(e) In a public park;

(f) In a public housing project designated by a local governing authority as a drug-free zone;

(g) On a public transit vehicle;

(h) In a public transit stop shelter;

(i) At a civic center designated as a drug-free zone by the local governing authority; or

(j) Within one thousand feet of the perimeter of a facility designated under (i) of this subsection, if the local governing authority specifically designates the one thousand foot perimeter

may be punished by a fine of up to twice the fine otherwise authorized by this chapter, but not including twice the fine authorized by RCW 69.50.406, or by imprisonment of up to twice the imprisonment otherwise authorized by this chapter, but not including twice the imprisonment authorized by RCW 69.50.406, or by both such fine and imprisonment. The provisions of this section shall not operate to more than double the fine or imprisonment otherwise authorized by this chapter for an offense.

(2) It is not a defense to a prosecution for a violation of this section that the person was unaware that the prohibited conduct took place while in a school or school bus or within one thousand feet of the school or school bus route stop, in a public park, in a public housing project designated by a local governing authority as a drug-free zone, on a public transit vehicle, in a public transit stop shelter, at a civic center designated as a drug-free zone by the local governing authority, or within one thousand feet of the perimeter of a facility designated under subsection (1)(i) of this section, if the local governing authority specifically designates the one thousand foot perimeter.

(3) It is not a defense to a prosecution for a violation of this section or any other prosecution under this chapter that persons under the age of eighteen were not present in the school, the school bus, the public park, the public housing project designated by a local governing authority as a drug-

free zone, or the public transit vehicle, or at the school bus route stop, the public transit vehicle stop shelter, at a civic center designated as a drug-free zone by the local governing authority, or within one thousand feet of the perimeter of a facility designated under subsection (1)(i) of this section, if the local governing authority specifically designates the one thousand foot perimeter at the time of the offense or that school was not in session.

(4) It is an affirmative defense to a prosecution for a violation of this section that the prohibited conduct took place entirely within a private residence, that no person under eighteen years of age or younger was present in such private residence at any time during the commission of the offense, and that the prohibited conduct did not involve delivering, manufacturing, selling, or possessing with the intent to manufacture, sell, or deliver any controlled substance in RCW 69.50.401 for profit. The affirmative defense established in this section shall be proved by the defendant by a preponderance of the evidence. This section shall not be construed to establish an affirmative defense with respect to a prosecution for an offense defined in any other section of this chapter.

(5) In a prosecution under this section, a map produced or reproduced by any municipality, school district, county, transit authority engineer, or public housing authority for the purpose of depicting the location and boundaries of the area on or within one thousand feet of any property used for a school, school bus route stop, public park, public housing project designated by a local governing authority as a drug-free zone, public transit vehicle stop shelter, or a civic center designated as a drug-free zone by a local governing authority, or a true copy of such a map, shall under proper authentication, be admissible and shall constitute prima facie evidence of the location and boundaries of those areas if the governing body of the municipality, school district, county, or transit authority has adopted a resolution or ordinance approving the map as the official location and record of the location and boundaries of the area on or within one thousand feet of the school, school bus route stop, public park, public housing project designated by a local governing authority as a drug-free zone, public transit vehicle stop shelter, or civic center designated as a drug-free zone by a local governing authority. Any map approved under this section or a true copy of the map shall be filed with the clerk of the municipality or county, and shall be maintained as an official record of the municipality or county. This section shall not be construed as precluding the prosecution from introducing or relying upon any other evidence or testimony to establish any element of the offense. This section shall not be construed as precluding the use or admissibility of any map or diagram other than the one which has been approved by the governing body of a municipality, school district, county, transit authority, or public housing authority if the map or diagram is otherwise admissible under court rule.

(6) As used in this section the following terms have the meanings indicated unless the context clearly requires otherwise:

(a) "School" has the meaning under RCW 28A.150.010 or 28A.150.020. The term "school" also includes a private school approved under RCW 28A.195.010;

(b) "School bus" means a school bus as defined by the superintendent of public instruction by rule which is owned and operated by any school district and all school buses which are privately owned and operated under contract or otherwise with any school district in the state for the transportation of students. The term does not include buses operated by common carriers in the urban transportation of students such as transportation of students through a municipal transportation system;

(c) "School bus route stop" means a school bus stop as designated by a school district;

(d) "Public park" means land, including any facilities or improvements on the land, that is operated as a park by the state or a local government;

(e) "Public transit vehicle" means any motor vehicle, streetcar, train, trolley vehicle, or any other device, vessel, or vehicle which is owned or operated by a transit authority and which is used for the purpose of carrying passengers on a regular schedule;

(f) "Transit authority" means a city, county, or state transportation system, transportation authority, public transportation benefit area, public transit authority, or metropolitan municipal corporation within the state that operates public transit vehicles;

(g) "Stop shelter" means a passenger shelter designated by a transit authority;

(h) "Civic center" means a publicly owned or publicly operated place or facility used for recreational, educational, or cultural activities;

(i) "Public housing project" means the same as "housing project" as defined in RCW 35.82.020. [2003 c 53 § 346. Prior: 1997 c 30 § 2; 1997 c 23 § 1; 1996 c 14 § 2; 1991 c 32 § 4; prior: 1990 c 244 § 1; 1990 c 33 § 588; 1989 c 271 § 112.]

Intent—Effective date—2003 c 53: See notes following RCW 2.48.180.

Findings—Intent—1997 c 30: "The legislature finds that a large number of illegal drug transactions occur in or near public housing projects. The legislature also finds that this activity places the families and children residing in these housing projects at risk for drug-related crimes and increases the general level of fear among the residents of the housing project and the areas surrounding these projects. The intent of the legislature is to allow local governments to designate public housing projects as drug-free zones." [1997 c 30 § 1.]

Findings—Intent—1996 c 14: "The legislature finds that a large number of illegal drug transactions occur in or near publicly owned places used for recreational, educational, and cultural purposes. The legislature also finds that this activity places the people using these facilities at risk for drug-related crimes, discourages the use of recreational, educational, and cultural facilities, blights the economic development around these facilities, and increases the general level of fear among the residents of the areas surrounding these facilities. The intent of the legislature is to allow local governments to designate a perimeter of one thousand feet around publicly owned places used primarily for recreation, education, and cultural activities as drug-free zones." [1996 c 14 § 1.]

Purpose—Statutory references—Severability—1990 c 33: See RCW 28A.900.100 through 28A.900.102.

Additional notes found at www.leg.wa.gov

69.50.440 Possession with intent to manufacture—Penalty. (1) It is unlawful for any person to possess ephedrine or any of its salts or isomers or salts of isomers, pseudoephedrine or any of its salts or isomers or salts of isomers, pressurized ammonia gas, or pressurized ammonia gas solution with intent to manufacture methamphetamine, including its salts, isomers, and salts of isomers.

(2) Any person who violates this section is guilty of a class B felony and may be imprisoned for not more than ten years, fined not more than twenty-five thousand dollars, or both. Three thousand dollars of the fine may not be suspended. As collected, the first three thousand dollars of the fine must be deposited with the law enforcement agency having responsibility for cleanup of laboratories, sites, or substances used in the manufacture of the methamphetamine, including its salts, isomers, and salts of isomers. The fine moneys deposited with that law enforcement agency must be used for such clean-up cost. [2005 c 218 § 3; 2003 c 53 § 347; 2002 c 134 § 1; 2000 c 225 § 4; 1997 c 71 § 3; 1996 c 205 § 1.]

Intent—Effective date—2003 c 53: See notes following RCW 2.48.180.

Additional notes found at www.leg.wa.gov

69.50.445 Opening package of or consuming marijuana, useable marijuana, or marijuana-infused product in view of general public—Penalty. It is unlawful to open a package containing marijuana, useable marijuana, or a marijuana-infused product, or consume marijuana, useable marijuana, or a marijuana-infused product, in view of the general public. A person who violates this section is guilty of a class 3 civil infraction under chapter 7.80 RCW. [2013 c 3 § 21 (Initiative Measure No. 502, approved November 6, 2012).]

Intent—2013 c 3 (Initiative Measure No. 502): See note following RCW 69.50.101.

ARTICLE V
ENFORCEMENT AND ADMINISTRATIVE PROVISIONS

69.50.500 Powers of enforcement personnel. (a) It is hereby made the duty of the *state board of pharmacy, the department, the state liquor control board, and their officers, agents, inspectors and representatives, and all law enforcement officers within the state, and of all prosecuting attorneys, to enforce all provisions of this chapter, except those specifically delegated, and to cooperate with all agencies charged with the enforcement of the laws of the United States, of this state, and all other states, relating to controlled substances as defined in this chapter.

(b) Employees of the department of health, who are so designated by the *board as enforcement officers are declared to be peace officers and shall be vested with police powers to enforce the drug laws of this state, including this chapter. [2013 c 3 § 24 (Initiative Measure No. 502, approved November 6, 2012); 1989 1st ex.s. c 9 § 437; 1971 ex.s. c 308 § 69.50.500.]

***Reviser's note:** Chapter 19, Laws of 2013 changed "state board of pharmacy" to "pharmacy quality assurance commission."

Intent—2013 c 3 (Initiative Measure No. 502): See note following RCW 69.50.101.

Additional notes found at www.leg.wa.gov

69.50.501 Administrative inspections. The commission may make administrative inspections of controlled premises in accordance with the following provisions:

(1) For purposes of this section only, "controlled premises" means:

(a) places where persons registered or exempted from registration requirements under this chapter are required to keep records; and

(b) places including factories, warehouses, establishments, and conveyances in which persons registered or exempted from registration requirements under this chapter are permitted to hold, manufacture, compound, process, sell, deliver, or otherwise dispose of any controlled substance.

(2) When authorized by an administrative inspection warrant issued pursuant to RCW 69.50.502 an officer or employee designated by the commission, upon presenting the warrant and appropriate credentials to the owner, operator, or agent in charge, may enter controlled premises for the purpose of conducting an administrative inspection.

(3) When authorized by an administrative inspection warrant, an officer or employee designated by the commission may:

(a) inspect and copy records required by this chapter to be kept;

(b) inspect, within reasonable limits and in a reasonable manner, controlled premises and all pertinent equipment, finished and unfinished material, containers and labeling found therein, and, except as provided in subsection (5) of this section, all other things therein, including records, files, papers, processes, controls, and facilities bearing on violation of this chapter; and

(c) inventory any stock of any controlled substance therein and obtain samples thereof.

(4) This section does not prevent the inspection without a warrant of books and records pursuant to an administrative subpoena issued in accordance with chapter 34.05 RCW, nor does it prevent entries and administrative inspections, including seizures of property, without a warrant:

(a) if the owner, operator, or agent in charge of the controlled premises consents;

(b) in situations presenting imminent danger to health or safety;

(c) in situations involving inspection of conveyances if there is reasonable cause to believe that the mobility of the conveyance makes it impracticable to obtain a warrant;

(d) in any other exceptional or emergency circumstance where time or opportunity to apply for a warrant is lacking; or,

(e) in all other situations in which a warrant is not constitutionally required.

(5) An inspection authorized by this section shall not extend to financial data, sales data, other than shipment data, or pricing data unless the owner, operator, or agent in charge of the controlled premises consents in writing. [2013 c 19 § 108; 1971 ex.s. c 308 § 69.50.501.]

69.50.502 Warrants for administrative inspections. Issuance and execution of administrative inspection warrants shall be as follows:

(1) A judge of a superior court, or a judge of a district court within his or her jurisdiction, and upon proper oath or affirmation showing probable cause, may issue warrants for the purpose of conducting administrative inspections authorized by this chapter or rules hereunder, and seizures of property appropriate to the inspections. For purposes of the issuance of administrative inspection warrants, probable cause

exists upon showing a valid public interest in the effective enforcement of this chapter or rules hereunder, sufficient to justify administrative inspection of the area, premises, building, or conveyance in the circumstances specified in the application for the warrant;

(2) A warrant shall issue only upon an affidavit of a designated officer or employee having knowledge of the facts alleged, sworn to before the judge and establishing the grounds for issuing the warrant. If the judge is satisfied that grounds for the application exist or that there is probable cause to believe they exist, he or she shall issue a warrant identifying the area, premises, building, or conveyance to be inspected, the purpose of the inspection, and, if appropriate, the type of property to be inspected, if any. The warrant shall:

(a) State the grounds for its issuance and the name of each person whose affidavit has been taken in support thereof;

(b) Be directed to a person authorized by RCW 69.50.500 to execute it;

(c) Command the person to whom it is directed to inspect the area, premises, building, or conveyance identified for the purpose specified and, if appropriate, direct the seizure of the property specified;

(d) Identify the item or types of property to be seized, if any;

(e) Direct that it be served during normal business hours and designate the judge to whom it shall be returned;

(3) A warrant issued pursuant to this section must be executed and returned within ten days of its date unless, upon a showing of a need for additional time, the court orders otherwise. If property is seized pursuant to a warrant, a copy shall be given to the person from whom or from whose premises the property is taken, together with a receipt for the property taken. The return of the warrant shall be made promptly, accompanied by a written inventory of any property taken. The inventory shall be made in the presence of the person executing the warrant and of the person from whose possession or premises the property was taken, if present, or in the presence of at least one credible person other than the person executing the warrant. A copy of the inventory shall be delivered to the person from whom or from whose premises the property was taken and to the applicant for the warrant;

(4) The judge who has issued a warrant shall attach thereto a copy of the return and all papers returnable in connection therewith and file them with the clerk of the court in which the inspection was made. [2012 c 117 § 369; 1971 ex.s. c 308 § 69.50.502.]

69.50.503 Injunctions. (a) The superior courts of this state have jurisdiction to restrain or enjoin violations of this chapter.

(b) The defendant may demand trial by jury for an alleged violation of an injunction or restraining order under this section. [1971 ex.s. c 308 § 69.50.503.]

69.50.504 Cooperative arrangements. The commission shall cooperate with federal and other state agencies in discharging its responsibilities concerning traffic in controlled substances and in suppressing the abuse of controlled substances. [2013 c 19 § 109; 1971 ex.s. c 308 § 69.50.504.]

69.50.505 Seizure and forfeiture. (1) The following are subject to seizure and forfeiture and no property right exists in them:

(a) All controlled substances which have been manufactured, distributed, dispensed, acquired, or possessed in violation of this chapter or chapter 69.41 or 69.52 RCW, and all hazardous chemicals, as defined in RCW 64.44.010, used or intended to be used in the manufacture of controlled substances;

(b) All raw materials, products, and equipment of any kind which are used, or intended for use, in manufacturing, compounding, processing, delivering, importing, or exporting any controlled substance in violation of this chapter or chapter 69.41 or 69.52 RCW;

(c) All property which is used, or intended for use, as a container for property described in (a) or (b) of this subsection;

(d) All conveyances, including aircraft, vehicles, or vessels, which are used, or intended for use, in any manner to facilitate the sale, delivery, or receipt of property described in (a) or (b) of this subsection, except that:

(i) No conveyance used by any person as a common carrier in the transaction of business as a common carrier is subject to forfeiture under this section unless it appears that the owner or other person in charge of the conveyance is a consenting party or privy to a violation of this chapter or chapter 69.41 or 69.52 RCW;

(ii) No conveyance is subject to forfeiture under this section by reason of any act or omission established by the owner thereof to have been committed or omitted without the owner's knowledge or consent;

(iii) No conveyance is subject to forfeiture under this section if used in the receipt of only an amount of marijuana for which possession constitutes a misdemeanor under RCW 69.50.4014;

(iv) A forfeiture of a conveyance encumbered by a bona fide security interest is subject to the interest of the secured party if the secured party neither had knowledge of nor consented to the act or omission; and

(v) When the owner of a conveyance has been arrested under this chapter or chapter 69.41 or 69.52 RCW the conveyance in which the person is arrested may not be subject to forfeiture unless it is seized or process is issued for its seizure within ten days of the owner's arrest;

(e) All books, records, and research products and materials, including formulas, microfilm, tapes, and data which are used, or intended for use, in violation of this chapter or chapter 69.41 or 69.52 RCW;

(f) All drug paraphernalia*21 other than paraphernalia possessed, sold, or used solely to facilitate marijuana-related activities that are not violations of this chapter;

(g) All moneys, negotiable instruments, securities, or other tangible or intangible property of value furnished or intended to be furnished by any person in exchange for a controlled substance in violation of this chapter or chapter 69.41 or 69.52 RCW, all tangible or intangible personal property, proceeds, or assets acquired in whole or in part with proceeds traceable to an exchange or series of exchanges in violation of this chapter or chapter 69.41 or 69.52 RCW, and all moneys, negotiable instruments, and securities used or intended to be used to facilitate any violation of this chapter or chapter

69.41 or 69.52 RCW. A forfeiture of money, negotiable instruments, securities, or other tangible or intangible property encumbered by a bona fide security interest is subject to the interest of the secured party if, at the time the security interest was created, the secured party neither had knowledge of nor consented to the act or omission. No personal property may be forfeited under this subsection (1)(g), to the extent of the interest of an owner, by reason of any act or omission which that owner establishes was committed or omitted without the owner's knowledge or consent; and

(h) All real property, including any right, title, and interest in the whole of any lot or tract of land, and any appurtenances or improvements which are being used with the knowledge of the owner for the manufacturing, compounding, processing, delivery, importing, or exporting of any controlled substance, or which have been acquired in whole or in part with proceeds traceable to an exchange or series of exchanges in violation of this chapter or chapter 69.41 or 69.52 RCW, if such activity is not less than a class C felony and a substantial nexus exists between the commercial production or sale of the controlled substance and the real property. However:

(i) No property may be forfeited pursuant to this subsection (1)(h), to the extent of the interest of an owner, by reason of any act or omission committed or omitted without the owner's knowledge or consent;

(ii) The bona fide gift of a controlled substance, legend drug, or imitation controlled substance shall not result in the forfeiture of real property;

(iii) The possession of marijuana shall not result in the forfeiture of real property unless the marijuana is possessed for commercial purposes that are unlawful under Washington state law, the amount possessed is five or more plants or one pound or more of marijuana, and a substantial nexus exists between the possession of marijuana and the real property. In such a case, the intent of the offender shall be determined by the preponderance of the evidence, including the offender's prior criminal history, the amount of marijuana possessed by the offender, the sophistication of the activity or equipment used by the offender, whether the offender was licensed to produce, process, or sell marijuana, or was an employee of a licensed producer, processor, or retailer, and other evidence which demonstrates the offender's intent to engage in unlawful commercial activity;

(iv) The unlawful sale of marijuana or a legend drug shall not result in the forfeiture of real property unless the sale was forty grams or more in the case of marijuana or one hundred dollars or more in the case of a legend drug, and a substantial nexus exists between the unlawful sale and the real property; and

(v) A forfeiture of real property encumbered by a bona fide security interest is subject to the interest of the secured party if the secured party, at the time the security interest was created, neither had knowledge of nor consented to the act or omission.

(2) Real or personal property subject to forfeiture under this chapter may be seized by any **board inspector or law enforcement officer of this state upon process issued by any superior court having jurisdiction over the property. Seizure of real property shall include the filing of a lis pendens by the seizing agency. Real property seized under this section shall not be transferred or otherwise conveyed until ninety days after seizure or until a judgment of forfeiture is entered, whichever is later: PROVIDED, That real property seized under this section may be transferred or conveyed to any person or entity who acquires title by foreclosure or deed in lieu of foreclosure of a security interest. Seizure of personal property without process may be made if:

(a) The seizure is incident to an arrest or a search under a search warrant or an inspection under an administrative inspection warrant;

(b) The property subject to seizure has been the subject of a prior judgment in favor of the state in a criminal injunction or forfeiture proceeding based upon this chapter;

(c) A **board inspector or law enforcement officer has probable cause to believe that the property is directly or indirectly dangerous to health or safety; or

(d) The **board inspector or law enforcement officer has probable cause to believe that the property was used or is intended to be used in violation of this chapter.

(3) In the event of seizure pursuant to subsection (2) of this section, proceedings for forfeiture shall be deemed commenced by the seizure. The law enforcement agency under whose authority the seizure was made shall cause notice to be served within fifteen days following the seizure on the owner of the property seized and the person in charge thereof and any person having any known right or interest therein, including any community property interest, of the seizure and intended forfeiture of the seized property. Service of notice of seizure of real property shall be made according to the rules of civil procedure. However, the state may not obtain a default judgment with respect to real property against a party who is served by substituted service absent an affidavit stating that a good faith effort has been made to ascertain if the defaulted party is incarcerated within the state, and that there is no present basis to believe that the party is incarcerated within the state. Notice of seizure in the case of property subject to a security interest that has been perfected by filing a financing statement in accordance with chapter 62A.9A RCW, or a certificate of title, shall be made by service upon the secured party or the secured party's assignee at the address shown on the financing statement or the certificate of title. The notice of seizure in other cases may be served by any method authorized by law or court rule including but not limited to service by certified mail with return receipt requested. Service by mail shall be deemed complete upon mailing within the fifteen day period following the seizure.

(4) If no person notifies the seizing law enforcement agency in writing of the person's claim of ownership or right to possession of items specified in subsection (1)(d), (g), or (h) of this section within forty-five days of the service of notice from the seizing agency in the case of personal property and ninety days in the case of real property, the item seized shall be deemed forfeited. The community property interest in real property of a person whose spouse or domestic partner committed a violation giving rise to seizure of the real property may not be forfeited if the person did not participate in the violation.

(5) If any person notifies the seizing law enforcement agency in writing of the person's claim of ownership or right to possession of items specified in subsection (1)(b), (c), (d), (e), (f), (g), or (h) of this section within forty-five days of the

service of notice from the seizing agency in the case of personal property and ninety days in the case of real property, the person or persons shall be afforded a reasonable opportunity to be heard as to the claim or right. The notice of claim may be served by any method authorized by law or court rule including, but not limited to, service by first-class mail. Service by mail shall be deemed complete upon mailing within the forty-five day period following service of the notice of seizure in the case of personal property and within the ninety-day period following service of the notice of seizure in the case of real property. The hearing shall be before the chief law enforcement officer of the seizing agency or the chief law enforcement officer's designee, except where the seizing agency is a state agency as defined in RCW 34.12.020(4), the hearing shall be before the chief law enforcement officer of the seizing agency or an administrative law judge appointed under chapter 34.12 RCW, except that any person asserting a claim or right may remove the matter to a court of competent jurisdiction. Removal of any matter involving personal property may only be accomplished according to the rules of civil procedure. The person seeking removal of the matter must serve process against the state, county, political subdivision, or municipality that operates the seizing agency, and any other party of interest, in accordance with RCW 4.28.080 or 4.92.020, within forty-five days after the person seeking removal has notified the seizing law enforcement agency of the person's claim of ownership or right to possession. The court to which the matter is to be removed shall be the district court when the aggregate value of personal property is within the jurisdictional limit set forth in RCW 3.66.020. A hearing before the seizing agency and any appeal therefrom shall be under Title 34 RCW. In all cases, the burden of proof is upon the law enforcement agency to establish, by a preponderance of the evidence, that the property is subject to forfeiture.

The seizing law enforcement agency shall promptly return the article or articles to the claimant upon a determination by the administrative law judge or court that the claimant is the present lawful owner or is lawfully entitled to possession thereof of items specified in subsection (1)(b), (c), (d), (e), (f), (g), or (h) of this section.

(6) In any proceeding to forfeit property under this title, where the claimant substantially prevails, the claimant is entitled to reasonable attorneys' fees reasonably incurred by the claimant. In addition, in a court hearing between two or more claimants to the article or articles involved, the prevailing party is entitled to a judgment for costs and reasonable attorneys' fees.

(7) When property is forfeited under this chapter the **board or seizing law enforcement agency may:

(a) Retain it for official use or upon application by any law enforcement agency of this state release such property to such agency for the exclusive use of enforcing the provisions of this chapter;

(b) Sell that which is not required to be destroyed by law and which is not harmful to the public;

(c) Request the appropriate sheriff or director of public safety to take custody of the property and remove it for disposition in accordance with law; or

(d) Forward it to the drug enforcement administration for disposition.

(8)(a) When property is forfeited, the seizing agency shall keep a record indicating the identity of the prior owner, if known, a description of the property, the disposition of the property, the value of the property at the time of seizure, and the amount of proceeds realized from disposition of the property.

(b) Each seizing agency shall retain records of forfeited property for at least seven years.

(c) Each seizing agency shall file a report including a copy of the records of forfeited property with the state treasurer each calendar quarter.

(d) The quarterly report need not include a record of forfeited property that is still being held for use as evidence during the investigation or prosecution of a case or during the appeal from a conviction.

(9)(a) By January 31st of each year, each seizing agency shall remit to the state treasurer an amount equal to ten percent of the net proceeds of any property forfeited during the preceding calendar year. Money remitted shall be deposited in the state general fund.

(b) The net proceeds of forfeited property is the value of the forfeitable interest in the property after deducting the cost of satisfying any bona fide security interest to which the property is subject at the time of seizure; and in the case of sold property, after deducting the cost of sale, including reasonable fees or commissions paid to independent selling agents, and the cost of any valid landlord's claim for damages under subsection (15) of this section.

(c) The value of sold forfeited property is the sale price. The value of retained forfeited property is the fair market value of the property at the time of seizure, determined when possible by reference to an applicable commonly used index, such as the index used by the department of licensing for valuation of motor vehicles. A seizing agency may use, but need not use, an independent qualified appraiser to determine the value of retained property. If an appraiser is used, the value of the property appraised is net of the cost of the appraisal. The value of destroyed property and retained firearms or illegal property is zero.

(10) Forfeited property and net proceeds not required to be paid to the state treasurer shall be retained by the seizing law enforcement agency exclusively for the expansion and improvement of controlled substances related law enforcement activity. Money retained under this section may not be used to supplant preexisting funding sources.

(11) Controlled substances listed in Schedule I, II, III, IV, and V that are possessed, transferred, sold, or offered for sale in violation of this chapter are contraband and shall be seized and summarily forfeited to the state. Controlled substances listed in Schedule I, II, III, IV, and V, which are seized or come into the possession of the **board, the owners of which are unknown, are contraband and shall be summarily forfeited to the **board.

(12) Species of plants from which controlled substances in Schedules I and II may be derived which have been planted or cultivated in violation of this chapter, or of which the owners or cultivators are unknown, or which are wild growths, may be seized and summarily forfeited to the **board.

(13) The failure, upon demand by a **board inspector or law enforcement officer, of the person in occupancy or in control of land or premises upon which the species of plants

are growing or being stored to produce an appropriate registration or proof that he or she is the holder thereof constitutes authority for the seizure and forfeiture of the plants.

(14) Upon the entry of an order of forfeiture of real property, the court shall forward a copy of the order to the assessor of the county in which the property is located. Orders for the forfeiture of real property shall be entered by the superior court, subject to court rules. Such an order shall be filed by the seizing agency in the county auditor's records in the county in which the real property is located.

(15)(a) A landlord may assert a claim against proceeds from the sale of assets seized and forfeited under subsection (7)(b) of this section, only if:

(i) A law enforcement officer, while acting in his or her official capacity, directly caused damage to the complaining landlord's property while executing a search of a tenant's residence; and

(ii) The landlord has applied any funds remaining in the tenant's deposit, to which the landlord has a right under chapter 59.18 RCW, to cover the damage directly caused by a law enforcement officer prior to asserting a claim under the provisions of this section;

(A) Only if the funds applied under (a)(ii) of this subsection are insufficient to satisfy the damage directly caused by a law enforcement officer, may the landlord seek compensation for the damage by filing a claim against the governmental entity under whose authority the law enforcement agency operates within thirty days after the search;

(B) Only if the governmental entity denies or fails to respond to the landlord's claim within sixty days of the date of filing, may the landlord collect damages under this subsection by filing within thirty days of denial or the expiration of the sixty-day period, whichever occurs first, a claim with the seizing law enforcement agency. The seizing law enforcement agency must notify the landlord of the status of the claim by the end of the thirty-day period. Nothing in this section requires the claim to be paid by the end of the sixty-day or thirty-day period.

(b) For any claim filed under (a)(ii) of this subsection, the law enforcement agency shall pay the claim unless the agency provides substantial proof that the landlord either:

(i) Knew or consented to actions of the tenant in violation of this chapter or chapter 69.41 or 69.52 RCW; or

(ii) Failed to respond to a notification of the illegal activity, provided by a law enforcement agency under RCW 59.18.075, within seven days of receipt of notification of the illegal activity.

(16) The landlord's claim for damages under subsection (15) of this section may not include a claim for loss of business and is limited to:

(a) Damage to tangible property and clean-up costs;

(b) The lesser of the cost of repair or fair market value of the damage directly caused by a law enforcement officer;

(c) The proceeds from the sale of the specific tenant's property seized and forfeited under subsection (7)(b) of this section; and

(d) The proceeds available after the seizing law enforcement agency satisfies any bona fide security interest in the tenant's property and costs related to sale of the tenant's property as provided by subsection (9)(b) of this section.

(17) Subsections (15) and (16) of this section do not limit any other rights a landlord may have against a tenant to collect for damages. However, if a law enforcement agency satisfies a landlord's claim under subsection (15) of this section, the rights the landlord has against the tenant for damages directly caused by a law enforcement officer under the terms of the landlord and tenant's contract are subrogated to the law enforcement agency. [2013 c 3 § 25 (Initiative Measure No. 502, approved November 6, 2012). Prior: 2009 c 479 § 46; 2009 c 364 § 1; 2008 c 6 § 631; 2003 c 53 § 348; 2001 c 168 § 1; 1993 c 487 § 1; 1992 c 211 § 1; prior: (1992 c 210 § 5 repealed by 1992 c 211 § 2); 1990 c 248 § 2; 1990 c 213 § 12; 1989 c 271 § 212; 1988 c 282 § 2; 1986 c 124 § 9; 1984 c 258 § 333; 1983 c 2 § 15; prior: 1982 c 189 § 6; 1982 c 171 § 1; prior: 1981 c 67 § 32; 1981 c 48 § 3; 1977 ex.s. c 77 § 1; 1971 ex.s. c 308 § 69.50.505.]

Reviser's note: *(1) The number 21 was inadvertently added in the document filed with the secretary of state's office.

**(2) Chapter 19, Laws of 2013 changed "state board of pharmacy" to "pharmacy quality assurance commission."

Intent—2013 c 3 (Initiative Measure No. 502): See note following RCW 69.50.101.

Effective date—2009 c 479: See note following RCW 2.56.030.

Part headings not law—Severability—2008 c 6: See RCW 26.60.900 and 26.60.901.

Intent—Effective date—2003 c 53: See notes following RCW 2.48.180.

Findings—1989 c 271: "The legislature finds that: Drug offenses and crimes resulting from illegal drug use are destructive to society; the nature of drug trafficking results in many property crimes and crimes of violence; state and local governmental agencies incur immense expenses in the investigation, prosecution, adjudication, incarceration, and treatment of drug-related offenders and the compensation of their victims; drug-related offenses are difficult to eradicate because of the profits derived from the criminal activities, which can be invested in legitimate assets and later used for further criminal activities; and the forfeiture of real assets where a substantial nexus exists between the commercial production or sale of the substances and the real property will provide a significant deterrent to crime by removing the profit incentive of drug trafficking, and will provide a revenue source that will partially defray the large costs incurred by government as a result of these crimes. The legislature recognizes that seizure of real property is a very powerful tool and should not be applied in cases in which a manifest injustice would occur as a result of forfeiture of an innocent spouse's community property interest." [1989 c 271 § 211.]

Intent—1984 c 258: See note following RCW 3.34.130.

Additional notes found at www.leg.wa.gov

69.50.506 Burden of proof; liabilities. (a) It is not necessary for the state to negate any exemption or exception in this chapter in any complaint, information, indictment, or other pleading or in any trial, hearing, or other proceeding under this chapter. The burden of proof of any exemption or exception is upon the person claiming it.

(b) In the absence of proof that a person is the duly authorized holder of an appropriate registration or order form issued under this chapter, he or she is presumed not to be the holder of the registration or form. The burden of proof is upon him or her to rebut the presumption.

(c) No liability is imposed by this chapter upon any authorized state, county, or municipal officer, engaged in the lawful performance of his or her duties. [2012 c 117 § 370; 1971 ex.s. c 308 § 69.50.506.]

69.50.507 Judicial review. All final determinations, findings, and conclusions of the commission under this chap-

ter are final and conclusive decisions of the matters involved. Any person aggrieved by the decision may obtain review of the decision in the superior court wherein he or she resides or in the superior court of Thurston county, such review to be in conformity with the administrative procedure act, chapter 34.05 RCW. [2013 c 19 § 110; 2012 c 117 § 371; 1971 ex.s. c 308 § 69.50.507.]

69.50.508 Education and research. (a) The commission may carry out educational programs designed to prevent and deter misuse and abuse of controlled substances. In connection with these programs it may:

(1) promote better recognition of the problems of misuse and abuse of controlled substances within the regulated industry and among interested groups and organizations;

(2) assist the regulated industry and interested groups and organizations in contributing to the reduction of misuse and abuse of controlled substances;

(3) consult with interested groups and organizations to aid them in solving administrative and organizational problems;

(4) evaluate procedures, projects, techniques, and controls conducted or proposed as part of educational programs on misuse and abuse of controlled substances;

(5) disseminate the results of research on misuse and abuse of controlled substances to promote a better public understanding of what problems exist and what can be done to combat them; and

(6) assist in the education and training of state and local law enforcement officials in their efforts to control misuse and abuse of controlled substances.

(b) The commission may encourage research on misuse and abuse of controlled substances. In connection with the research, and in furtherance of the enforcement of this chapter, it may:

(1) establish methods to assess accurately the effects of controlled substances and identify and characterize those with potential for abuse;

(2) make studies and undertake programs of research to:

(i) develop new or improved approaches, techniques, systems, equipment and devices to strengthen the enforcement of this chapter;

(ii) determine patterns of misuse and abuse of controlled substances and the social effects thereof; and,

(iii) improve methods for preventing, predicting, understanding and dealing with the misuse and abuse of controlled substances; and,

(3) enter into contracts with public agencies, institutions of higher education, and private organizations or individuals for the purpose of conducting research, demonstrations, or special projects which bear directly on misuse and abuse of controlled substances.

(c) The commission may enter into contracts for educational and research activities without performance bonds.

(d) The commission may authorize persons engaged in research on the use and effects of controlled substances to withhold the names and other identifying characteristics of individuals who are the subjects of the research. Persons who obtain this authorization are not compelled in any civil, criminal, administrative, legislative, or other proceeding to identify the individuals who are the subjects of research for which the authorization was obtained.

(e) The commission may authorize the possession and distribution of controlled substances by persons engaged in research. Persons who obtain this authorization are exempt from state prosecution for possession and distribution of controlled substances to the extent of the authorization. [2013 c 19 § 111; 1971 ex.s. c 308 § 69.50.508.]

69.50.509 Search and seizure of controlled substances. If, upon the sworn complaint of any person, it shall be made to appear to any judge of the superior court, district court, or municipal court that there is probable cause to believe that any controlled substance is being used, manufactured, sold, bartered, exchanged, administered, dispensed, delivered, distributed, produced, possessed, given away, furnished or otherwise disposed of or kept in violation of the provisions of this chapter, such judge shall, with or without the approval of the prosecuting attorney, issue a warrant directed to any law enforcement officer of the state, commanding him or her to search the premises designated and described in such complaint and warrant, and to seize all controlled substances there found, together with the vessels in which they are contained, and all implements, furniture and fixtures used or kept for the illegal manufacture, sale, barter, exchange, administering, dispensing, delivering, distributing, producing, possessing, giving away, furnishing or otherwise disposing of such controlled substances, and to safely keep the same, and to make a return of said warrant within three days, showing all acts and things done thereunder, with a particular statement of all articles seized and the name of the person or persons in whose possession the same were found, if any, and if no person be found in the possession of said articles, the returns shall so state. The provisions of RCW 10.31.030 as now or hereafter amended shall apply to actions taken pursuant to this chapter. [1987 c 202 § 228; 1971 ex.s. c 308 § 69.50.509.]

Intent—1987 c 202: See note following RCW 2.04.190.

69.50.510 Search and seizure at rental premises—Notification of landlord. Whenever a controlled substance which is manufactured, distributed, dispensed, or acquired in violation of this chapter is seized at rental premises, the law enforcement agency shall make a reasonable attempt to discover the identity of the landlord and shall notify the landlord in writing, at the last address listed in the property tax records and at any other address known by the law enforcement agency, of the seizure and the location of the seizure. [1988 c 150 § 9.]

Legislative findings—Severability—1988 c 150: See notes following RCW 59.18.130.

69.50.511 Cleanup of hazardous substances at illegal drug manufacturing facility—Rules. Law enforcement agencies who during the official investigation or enforcement of any illegal drug manufacturing facility come in contact with or are aware of any substances suspected of being hazardous as defined in RCW 70.105D.020, shall notify the department of ecology for the purpose of securing a contractor to identify, clean up, store, and dispose of suspected hazardous substances, except for those random and representa-

tive samples obtained for evidentiary purposes. Whenever possible, a destruct order covering hazardous substances which may be described in general terms shall be obtained concurrently with a search warrant. Materials that have been photographed, fingerprinted, and subsampled by police shall be destroyed as soon as practical. The department of ecology shall make every effort to recover costs from the parties responsible for the suspected hazardous substance. All recoveries shall be deposited in the account or fund from which contractor payments are made.

The department of ecology may adopt rules to carry out its responsibilities under this section. The department of ecology shall consult with law enforcement agencies prior to adopting any rule or policy relating to this section. [2007 c 104 § 17; 1990 c 213 § 13; 1989 c 271 § 228.]

Application—Construction—Severability—2007 c 104: See RCW 64.70.015 and 64.70.900.

Additional notes found at www.leg.wa.gov

69.50.515 Pharmacies—Marijuana—Notification and disposal. (1) Upon finding one ounce or less of marijuana inadvertently left at a retail store holding a pharmacy license, the store manager or employee must promptly notify the local law enforcement agency. After notification to the local law enforcement agency, the store manager or employee must properly dispose of the marijuana.

(2) For the purposes of this section, "properly dispose" means ensuring that the product is destroyed or rendered incapable of use by another person. [2013 c 133 § 1.]

69.50.525 Diversion prevention and control—Report. (a) As used in this section, "diversion" means the transfer of any controlled substance from a licit to an illicit channel of distribution or use.

(b) The department shall regularly prepare and make available to other state regulatory, licensing, and law enforcement agencies a report on the patterns and trends of actual distribution, diversion, and abuse of controlled substances.

(c) The department shall enter into written agreements with local, state, and federal agencies for the purpose of improving identification of sources of diversion and to improve enforcement of and compliance with this chapter and other laws and regulations pertaining to unlawful conduct involving controlled substances. An agreement must specify the roles and responsibilities of each agency that has information or authority to identify, prevent, and control drug diversion and drug abuse. The department shall convene periodic meetings to coordinate a state diversion prevention and control program. The department shall arrange for cooperation and exchange of information among agencies and with neighboring states and the federal government. [1998 c 245 § 109; 1993 c 187 § 20.]

69.50.530 Dedicated marijuana fund. (1) There shall be a fund, known as the dedicated marijuana fund, which shall consist of all marijuana excise taxes, license fees, penalties, forfeitures, and all other moneys, income, or revenue received by the state liquor control board from marijuana-related activities. The state treasurer shall be custodian of the fund.

(2) All moneys received by the state liquor control board or any employee thereof from marijuana-related activities shall be deposited each day in a depository approved by the state treasurer and transferred to the state treasurer to be credited to the dedicated marijuana fund.

(3) Disbursements from the dedicated marijuana fund shall be on authorization of the state liquor control board or a duly authorized representative thereof. [2013 c 3 § 26 (Initiative Measure No. 502, approved November 6, 2012).]

Intent—2013 c 3 (Initiative Measure No. 502): See note following RCW 69.50.101.

69.50.535 Marijuana excise taxes—State liquor control board to review tax levels. (1) There is levied and collected a marijuana excise tax equal to twenty-five percent of the selling price on each wholesale sale in this state of marijuana by a licensed marijuana producer to a licensed marijuana processor or another licensed marijuana producer. This tax is the obligation of the licensed marijuana producer.

(2) There is levied and collected a marijuana excise tax equal to twenty-five percent of the selling price on each wholesale sale in this state of marijuana concentrates, useable marijuana, and marijuana-infused products by a licensed marijuana processor to a licensed marijuana retailer. This tax is the obligation of the licensed marijuana processor.

(3) There is levied and collected a marijuana excise tax equal to twenty-five percent of the selling price on each retail sale in this state of marijuana concentrates, useable marijuana, and marijuana-infused products. This tax is the obligation of the licensed marijuana retailer, is separate and in addition to general state and local sales and use taxes that apply to retail sales of tangible personal property, and is part of the total retail price to which general state and local sales and use taxes apply.

(4) All revenues collected from the marijuana excise taxes imposed under subsections (1) through (3) of this section shall be deposited each day in a depository approved by the state treasurer and transferred to the state treasurer to be credited to the dedicated marijuana fund.

(5) The state liquor control board shall regularly review the tax levels established under this section and make recommendations to the legislature as appropriate regarding adjustments that would further the goal of discouraging use while undercutting illegal market prices. [2014 c 192 § 7; 2013 c 3 § 27 (Initiative Measure No. 502, approved November 6, 2012).]

Intent—2013 c 3 (Initiative Measure No. 502): See note following RCW 69.50.101.

69.50.540 Marijuana excise taxes—Disbursements. All marijuana excise taxes collected from sales of marijuana, useable marijuana, and marijuana-infused products under RCW 69.50.535, and the license fees, penalties, and forfeitures derived under chapter 3, Laws of 2013 from marijuana producer, marijuana processor, and marijuana retailer licenses shall every three months be disbursed by the state liquor control board as follows:

(1) One hundred twenty-five thousand dollars to the department of social and health services to design and administer the Washington state healthy youth survey, analyze the collected data, and produce reports, in collaboration with the

office of the superintendent of public instruction, department of health, department of commerce, family policy council, and state liquor control board. The survey shall be conducted at least every two years and include questions regarding, but not necessarily limited to, academic achievement, age at time of substance use initiation, antisocial behavior of friends, attitudes toward antisocial behavior, attitudes toward substance use, laws and community norms regarding antisocial behavior, family conflict, family management, parental attitudes toward substance use, peer rewarding of antisocial behavior, perceived risk of substance use, and rebelliousness. Funds disbursed under this subsection may be used to expand administration of the healthy youth survey to student populations attending institutions of higher education in Washington;

(2) Fifty thousand dollars to the department of social and health services for the purpose of contracting with the Washington state institute for public policy to conduct the cost-benefit evaluation and produce the reports described in RCW 69.50.550. This appropriation shall end after production of the final report required by RCW 69.50.550;

(3) Five thousand dollars to the University of Washington alcohol and drug abuse institute for the creation, maintenance, and timely updating of web-based public education materials providing medically and scientifically accurate information about the health and safety risks posed by marijuana use;

(4) An amount not exceeding one million two hundred fifty thousand dollars to the state liquor control board as is necessary for administration of chapter 3, Laws of 2013;

(5) Of the funds remaining after the disbursements identified in subsections (1) through (4) of this section:

(a) Fifteen percent to the department of social and health services division of behavioral health and recovery for implementation and maintenance of programs and practices aimed at the prevention or reduction of maladaptive substance use, substance-use disorder, substance abuse or substance dependence, as these terms are defined in the Diagnostic and Statistical Manual of Mental Disorders, among middle school and high school age students, whether as an explicit goal of a given program or practice or as a consistently corresponding effect of its implementation; PROVIDED, That:

(i) Of the funds disbursed under (a) of this subsection, at least eighty-five percent must be directed to evidence-based and cost-beneficial programs and practices that produce objectively measurable results; and

(ii) Up to fifteen percent of the funds disbursed under (a) of this subsection may be directed to research-based and emerging best practices or promising practices.

In deciding which programs and practices to fund, the secretary of the department of social and health services shall consult, at least annually, with the University of Washington's social development research group and the University of Washington's alcohol and drug abuse institute;

(b) Ten percent to the department of health for the creation, implementation, operation, and management of a marijuana education and public health program that contains the following:

(i) A marijuana use public health hotline that provides referrals to substance abuse treatment providers, utilizes evidence-based or research-based public health approaches to minimizing the harms associated with marijuana use, and does not solely advocate an abstinence-only approach;

(ii) A grants program for local health departments or other local community agencies that supports development and implementation of coordinated intervention strategies for the prevention and reduction of marijuana use by youth; and

(iii) Media-based education campaigns across television, internet, radio, print, and out-of-home advertising, separately targeting youth and adults, that provide medically and scientifically accurate information about the health and safety risks posed by marijuana use;

(c) Six-tenths of one percent to the University of Washington and four-tenths of one percent to Washington State University for research on the short and long-term effects of marijuana use, to include but not be limited to formal and informal methods for estimating and measuring intoxication and impairment, and for the dissemination of such research;

(d) Fifty percent to the state basic health plan trust account to be administered by the Washington basic health plan administrator and used as provided under chapter 70.47 RCW;

(e) Five percent to the Washington state health care authority to be expended exclusively through contracts with community health centers to provide primary health and dental care services, migrant health services, and maternity health care services as provided under RCW 41.05.220;

(f) Three-tenths of one percent to the office of the superintendent of public instruction to fund grants to building bridges programs under chapter 28A.175 RCW; and

(g) The remainder to the general fund. [2013 c 3 § 28 (Initiative Measure No. 502, approved November 6, 2012).]

Intent—2013 c 3 (Initiative Measure No. 502): See note following RCW 69.50.101.

69.50.545 Departments of social and health services, health—Adoption of rules for disbursement of marijuana excise taxes. The department of social and health services and the department of health shall, by December 1, 2013, adopt rules not inconsistent with the spirit of chapter 3, Laws of 2013 as are deemed necessary or advisable to carry into effect the provisions of RCW 69.50.540. [2013 c 3 § 29 (Initiative Measure No. 502, approved November 6, 2012).]

Intent—2013 c 3 (Initiative Measure No. 502): See note following RCW 69.50.101.

69.50.550 Cost-benefit evaluations. (1) The Washington state institute for public policy shall conduct cost-benefit evaluations of the implementation of chapter 3, Laws of 2013. A preliminary report, and recommendations to appropriate committees of the legislature, shall be made by September 1, 2015, and the first final report with recommendations by September 1, 2017. Subsequent reports shall be due September 1, 2022, and September 1, 2032.

(2) The evaluation of the implementation of chapter 3, Laws of 2013 shall include, but not necessarily be limited to, consideration of the following factors:

(a) Public health, to include but not be limited to:

(i) Health costs associated with marijuana use;

(ii) Health costs associated with criminal prohibition of marijuana, including lack of product safety or quality control

regulations and the relegation of marijuana to the same illegal market as potentially more dangerous substances; and

(iii) The impact of increased investment in the research, evaluation, education, prevention and intervention programs, practices, and campaigns identified in RCW 69.50.363 on rates of marijuana-related maladaptive substance use and diagnosis of marijuana-related substance-use disorder, substance abuse, or substance dependence, as these terms are defined in the Diagnostic and Statistical Manual of Mental Disorders;

(b) Public safety, to include but not be limited to:

(i) Public safety issues relating to marijuana use; and

(ii) Public safety issues relating to criminal prohibition of marijuana;

(c) Youth and adult rates of the following:

(i) Marijuana use;

(ii) Maladaptive use of marijuana; and

(iii) Diagnosis of marijuana-related substance-use disorder, substance abuse, or substance dependence, including primary, secondary, and tertiary choices of substance;

(d) Economic impacts in the private and public sectors, including but not limited to:

(i) Jobs creation;

(ii) Workplace safety;

(iii) Revenues; and

(iv) Taxes generated for state and local budgets;

(e) Criminal justice impacts, to include but not be limited to:

(i) Use of public resources like law enforcement officers and equipment, prosecuting attorneys and public defenders, judges and court staff, the Washington state patrol crime lab and identification and criminal history section, jails and prisons, and misdemeanant and felon supervision officers to enforce state criminal laws regarding marijuana; and

(ii) Short and long-term consequences of involvement in the criminal justice system for persons accused of crimes relating to marijuana, their families, and their communities; and

(f) State and local agency administrative costs and revenues. [2013 c 3 § 30 (Initiative Measure No. 502, approved November 6, 2012).]

Intent—2013 c 3 (Initiative Measure No. 502): See note following RCW 69.50.101.

ARTICLE VI
MISCELLANEOUS

69.50.601 Pending proceedings. (a) Prosecution for any violation of law occurring prior to May 21, 1971 is not affected or abated by this chapter. If the offense being prosecuted is similar to one set out in Article IV of this chapter, then the penalties under Article IV apply if they are less than those under prior law.

(b) Civil seizures or forfeitures and injunctive proceedings commenced prior to May 21, 1971 are not affected by this chapter.

(c) All administrative proceedings pending under prior laws which are superseded by this chapter shall be continued and brought to a final determination in accord with the laws and rules in effect prior to May 21, 1971. Any substance controlled under prior law which is not listed within Schedules I through V, is automatically controlled without further proceedings and shall be listed in the appropriate schedule.

(d) The commission shall initially permit persons to register who own or operate any establishment engaged in the manufacture, distribution, or dispensing of any controlled substance prior to May 21, 1971 and who are registered or licensed by the state.

(e) This chapter applies to violations of law, seizures and forfeiture, injunctive proceedings, administrative proceedings and investigations which occur following May 21, 1971. [2013 c 19 § 112; 1971 ex.s. c 308 § 69.50.601.]

69.50.602 Continuation of rules. Any orders and rules promulgated under any law affected by this chapter and in effect on May 21, 1971 and not in conflict with it continue in effect until modified, superseded or repealed. [1971 ex.s. c 308 § 69.50.602.]

69.50.603 Uniformity of interpretation. This chapter shall be so applied and construed as to effectuate its general purpose to make uniform the law with respect to the subject of this chapter among those states which enact it. [1971 ex.s. c 308 § 69.50.603.]

69.50.604 Short title. This chapter may be cited as the Uniform Controlled Substances Act. [1971 ex.s. c 308 § 69.50.604.]

69.50.605 Severability—1971 ex.s. c 308. If any provision of this act or the application thereof to any person or circumstance is held invalid, the invalidity does not affect other provisions or applications of the act which can be given effect without the invalid provision or application, and to this end the provisions of this act are severable. [1971 ex.s. c 308 § 69.50.605.]

69.50.606 Repealers. The laws specified below are repealed except with respect to rights and duties which matured, penalties which were incurred and proceedings which were begun before the effective date of this act:

(1) Section 2072, Code of 1881, section 418, chapter 249, Laws of 1909, section 4, chapter 205, Laws of 1963 and RCW 9.91.030;

(2) Section 69.33.220, chapter 27, Laws of 1959, section 7, chapter 256, Laws of 1969 ex. sess. and RCW 69.33.220;

(3) Sections 69.33.230 through 69.33.280, chapter 27, Laws of 1959 and RCW 69.33.230 through 69.33.280;

(4) Section 69.33.290, chapter 27, Laws of 1959, section 1, chapter 97, Laws of 1959 and RCW 69.33.290;

(5) Section 69.33.300, chapter 27, Laws of 1959, section 8, chapter 256, Laws of 1969 ex. sess. and RCW 69.33.300;

(6) Sections 69.33.310 through 69.33.400, chapter 27, Laws of 1959 and RCW 69.33.310 through 69.33.400;

(7) Section 69.33.410, chapter 27, Laws of 1959, section 20, chapter 38, Laws of 1963 and RCW 69.33.410;

(8) Sections 69.33.420 through 69.33.440, 69.33.900 through 69.33.950, chapter 27, Laws of 1959 and RCW 69.33.420 through 69.33.440, 69.33.900 through 69.33.950;

(9) Section 255, chapter 249, Laws of 1909 and RCW 69.40.040;

(10) Section 1, chapter 6, Laws of 1939, section 1, chapter 29, Laws of 1939, section 1, chapter 57, Laws of 1945, section 1, chapter 24, Laws of 1955, section 1, chapter 49, Laws of 1961, section 1, chapter 71, Laws of 1967, section 9, chapter 256, Laws of 1969 ex. sess. and RCW 69.40.060;

(11) Section 1, chapter 23, Laws of 1955, section 2, chapter 49, Laws of 1961, section 2, chapter 71, Laws of 1967 and RCW 69.40.061;

(12) Section 21, chapter 38, Laws of 1963 and RCW 69.40.063;

(13) Section 2, chapter 6, Laws of 1939, section 23, chapter 38, Laws of 1963, section 10, chapter 256, Laws of 1969 ex. sess. and RCW 69.40.070;

(14) Section 12, chapter 256, Laws of 1969 ex. sess. and RCW 69.40.075;

(15) Section 1, chapter 205, Laws of 1963 and RCW 69.40.080;

(16) Section 2, chapter 205, Laws of 1963 and RCW 69.40.090;

(17) Section 3, chapter 205, Laws of 1963 and RCW 69.40.100;

(18) Section 11, chapter 256, Laws of 1969 ex. sess. and RCW 69.40.110;

(19) Section 1, chapter 33, Laws of 1970 ex. sess. and RCW 69.40.120; and

(20) Section 1, chapter 80, Laws of 1970 ex. sess. [1971 ex.s. c 308 § 69.50.606.]

69.50.607 Effective date—1971 ex.s. c 308. This act is necessary for the immediate preservation of the public peace, health and safety, the support of the state government and its existing public institutions, and shall take effect immediately. [1971 ex.s. c 308 § 69.50.607.]

69.50.608 State preemption. The state of Washington fully occupies and preempts the entire field of setting penalties for violations of the controlled substances act. Cities, towns, and counties or other municipalities may enact only those laws and ordinances relating to controlled substances that are consistent with this chapter. Such local ordinances shall have the same penalties as provided for by state law. Local laws and ordinances that are inconsistent with the requirements of state law shall not be enacted and are preempted and repealed, regardless of the nature of the code, charter, or home rule status of the city, town, county, or municipality. [1989 c 271 § 601.]

69.50.609 Captions not law—1993 c 187. Section captions as used in this act constitute no part of the law. [1993 c 187 § 23.]

Chapter 9.41 RCW
FIREARMS AND DANGEROUS WEAPONS

*Sections

9.41.300 Weapons prohibited in certain places—Local laws and ordinances—Exceptions—Penalty.

**Partial listing of sections.*

9.41.300 Weapons prohibited in certain places—Local laws and ordinances—Exceptions—Penalty. (1) It is unlawful for any person to enter the following places when he or she knowingly possesses or knowingly has under his or her control a weapon:

(a) The restricted access areas of a jail, or of a law enforcement facility, or any place used for the confinement of a person (i) arrested for, charged with, or convicted of an offense, (ii) held for extradition or as a material witness, or (iii) otherwise confined pursuant to an order of a court, except an order under chapter 13.32A or 13.34 RCW. Restricted access areas do not include common areas of egress or ingress open to the general public;

(b) Those areas in any building which are used in connection with court proceedings, including courtrooms, jury rooms, judge's chambers, offices and areas used to conduct court business, waiting areas, and corridors adjacent to areas used in connection with court proceedings. The restricted areas do not include common areas of ingress and egress to the building that is used in connection with court proceedings, when it is possible to protect court areas without restricting ingress and egress to the building. The restricted areas shall be the minimum necessary to fulfill the objective of this subsection (1)(b).

For purposes of this subsection (1)(b), "weapon" means any firearm, explosive as defined in RCW 70.74.010, or any weapon of the kind usually known as slung shot, sand club, or metal knuckles, or any knife, dagger, dirk, or other similar weapon that is capable of causing death or bodily injury and is commonly used with the intent to cause death or bodily injury.

In addition, the local legislative authority shall provide either a stationary locked box sufficient in size for pistols and key to a weapon owner for weapon storage, or shall designate an official to receive weapons for safekeeping, during the owner's visit to restricted areas of the building. The locked box or designated official shall be located within the same building used in connection with court proceedings. The local legislative authority shall be liable for any negligence causing damage to or loss of a weapon either placed in a locked box or left with an official during the owner's visit to restricted areas of the building.

The local judicial authority shall designate and clearly mark those areas where weapons are prohibited, and shall post notices at each entrance to the building of the prohibition against weapons in the restricted areas;

(c) The restricted access areas of a public mental health facility certified by the department of social and health services for inpatient hospital care and state institutions for the care of the mentally ill, excluding those facilities solely for evaluation and treatment. Restricted access areas do not include common areas of egress and ingress open to the general public;

(d) That portion of an establishment classified by the state liquor control board as off-limits to persons under twenty-one years of age; or

(e) The restricted access areas of a commercial service airport designated in the airport security plan approved by the federal transportation security administration, including passenger screening checkpoints at or beyond the point at which a passenger initiates the screening process. These areas do not include airport drives, general parking areas and walkways, and shops and areas of the terminal that are outside the screening checkpoints and that are normally open to unscreened passengers or visitors to the airport. Any restricted access area shall be clearly indicated by prominent signs indicating that firearms and other weapons are prohibited in the area.

(2) Cities, towns, counties, and other municipalities may enact laws and ordinances:

(a) Restricting the discharge of firearms in any portion of their respective jurisdictions where there is a reasonable likelihood that humans, domestic animals, or property will be jeopardized. Such laws and ordinances shall not abridge the right of the individual guaranteed by Article I, section 24 of the state Constitution to bear arms in defense of self or others; and

(b) Restricting the possession of firearms in any stadium or convention center, operated by a city, town, county, or other municipality, except that such restrictions shall not apply to:

(i) Any pistol in the possession of a person licensed under RCW 9.41.070 or exempt from the licensing requirement by RCW 9.41.060; or

(ii) Any showing, demonstration, or lecture involving the exhibition of firearms.

(3)(a) Cities, towns, and counties may enact ordinances restricting the areas in their respective jurisdictions in which firearms may be sold, but, except as provided in (b) of this subsection, a business selling firearms may not be treated more restrictively than other businesses located within the same zone. An ordinance requiring the cessation of business within a zone shall not have a shorter grandfather period for businesses selling firearms than for any other businesses within the zone.

(b) Cities, towns, and counties may restrict the location of a business selling firearms to not less than five hundred feet from primary or secondary school grounds, if the business has a storefront, has hours during which it is open for business, and posts advertisements or signs observable to passersby that firearms are available for sale. A business selling firearms that exists as of the date a restriction is enacted

under this subsection (3)(b) shall be grandfathered according to existing law.

(4) Violations of local ordinances adopted under subsection (2) of this section must have the same penalty as provided for by state law.

(5) The perimeter of the premises of any specific location covered by subsection (1) of this section shall be posted at reasonable intervals to alert the public as to the existence of any law restricting the possession of firearms on the premises.

(6) Subsection (1) of this section does not apply to:

(a) A person engaged in military activities sponsored by the federal or state governments, while engaged in official duties;

(b) Law enforcement personnel, except that subsection (1)(b) of this section does apply to a law enforcement officer who is present at a courthouse building as a party to an action under chapter 10.14, 10.99, or 26.50 RCW, or an action under Title 26 RCW where any party has alleged the existence of domestic violence as defined in RCW 26.50.010; or

(c) Security personnel while engaged in official duties.

(7) Subsection (1)(a), (b), (c), and (e) of this section does not apply to correctional personnel or community corrections officers, as long as they are employed as such, who have completed government-sponsored law enforcement firearms training, except that subsection (1)(b) of this section does apply to a correctional employee or community corrections officer who is present at a courthouse building as a party to an action under chapter 10.14, 10.99, or 26.50 RCW, or an action under Title 26 RCW where any party has alleged the existence of domestic violence as defined in RCW 26.50.010.

(8) Subsection (1)(a) of this section does not apply to a person licensed pursuant to RCW 9.41.070 who, upon entering the place or facility, directly and promptly proceeds to the administrator of the facility or the administrator's designee and obtains written permission to possess the firearm while on the premises or checks his or her firearm. The person may reclaim the firearms upon leaving but must immediately and directly depart from the place or facility.

(9) Subsection (1)(c) of this section does not apply to any administrator or employee of the facility or to any person who, upon entering the place or facility, directly and promptly proceeds to the administrator of the facility or the administrator's designee and obtains written permission to possess the firearm while on the premises.

(10) Subsection (1)(d) of this section does not apply to the proprietor of the premises or his or her employees while engaged in their employment.

(11) Government-sponsored law enforcement firearms training must be training that correctional personnel and community corrections officers receive as part of their job requirement and reference to such training does not constitute a mandate that it be provided by the correctional facility.

(12) Any person violating subsection (1) of this section is guilty of a gross misdemeanor.

(13) "Weapon" as used in this section means any firearm, explosive as defined in RCW 70.74.010, or instrument or weapon listed in RCW 9.41.250. [2011 c 221 § 2; 2008 c 33 § 1. Prior: 2004 c 116 § 1; 2004 c 16 § 1; 1994 sp.s. c 7 § 429; 1993 c 396 § 1; 1985 c 428 § 2.]

Finding—Intent—Severability—1994 sp.s. c 7: See notes following RCW 43.70.540.

Additional notes found at www.leg.wa.gov

Chapter 9.45 RCW
FRAUDS AND SWINDLES

*Sections

9.45.160 Fraud in liquor warehouse receipts.

**Partial listing of sections.*

9.45.160 Fraud in liquor warehouse receipts. It shall be unlawful for any person, firm, association or corporation to make, utter, circulate, sell or offer for sale any certificate of any warehouse, distillery or depository for intoxicating liquors unless the identical liquor mentioned in such certificate is in the possession of the warehouse, distillery or depository mentioned in such certificate fully paid for, so that the owners and holder of such certificate will be entitled to obtain such intoxicating liquors without the payment of any additional sum except the tax of the government and the tax of the state, county and city in which such warehouse, distillery or depository may be located, and any storage charges. [1909 c 202 § 1. No RRS.]

Chapter 9.46 RCW
GAMBLING—1973 ACT

*Sections

9.46.0315 Raffles—No license required, when.
9.46.0331 Amusement games authorized—Minimum rules.

**Partial listing of sections.*

9.46.0315 Raffles—No license required, when. Bona fide charitable or bona fide nonprofit organizations organized primarily for purposes other than the conduct of raffles, are hereby authorized to conduct raffles without obtaining a license to do so from the commission when such raffles are held in accordance with all other requirements of this chapter, other applicable laws, and rules of the commission; when gross revenues from all such raffles held by the organization during the calendar year do not exceed five thousand dollars; and when tickets to such raffles are sold only to, and winners are determined only from among, the regular members of the organization conducting the raffle. The organization may provide unopened containers of beverages containing alcohol as raffle prizes if the appropriate permit has been obtained from the liquor control board: PROVIDED, That raffles that exceed five thousand dollars may also be conducted pursuant to the provisions of this section if the organization obtains a license from the commission: PROVIDED FURTHER, That the term members for this purpose shall mean only those persons who have become members prior to the commencement of the raffle and whose qualification for membership was not dependent upon, or in any way related to, the purchase of a ticket, or tickets, for such raffles. [2012 c 131 § 1; 1991 c 192 § 4; 1987 c 4 § 27. Formerly RCW 9.46.030(2).]

9.46.0331 Amusement games authorized—Minimum rules. The legislature hereby authorizes any person to conduct or operate amusement games when licensed and operated pursuant to the provisions of this chapter and rules and regulations adopted by the commission at such locations as the commission may authorize. The rules shall provide for at least the following:

(1) Persons other than bona fide charitable or bona fide nonprofit organizations shall conduct amusement games only after obtaining a special amusement game license from the commission.

(2) Amusement games may be conducted under such a license only as a part of, and upon the site of:

(a) Any agricultural fair as authorized under chapter 15.76 or 36.37 RCW; or

(b) A civic center of a county, city, or town; or

(c) A world's fair or similar exposition that is approved by the bureau of international expositions at Paris, France; or

(d) A community-wide civic festival held not more than once annually and sponsored or approved by the city, town, or county in which it is held; or

(e) A commercial exposition organized and sponsored by an organization or association representing the retail sales and service operators conducting business in a shopping center or other commercial area developed and operated for retail sales and service, but only upon a parking lot or similar area located in said shopping center or commercial area for a period of no more than seventeen consecutive days by any licensee during any calendar year; or

(f) An amusement park. An amusement park is a group of activities, at a permanent location, to which people go to be entertained through a combination of various mechanical or aquatic rides, theatrical productions, motion picture, and/or slide show presentations with food and drink service. The amusement park must include at least five different mechanical, or aquatic rides, three additional activities, and the gross receipts must be primarily from these amusement activities; or

(g) Within a regional shopping center. A regional shopping center is a shopping center developed and operated for retail sales and service by retail sales and service operators and consisting of more than six hundred thousand gross square feet not including parking areas. Amusement games conducted as a part of, and upon the site of, a regional shopping center shall not be subject to the prohibition on revenue sharing set forth in RCW 9.46.120(2); or

(h) A location that possesses a valid license from the Washington state liquor control board and prohibits minors on their premises; or

(i) Movie theaters, bowling alleys, miniature golf course facilities, and amusement centers. For the purposes of this section an amusement center shall be defined as a permanent location whose primary source of income is from the operation of ten or more amusement devices; or

(j) Any business whose primary activity is to provide food service for on premises consumption and who offers family entertainment which includes at least three of the following activities: Amusement devices; theatrical productions; mechanical rides; motion pictures; and slide show presentations; or

(k) Other locations as the commission may authorize.

(3) No amusement games may be conducted in any location except in conformance with local zoning, fire, health, and similar regulations. In no event may the licensee conduct any amusement games at any of the locations set out in subsection (2) of this section without first having obtained the written permission to do so from the person or organization owning the premises or an authorized agent thereof, and from the persons sponsoring the fair, exhibition, commercial exhibition, or festival, or from the city or town operating the civic center, in connection with which the games are to be operated.

(4) In no event may a licensee conduct any amusement games at the location described in subsection (2)(g) of this section, without, at the location of such games, providing adult supervision during all hours the licensee is open for business at such location, prohibiting school-age minors from

entry during school hours, maintaining full-time personnel whose responsibilities include maintaining security and daily machine maintenance, and providing for hours for the close of business at such location that are no later than 10:00 p.m. on Fridays and Saturdays and on all other days that are the same as those of the regional shopping center in which the licensee is located.

(5) In no event may a licensee conduct any amusement game at a location described in subsection (2)(i) or (j) of this section, without, at the location of such games, providing adult supervision during all hours the licensee is open for business at such location, prohibiting school-age minors from playing licensed amusement games during school hours, maintaining full-time personnel whose responsibilities include maintaining security and daily machine maintenance, and prohibiting minors from playing the amusement games after 10:00 p.m. on any day. [2009 c 78 § 1; 1991 c 287 § 1; 1987 c 4 § 30. Formerly RCW 9.46.030(5).]

Chapter 9.66 RCW
NUISANCE

*Sections

9.66.010 Public nuisance.

**Partial listing of sections.*

9.66.010 Public nuisance. A public nuisance is a crime against the order and economy of the state. Every place

(1) Wherein any fighting between people or animals or birds shall be conducted; or,

(2) Wherein any intoxicating liquors are kept for unlawful use, sale or distribution; or,

(3) Where vagrants resort; and

Every act unlawfully done and every omission to perform a duty, which act or omission

(1) Shall annoy, injure or endanger the safety, health, comfort, or repose of any considerable number of persons; or,

(2) Shall offend public decency; or,

(3) Shall unlawfully interfere with, befoul, obstruct, or tend to obstruct, or render dangerous for passage, a lake, navigable river, bay, stream, canal or basin, or a public park, square, street, alley, highway, or municipal transit vehicle or station; or,

(4) Shall in any way render a considerable number of persons insecure in life or the use of property;

Shall be a public nuisance. [1994 c 45 § 3; 1971 ex.s. c 280 § 22; 1909 c 249 § 248; 1895 c 14 § 1; Code 1881 § 1246; RRS § 2500.]

Findings—Declaration—Severability—1994 c 45: See notes following RCW 7.48.140.

Boxing and wrestling regulated: Chapter 67.08 RCW.

Devices simulating traffic control signs declared public nuisance: RCW 47.36.180.

Highway obstructions: Chapter 47.32 RCW.

Navigation, obstructing: Chapter 88.28 RCW.

Parimutuel betting on horse races permitted: RCW 67.16.060.

Additional notes found at www.leg.wa.gov

Chapter 9.91 RCW
MISCELLANEOUS CRIMES

*Sections

9.91.060 Leaving children unattended in parked automobile.

**Partial listing of sections.*

9.91.060 Leaving children unattended in parked automobile. Every person having the care and custody, whether temporary or permanent, of minor children under the age of twelve years, who shall leave such children in a parked automobile unattended by an adult while such person enters a tavern or other premises where vinous, spirituous, or malt liquors are dispensed for consumption on the premises shall be guilty of a gross misdemeanor. [1999 c 143 § 9; 1951 c 270 § 17.]

Leaving children unattended in standing vehicle with motor running: RCW 46.61.685.

Chapter 9A.82 RCW

CRIMINAL PROFITEERING ACT

(Formerly: Racketeering)

Sections

9A.82.001 Short title.
9A.82.010 Definitions.
9A.82.020 Extortionate extension of credit.
9A.82.030 Advancing money or property to be used for extortionate credit.
9A.82.040 Use of extortionate means to collect extensions of credit.
9A.82.045 Collection of unlawful debt.
9A.82.050 Trafficking in stolen property in the first degree.
9A.82.055 Trafficking in stolen property in the second degree.
9A.82.060 Leading organized crime.
9A.82.070 Influencing outcome of sporting event.
9A.82.080 Use of proceeds of criminal profiteering—Controlling enterprise or realty—Conspiracy or attempt.
9A.82.085 Bars on certain prosecutions.
9A.82.090 Orders restraining criminal profiteering—When issued.
9A.82.100 Remedies and procedures.
9A.82.110 County antiprofiteering revolving funds.
9A.82.120 Criminal profiteering lien—Authority, procedures.
9A.82.130 Criminal profiteering lien—Trustee of real property.
9A.82.140 Criminal profiteering lien—Procedures after notice.
9A.82.150 Criminal profiteering lien—Conveyance of property by trustee, liability.
9A.82.160 Criminal profiteering lien—Trustee's failure to comply, evasion of procedures or lien.
9A.82.170 Financial institution records—Inspection and copying—Wrongful disclosure.
9A.82.900 Severability—1984 c 270.
9A.82.901 Effective date—1984 c 270 as amended by 1985 c 455.
9A.82.902 Effective date—1985 c 455.
9A.82.904 Severability—1985 c 455.

Special narcotics enforcement unit: RCW 43.43.655.

9A.82.001 Short title. This chapter shall be known as the criminal profiteering act. [2001 c 222 § 2. Prior: 1985 c 455 § 1.]

Purpose—2001 c 222: "The purpose of this act is to respond to *State v. Thomas*, 103 Wn. App. 800, by reenacting, without substantive changes, the Washington laws relating to criminal profiteering, and the sentencing level ranking for criminal profiteering crimes as they existed prior to December 21, 2000." [2001 c 222 § 1.]

Additional notes found at www.leg.wa.gov

9A.82.010 Definitions. Unless the context requires the contrary, the definitions in this section apply throughout this chapter.

(1)(a) "Beneficial interest" means:

(i) The interest of a person as a beneficiary under a trust established under Title 11 RCW in which the trustee for the trust holds legal or record title to real property;

(ii) The interest of a person as a beneficiary under any other trust arrangement under which a trustee holds legal or record title to real property for the benefit of the beneficiary; or

(iii) The interest of a person under any other form of express fiduciary arrangement under which one person holds legal or record title to real property for the benefit of the other person.

(b) "Beneficial interest" does not include the interest of a stockholder in a corporation or the interest of a partner in a general partnership or limited partnership.

(c) A beneficial interest is considered to be located where the real property owned by the trustee is located.

(2) "Control" means the possession of a sufficient interest to permit substantial direction over the affairs of an enterprise.

(3) "Creditor" means a person making an extension of credit or a person claiming by, under, or through a person making an extension of credit.

(4) "Criminal profiteering" means any act, including any anticipatory or completed offense, committed for financial gain, that is chargeable or indictable under the laws of the state in which the act occurred and, if the act occurred in a state other than this state, would be chargeable or indictable under the laws of this state had the act occurred in this state and punishable as a felony and by imprisonment for more than one year, regardless of whether the act is charged or indicted, as any of the following:

(a) Murder, as defined in RCW 9A.32.030 and 9A.32.050;

(b) Robbery, as defined in RCW 9A.56.200 and 9A.56.210;

(c) Kidnapping, as defined in RCW 9A.40.020 and 9A.40.030;

(d) Forgery, as defined in RCW 9A.60.020 and 9A.60.030;

(e) Theft, as defined in RCW 9A.56.030, 9A.56.040, 9A.56.060, 9A.56.080, and 9A.56.083;

(f) Unlawful sale of subscription television services, as defined in RCW 9A.56.230;

(g) Theft of telecommunication services or unlawful manufacture of a telecommunication device, as defined in RCW 9A.56.262 and 9A.56.264;

(h) Child selling or child buying, as defined in RCW 9A.64.030;

(i) Bribery, as defined in RCW 9A.68.010, 9A.68.020, 9A.68.040, and 9A.68.050;

(j) Gambling, as defined in RCW 9.46.220 and 9.46.215 and 9.46.217;

(k) Extortion, as defined in RCW 9A.56.120 and 9A.56.130;

(l) Unlawful production of payment instruments, unlawful possession of payment instruments, unlawful possession of a personal identification device, unlawful possession of fictitious identification, or unlawful possession of instruments of financial fraud, as defined in RCW 9A.56.320;

(m) Extortionate extension of credit, as defined in RCW 9A.82.020;

(n) Advancing money for use in an extortionate extension of credit, as defined in RCW 9A.82.030;

(o) Collection of an extortionate extension of credit, as defined in RCW 9A.82.040;

(p) Collection of an unlawful debt, as defined in RCW 9A.82.045;

(q) Delivery or manufacture of controlled substances or possession with intent to deliver or manufacture controlled substances under chapter 69.50 RCW;

(r) Trafficking in stolen property, as defined in RCW 9A.82.050;

(s) Leading organized crime, as defined in RCW 9A.82.060;

(t) Money laundering, as defined in RCW 9A.83.020;

(u) Obstructing criminal investigations or prosecutions in violation of RCW 9A.72.090, 9A.72.100, 9A.72.110, 9A.72.120, 9A.72.130, 9A.76.070, or 9A.76.180;

(v) Fraud in the purchase or sale of securities, as defined in RCW 21.20.010;

(w) Promoting pornography, as defined in RCW 9.68.140;

(x) Sexual exploitation of children, as defined in RCW 9.68A.040, 9.68A.050, and 9.68A.060;

(y) Promoting prostitution, as defined in RCW 9A.88.070 and 9A.88.080;

(z) Arson, as defined in RCW 9A.48.020 and 9A.48.030;

(aa) Assault, as defined in RCW 9A.36.011 and 9A.36.021;

(bb) Assault of a child, as defined in RCW 9A.36.120 and 9A.36.130;

(cc) A pattern of equity skimming, as defined in RCW 61.34.020;

(dd) Commercial telephone solicitation in violation of RCW 19.158.040(1);

(ee) Trafficking in insurance claims, as defined in RCW 48.30A.015;

(ff) Unlawful practice of law, as defined in RCW 2.48.180;

(gg) Commercial bribery, as defined in RCW 9A.68.060;

(hh) Health care false claims, as defined in RCW 48.80.030;

(ii) Unlicensed practice of a profession or business, as defined in RCW 18.130.190(7);

(jj) Improperly obtaining financial information, as defined in RCW 9.35.010;

(kk) Identity theft, as defined in RCW 9.35.020;

(ll) Unlawful shipment of cigarettes in violation of *RCW 70.155.105(6) (a) or (b);

(mm) Unlawful shipment of cigarettes in violation of RCW 82.24.110(2);

(nn) Unauthorized sale or procurement of telephone records in violation of RCW 9.26A.140;

(oo) Theft with the intent to resell, as defined in RCW 9A.56.340;

(pp) Organized retail theft, as defined in RCW 9A.56.350;

(qq) Mortgage fraud, as defined in RCW 19.144.080;

(rr) Commercial sexual abuse of a minor, as defined in RCW 9.68A.100;

(ss) Promoting commercial sexual abuse of a minor, as defined in RCW 9.68A.101; or

(tt) Trafficking, as defined in RCW 9A.40.100, promoting travel for commercial sexual abuse of a minor, as defined in RCW 9.68A.102, and permitting commercial sexual abuse of a minor, as defined in RCW 9.68A.103.

(5) "Dealer in property" means a person who buys and sells property as a business.

(6) "Debtor" means a person to whom an extension of credit is made or a person who guarantees the repayment of an extension of credit or in any manner undertakes to indemnify the creditor against loss resulting from the failure of a person to whom an extension is made to repay the same.

(7) "Documentary material" means any book, paper, document, writing, drawing, graph, chart, photograph, phonograph record, magnetic tape, computer printout, other data compilation from which information can be obtained or from which information can be translated into usable form, or other tangible item.

(8) "Enterprise" includes any individual, sole proprietorship, partnership, corporation, business trust, or other profit or nonprofit legal entity, and includes any union, association, or group of individuals associated in fact although not a legal entity, and both illicit and licit enterprises and governmental and nongovernmental entities.

(9) "Extortionate extension of credit" means an extension of credit with respect to which it is the understanding of the creditor and the debtor at the time the extension is made that delay in making repayment or failure to make repayment could result in the use of violence or other criminal means to cause harm to the person, reputation, or property of any person.

(10) "Extortionate means" means the use, or an express or implicit threat of use, of violence or other criminal means to cause harm to the person, reputation, or property of any person.

(11) "Financial institution" means any bank, trust company, savings and loan association, savings bank, mutual savings bank, credit union, or loan company under the jurisdiction of the state or an agency of the United States.

(12) "Pattern of criminal profiteering activity" means engaging in at least three acts of criminal profiteering, one of which occurred after July 1, 1985, and the last of which occurred within five years, excluding any period of imprisonment, after the commission of the earliest act of criminal profiteering. In order to constitute a pattern, the three acts must have the same or similar intent, results, accomplices, principals, victims, or methods of commission, or be otherwise interrelated by distinguishing characteristics including a nexus to the same enterprise, and must not be isolated events. However, in any civil proceedings brought pursuant to RCW 9A.82.100 by any person other than the attorney general or county prosecuting attorney in which one or more acts of fraud in the purchase or sale of securities are asserted as acts of criminal profiteering activity, it is a condition to civil liability under RCW 9A.82.100 that the defendant has been convicted in a criminal proceeding of fraud in the purchase or sale of securities under RCW 21.20.400 or under the laws of another state or of the United States requiring the same elements of proof, but such conviction need not relate to any act or acts asserted as acts of criminal profiteering activity in such civil action under RCW 9A.82.100.

(13) "Real property" means any real property or interest in real property, including but not limited to a land sale contract, lease, or mortgage of real property.

(14) "Records" means any book, paper, writing, record, computer program, or other material.

(15) "Repayment of an extension of credit" means the repayment, satisfaction, or discharge in whole or in part of a

debt or claim, acknowledged or disputed, valid or invalid, resulting from or in connection with that extension of credit.

(16) "Stolen property" means property that has been obtained by theft, robbery, or extortion.

(17) "To collect an extension of credit" means to induce in any way a person to make repayment thereof.

(18) "To extend credit" means to make or renew a loan or to enter into an agreement, tacit or express, whereby the repayment or satisfaction of a debt or claim, whether acknowledged or disputed, valid or invalid, and however arising, may or shall be deferred.

(19) "Traffic" means to sell, transfer, distribute, dispense, or otherwise dispose of stolen property to another person, or to buy, receive, possess, or obtain control of stolen property, with intent to sell, transfer, distribute, dispense, or otherwise dispose of the property to another person.

(20)(a) "Trustee" means:

(i) A person acting as a trustee under a trust established under Title 11 RCW in which the trustee holds legal or record title to real property;

(ii) A person who holds legal or record title to real property in which another person has a beneficial interest; or

(iii) A successor trustee to a person who is a trustee under (a)(i) or (ii) of this subsection.

(b) "Trustee" does not mean a person appointed or acting as:

(i) A personal representative under Title 11 RCW;

(ii) A trustee of any testamentary trust;

(iii) A trustee of any indenture of trust under which a bond is issued; or

(iv) A trustee under a deed of trust.

(21) "Unlawful debt" means any money or other thing of value constituting principal or interest of a debt that is legally unenforceable in the state in full or in part because the debt was incurred or contracted:

(a) In violation of any one of the following:

(i) Chapter 67.16 RCW relating to horse racing;

(ii) Chapter 9.46 RCW relating to gambling;

(b) In a gambling activity in violation of federal law; or

(c) In connection with the business of lending money or a thing of value at a rate that is at least twice the permitted rate under the applicable state or federal law relating to usury. [2013 c 302 § 10; 2012 c 139 § 1; 2008 c 108 § 24. Prior: 2006 c 277 § 5; 2006 c 193 § 2; prior: 2003 c 119 § 6; 2003 c 113 § 3; 2003 c 53 § 85; prior: 2001 c 222 § 3; 2001 c 217 § 11; prior: 1999 c 143 § 40; prior: 1995 c 285 § 34; 1995 c 92 § 5; 1994 c 218 § 17; prior: 1992 c 210 § 6; 1992 c 145 § 13; 1989 c 20 § 17; 1988 c 33 § 5; 1986 c 78 § 1; 1985 c 455 § 2; 1984 c 270 § 1.]

***Reviser's note:** RCW 70.155.105 was repealed by 2009 c 278 § 3.

Effective date—2013 c 302: See note following RCW 9.68A.090.

Findings—2008 c 108: See RCW 19.144.005.

Intent—Effective date—2003 c 53: See notes following RCW 2.48.180.

Purpose—Effective date—2001 c 222: See notes following RCW 9A.82.001.

Additional notes found at www.leg.wa.gov

9A.82.020 Extortionate extension of credit. (1) A person who knowingly makes an extortionate extension of credit is guilty of a class B felony.

(2) In a prosecution under this section, if it is shown that all of the following factors are present in connection with the extension of credit, there is prima facie evidence that the extension of credit was extortionate:

(a) The repayment of the extension of credit, or the performance of any promise given in consideration thereof, would be unenforceable at the time the extension of credit was made through civil judicial processes against the debtor in the county in which the debtor, if a natural person, resided or in every county in which the debtor, if other than a natural person, was incorporated or qualified to do business.

(b) The extension of credit was made at a rate of interest in excess of an annual rate of forty-five percent calculated according to the actuarial method of allocating payments made on a debt between principal and interest, pursuant to which a payment is applied first to the accumulated interest and the balance is applied to the unpaid principal.

(c) The creditor intended the debtor to believe that failure to comply with the terms of the extension of credit would be enforced by extortionate means.

(d) Upon the making of the extension of credit, the total of the extensions of credit by the creditor to the debtor then outstanding, including any unpaid interest or similar charges, exceeded one hundred dollars. [2001 c 222 § 4. Prior: 1985 c 455 § 3; 1984 c 270 § 2.]

Purpose—Effective date—2001 c 222: See notes following RCW 9A.82.001.

9A.82.030 Advancing money or property to be used for extortionate credit. A person who advances money or property, whether as a gift, loan, investment, or pursuant to a partnership or profit-sharing agreement or otherwise, to any person, with the knowledge that it is the intention of that person to use the money or property so advanced, directly or indirectly, for the purpose of making extortionate extensions of credit, is guilty of a class B felony. [2001 c 222 § 5. Prior: 1985 c 455 § 4; 1984 c 270 § 3.]

Purpose—Effective date—2001 c 222: See notes following RCW 9A.82.001.

9A.82.040 Use of extortionate means to collect extensions of credit. A person who knowingly participates in any way in the use of any extortionate means to collect or attempt to collect any extensions of credit or to punish any person for the nonrepayment thereof, is guilty of a class B felony. [2001 c 222 § 6. Prior: 1985 c 455 § 5; 1984 c 270 § 4.]

Purpose—Effective date—2001 c 222: See notes following RCW 9A.82.001.

9A.82.045 Collection of unlawful debt. It is unlawful for any person knowingly to collect any unlawful debt. A violation of this section is a class C felony. [2001 c 222 § 7. Prior: 1985 c 455 § 6.]

Purpose—Effective date—2001 c 222: See notes following RCW 9A.82.001.

9A.82.050 Trafficking in stolen property in the first degree. (1) A person who knowingly initiates, organizes, plans, finances, directs, manages, or supervises the theft of property for sale to others, or who knowingly traffics in sto-

len property, is guilty of trafficking in stolen property in the first degree.

(2) Trafficking in stolen property in the first degree is a class B felony. [2003 c 53 § 86; 2001 c 222 § 8. Prior: 1984 c 270 § 5.]

Intent—Effective date—2003 c 53: See notes following RCW 2.48.180.

Purpose—Effective date—2001 c 222: See notes following RCW 9A.82.001.

9A.82.055 Trafficking in stolen property in the second degree. (1) A person who recklessly traffics in stolen property is guilty of trafficking in stolen property in the second degree.

(2) Trafficking in stolen property in the second degree is a class C felony. [2003 c 53 § 87.]

Intent—Effective date—2003 c 53: See notes following RCW 2.48.180.

9A.82.060 Leading organized crime. (1) A person commits the offense of leading organized crime by:

(a) Intentionally organizing, managing, directing, supervising, or financing any three or more persons with the intent to engage in a pattern of criminal profiteering activity; or

(b) Intentionally inciting or inducing others to engage in violence or intimidation with the intent to further or promote the accomplishment of a pattern of criminal profiteering activity.

(2)(a) Leading organized crime as defined in subsection (1)(a) of this section is a class A felony.

(b) Leading organized crime as defined in subsection (1)(b) of this section is a class B felony. [2003 c 53 § 88; 2001 c 222 § 9. Prior: 1985 c 455 § 7; 1984 c 270 § 6.]

Intent—Effective date—2003 c 53: See notes following RCW 2.48.180.

Purpose—Effective date—2001 c 222: See notes following RCW 9A.82.001.

9A.82.070 Influencing outcome of sporting event. Whoever knowingly gives, promises, or offers to any professional or amateur baseball, football, hockey, polo, tennis, horse race, or basketball player or boxer or any player or referee or other official who participates or expects to participate in any professional or amateur game or sport, or to any manager, coach, or trainer of any team or participant or prospective participant in any such game, contest, or sport, any benefit with intent to influence the person to lose or try to lose or cause to be lost or to limit the person's or person's team's margin of victory or defeat, or in the case of a referee or other official to affect the decisions or the performance of the official's duties in any way, in a baseball, football, hockey, or basketball game, boxing, tennis, horse race, or polo match, or any professional or amateur sport or game, in which the player or participant or referee or other official is taking part or expects to take part, or has any duty or connection therewith, is guilty of a class C felony. [2001 c 222 § 10. Prior: 1984 c 270 § 7.]

Purpose—Effective date—2001 c 222: See notes following RCW 9A.82.001.

9A.82.080 Use of proceeds of criminal profiteering—Controlling enterprise or realty—Conspiracy or attempt. (1)(a) It is unlawful for a person who has knowingly received any of the proceeds derived, directly or indirectly, from a pattern of criminal profiteering activity to use or invest, whether directly or indirectly, any part of the proceeds, or the proceeds derived from the investment or use thereof, in the acquisition of any title to, or any right, interest, or equity in, real property or in the establishment or operation of any enterprise.

(b) A violation of this subsection is a class B felony.

(2)(a) It is unlawful for a person knowingly to acquire or maintain, directly or indirectly, any interest in or control of any enterprise or real property through a pattern of criminal profiteering activity.

(b) A violation of this subsection is a class B felony.

(3)(a) It is unlawful for a person knowingly to conspire or attempt to violate subsection (1) or (2) of this section.

(b) A violation of this subsection is a class C felony. [2003 c 53 § 89; 2001 c 222 § 11. Prior: 1985 c 455 § 8; 1984 c 270 § 8.]

Intent—Effective date—2003 c 53: See notes following RCW 2.48.180.

Purpose—Effective date—2001 c 222: See notes following RCW 9A.82.001.

9A.82.085 Bars on certain prosecutions. In a criminal prosecution alleging a violation of RCW 9A.82.060 or 9A.82.080, the state is barred from joining any offense other than the offenses alleged to be part of the pattern of criminal profiteering activity. When a defendant has been tried criminally for a violation of RCW 9A.82.060 or 9A.82.080, the state is barred from subsequently charging the defendant with an offense that was alleged to be part of the pattern of criminal profiteering activity for which he or she was tried. [2001 c 222 § 12. Prior: 1985 c 455 § 9.]

Purpose—Effective date—2001 c 222: See notes following RCW 9A.82.001.

9A.82.090 Orders restraining criminal profiteering—When issued. During the pendency of any criminal case charging a violation of RCW 9A.82.060 or 9A.82.080, or an offense defined in RCW 9A.40.100, the superior court may, in addition to its other powers, issue an order pursuant to RCW 9A.82.100 (2) or (3). Upon conviction of a person for a violation of RCW 9A.82.060 or 9A.82.080, or an offense defined in RCW 9A.40.100, the superior court may, in addition to its other powers of disposition, issue an order pursuant to RCW 9A.82.100. [2003 c 267 § 5; 2001 c 222 § 13. Prior: 1985 c 455 § 10; 1984 c 270 § 9.]

Purpose—Effective date—2001 c 222: See notes following RCW 9A.82.001.

9A.82.100 Remedies and procedures. (1)(a) A person who sustains injury to his or her person, business, or property by an act of criminal profiteering that is part of a pattern of criminal profiteering activity, or by an offense defined in RCW 9A.40.100, 9.68A.100, 9.68A.101, or 9A.88.070, or by a violation of RCW 9A.82.060 or 9A.82.080 may file an action in superior court for the recovery of damages and the costs of the suit, including reasonable investigative and attorney's fees.

(b) The attorney general or county prosecuting attorney may file an action: (i) On behalf of those persons injured or, respectively, on behalf of the state or county if the entity has sustained damages, or (ii) to prevent, restrain, or remedy a pattern of criminal profiteering activity, or an offense defined in RCW 9A.40.100, 9.68A.100, 9.68A.101, or 9A.88.070, or a violation of RCW 9A.82.060 or 9A.82.080.

(c) An action for damages filed by or on behalf of an injured person, the state, or the county shall be for the recovery of damages and the costs of the suit, including reasonable investigative and attorney's fees.

(d) In an action filed to prevent, restrain, or remedy a pattern of criminal profiteering activity, or an offense defined in RCW 9A.40.100, 9.68A.100, 9.68A.101, or 9A.88.070, or a violation of RCW 9A.82.060 or 9A.82.080, the court, upon proof of the violation, may impose a civil penalty not exceeding two hundred fifty thousand dollars, in addition to awarding the cost of the suit, including reasonable investigative and attorney's fees.

(2) The superior court has jurisdiction to prevent, restrain, and remedy a pattern of criminal profiteering, or an offense defined in RCW 9A.40.100, 9.68A.100, 9.68A.101, or 9A.88.070, or a violation of RCW 9A.82.060 or 9A.82.080 after making provision for the rights of all innocent persons affected by the violation and after hearing or trial, as appropriate, by issuing appropriate orders.

(3) Prior to a determination of liability, orders issued under subsection (2) of this section may include, but are not limited to, entering restraining orders or prohibitions or taking such other actions, including the acceptance of satisfactory performance bonds, in connection with any property or other interest subject to damages, forfeiture, or other restraints pursuant to this section as the court deems proper. The orders may also include attachment, receivership, or injunctive relief in regard to personal or real property pursuant to Title 7 RCW. In shaping the reach or scope of receivership, attachment, or injunctive relief, the superior court shall provide for the protection of bona fide interests in property, including community property, of persons who were not involved in the violation of this chapter, except to the extent that such interests or property were acquired or used in such a way as to be subject to forfeiture under RCW 9A.82.100(4)(f).

(4) Following a determination of liability, orders may include, but are not limited to:

(a) Ordering any person to divest himself or herself of any interest, direct or indirect, in any enterprise.

(b) Imposing reasonable restrictions on the future activities or investments of any person, including prohibiting any person from engaging in the same type of endeavor as the enterprise engaged in, the activities of which affect the laws of this state, to the extent the Constitutions of the United States and this state permit.

(c) Ordering dissolution or reorganization of any enterprise.

(d) Ordering the payment of actual damages sustained to those persons injured by a violation of RCW 9A.82.060 or 9A.82.080, or an offense defined in RCW 9A.40.100, 9.68A.100, 9.68A.101, or 9A.88.070, or an act of criminal profiteering that is part of a pattern of criminal profiteering, and in the court's discretion, increasing the payment to an amount not exceeding three times the actual damages sustained.

(e) Ordering the payment of all costs and expenses of the prosecution and investigation of a pattern of criminal profiteering, or an offense defined in RCW 9A.40.100, 9.68A.100, 9.68A.101, or 9A.88.070, activity or a violation of RCW 9A.82.060 or 9A.82.080, civil and criminal, incurred by the state or county, including any costs of defense provided at public expense, as appropriate to the state general fund or the antiprofiteering revolving fund of the county.

(f) Ordering forfeiture first as restitution to any person damaged by an act of criminal profiteering that is part of a pattern of criminal profiteering, or by an offense defined in RCW 9A.40.100, then to the state general fund or antiprofiteering revolving fund of the county, as appropriate, to the extent not already ordered to be paid in other damages, of the following:

(i) Any property or other interest acquired or maintained in violation of RCW 9A.82.060 or 9A.82.080 to the extent of the investment of funds, and any appreciation or income attributable to the investment, from a violation of RCW 9A.82.060 or 9A.82.080.

(ii) Any property, contractual right, or claim against property used to influence any enterprise that a person has established, operated, controlled, conducted, or participated in the conduct of, in violation of RCW 9A.82.060 or 9A.82.080.

(iii) All proceeds traceable to or derived from an offense included in the pattern of criminal profiteering activity, or an offense defined in RCW 9A.40.100, 9.68A.100, 9.68A.101, or 9A.88.070, and all moneys, negotiable instruments, securities, and other things of value significantly used or intended to be used significantly to facilitate commission of the offense.

(g) Ordering payment to the state general fund or antiprofiteering revolving fund of the county, as appropriate, of an amount equal to the gain a person has acquired or maintained through an offense included in the definition of criminal profiteering.

(5) In addition to or in lieu of an action under this section, the attorney general or county prosecuting attorney may file an action for forfeiture to the state general fund or antiprofiteering revolving fund of the county, as appropriate, to the extent not already ordered paid pursuant to this section, of the following:

(a) Any interest acquired or maintained by a person in violation of RCW 9A.82.060 or 9A.82.080 to the extent of the investment of funds obtained from a violation of RCW 9A.82.060 or 9A.82.080 and any appreciation or income attributable to the investment.

(b) Any property, contractual right, or claim against property used to influence any enterprise that a person has established, operated, controlled, conducted, or participated in the conduct of, in violation of RCW 9A.82.060 or 9A.82.080.

(c) All proceeds traceable to or derived from an offense included in the pattern of criminal profiteering activity, or an offense defined in RCW 9A.40.100, 9.68A.100, 9.68A.101, or 9A.88.070, and all moneys, negotiable instruments, securities, and other things of value significantly used or intended

to be used significantly to facilitate the commission of the offense.

(6) A defendant convicted in any criminal proceeding is precluded in any civil proceeding from denying the essential allegations of the criminal offense proven in the criminal trial in which the defendant was convicted. For the purposes of this subsection, a conviction shall be deemed to have occurred upon a verdict, finding, or plea of guilty, notwithstanding the fact that appellate review of the conviction and sentence has been or may be sought. If a subsequent reversal of the conviction occurs, any judgment that was based upon that conviction may be reopened upon motion of the defendant.

(7) The initiation of civil proceedings under this section shall be commenced within three years after discovery of the pattern of criminal profiteering activity or after the pattern should reasonably have been discovered or, in the case of an offense that is defined in RCW 9A.40.100, within three years after the final disposition of any criminal charges relating to the offense, whichever is later.

(8) The attorney general or county prosecuting attorney may, in a civil action brought pursuant to this section, file with the clerk of the superior court a certificate stating that the case is of special public importance. A copy of that certificate shall be furnished immediately by the clerk to the presiding chief judge of the superior court in which the action is pending and, upon receipt of the copy, the judge shall immediately designate a judge to hear and determine the action. The judge so designated shall promptly assign the action for hearing, participate in the hearings and determination, and cause the action to be expedited.

(9) The standard of proof in actions brought pursuant to this section is the preponderance of the evidence test.

(10) A person other than the attorney general or county prosecuting attorney who files an action under this section shall serve notice and one copy of the pleading on the attorney general within thirty days after the action is filed with the superior court. The notice shall identify the action, the person, and the person's attorney. Service of the notice does not limit or otherwise affect the right of the state to maintain an action under this section or intervene in a pending action nor does it authorize the person to name the state or the attorney general as a party to the action.

(11) Except in cases filed by a county prosecuting attorney, the attorney general may, upon timely application, intervene in any civil action or proceeding brought under this section if the attorney general certifies that in the attorney general's opinion the action is of special public importance. Upon intervention, the attorney general may assert any available claim and is entitled to the same relief as if the attorney general had instituted a separate action.

(12) In addition to the attorney general's right to intervene as a party in any action under this section, the attorney general may appear as amicus curiae in any proceeding in which a claim under this section has been asserted or in which a court is interpreting RCW 9A.82.010, 9A.82.080, 9A.82.090, 9A.82.110, or 9A.82.120, or this section.

(13) A private civil action under this section does not limit any other civil or criminal action under this chapter or any other provision. Private civil remedies provided under this section are supplemental and not mutually exclusive.

(14) Upon motion by the defendant, the court may authorize the sale or transfer of assets subject to an order or lien authorized by this chapter for the purpose of paying actual attorney's fees and costs of defense. The motion shall specify the assets for which sale or transfer is sought and shall be accompanied by the defendant's sworn statement that the defendant has no other assets available for such purposes. No order authorizing such sale or transfer may be entered unless the court finds that the assets involved are not subject to possible forfeiture under RCW 9A.82.100(4)(f). Prior to disposition of the motion, the court shall notify the state of the assets sought to be sold or transferred and shall hear argument on the issue of whether the assets are subject to forfeiture under RCW 9A.82.100(4)(f). Such a motion may be made from time to time and shall be heard by the court on an expedited basis.

(15) In an action brought under subsection (1)(a) and (b)(i) of this section, either party has the right to a jury trial. [2012 c 139 § 2; 2003 c 267 § 6; 2001 c 222 § 14. Prior: 1989 c 271 § 111; 1985 c 455 § 11; 1984 c 270 § 10.]

Purpose—Effective date—2001 c 222: See notes following RCW 9A.82.001.

Additional notes found at www.leg.wa.gov

9A.82.110 County antiprofiteering revolving funds. (1) In an action brought by the attorney general on behalf of the state under RCW 9A.82.100(1)(b)(i) in which the state prevails, any payments ordered in excess of the actual damages sustained shall be deposited in the crime victims' compensation account provided in RCW 7.68.045.

(2)(a) The county legislative authority may establish an antiprofiteering revolving fund to be administered by the county prosecuting attorney under the conditions and for the purposes provided by this subsection. Disbursements from the fund shall be on authorization of the county prosecuting attorney. No appropriation is required for disbursements.

(b) Any prosecution and investigation costs, including attorney's fees, recovered for the state by the county prosecuting attorney as a result of enforcement of civil and criminal statutes pertaining to any offense included in the definition of criminal profiteering, whether by final judgment, settlement, or otherwise, shall be deposited, as directed by a court of competent jurisdiction, in the fund established by this subsection. In an action brought by a prosecuting attorney on behalf of the county under RCW 9A.82.100(1)(b)(i) in which the county prevails, any payments ordered in excess of the actual damages sustained shall be deposited in the crime victims' compensation account provided in RCW 7.68.045.

(c) The county legislative authority may prescribe a maximum level of moneys in the antiprofiteering revolving fund. Moneys exceeding the prescribed maximum shall be transferred to the county current expense fund.

(d) The moneys in the fund shall be used by the county prosecuting attorney for the investigation and prosecution of any offense, within the jurisdiction of the county prosecuting attorney, included in the definition of criminal profiteering, including civil enforcement.

(e) If a county has not established an antiprofiteering revolving fund, any payments or forfeitures ordered to the county under this chapter shall be deposited to the county

current expense fund. [2010 c 122 § 4; 2009 c 479 § 11; 2001 c 222 § 15. Prior: 1985 c 455 § 12; 1984 c 270 § 11.]

Effective date—2009 c 479: See note following RCW 2.56.030.

Purpose—Effective date—2001 c 222: See notes following RCW 9A.82.001.

9A.82.120 Criminal profiteering lien—Authority, procedures. (1) The state, upon filing a criminal action under RCW 9A.82.060 or 9A.82.080 or for an offense defined in RCW 9A.40.100, or a civil action under RCW 9A.82.100, may file in accordance with this section a criminal profiteering lien. A filing fee or other charge is not required for filing a criminal profiteering lien.

(2) A criminal profiteering lien shall be signed by the attorney general or the county prosecuting attorney representing the state in the action and shall set forth the following information:

(a) The name of the defendant whose property or other interests are to be subject to the lien;

(b) In the discretion of the attorney general or county prosecuting attorney filing the lien, any aliases or fictitious names of the defendant named in the lien;

(c) If known to the attorney general or county prosecuting attorney filing the lien, the present residence or principal place of business of the person named in the lien;

(d) A reference to the proceeding pursuant to which the lien is filed, including the name of the court, the title of the action, and the court's file number for the proceeding;

(e) The name and address of the attorney representing the state in the proceeding pursuant to which the lien is filed;

(f) A statement that the notice is being filed pursuant to this section;

(g) The amount that the state claims in the action or, with respect to property or other interests that the state has requested forfeiture to the state or county, a description of the property or interests sought to be paid or forfeited;

(h) If known to the attorney general or county prosecuting attorney filing the lien, a description of property that is subject to forfeiture to the state or property in which the defendant has an interest that is available to satisfy a judgment entered in favor of the state; and

(i) Such other information as the attorney general or county prosecuting attorney filing the lien deems appropriate.

(3) The attorney general or the county prosecuting attorney filing the lien may amend a lien filed under this section at any time by filing an amended criminal profiteering lien in accordance with this section that identifies the prior lien amended.

(4) The attorney general or the county prosecuting attorney filing the lien shall, as soon as practical after filing a criminal profiteering lien, furnish to any person named in the lien a notice of the filing of the lien. Failure to furnish notice under this subsection does not invalidate or otherwise affect a criminal profiteering lien filed in accordance with this section.

(5)(a) A criminal profiteering lien is perfected against interests in personal property in the same manner as a security interest in like property pursuant to RCW 62A.9A-301 through 62A.9A-316 or as otherwise required to perfect a security interest in like property under applicable law. In the case of perfection by filing, the state shall file, in lieu of a financing statement in the form prescribed by RCW 62A.9A-502, a notice of lien in substantially the following form:

NOTICE OF LIEN

Pursuant to RCW 9A.82.120, the state of Washington claims a criminal profiteering lien on all real and personal property of:

Name: . . . . . .
Address: . . . . . .
. . . . . .

State of Washington

. . . . . .
By (authorized signature)

On receipt of such a notice from the state, a filing officer shall, without payment of filing fee, file and index the notice as if it were a financing statement naming the state as secured party and the defendant as debtor.

(b) A criminal profiteering lien is perfected against interests in real property by filing the lien in the office where a mortgage on the real estate would be filed or recorded. The filing officer shall file and index the criminal profiteering lien, without payment of a filing fee, in the same manner as a mortgage.

(6) The filing of a criminal profiteering lien in accordance with this section creates a lien in favor of the state in:

(a) Any interest of the defendant, in real property situated in the county in which the lien is filed, then maintained, or thereafter acquired in the name of the defendant identified in the lien;

(b) Any interest of the defendant, in personal property situated in this state, then maintained or thereafter acquired in the name of the defendant identified in the lien; and

(c) Any property identified in the lien to the extent of the defendant's interest therein.

(7) The lien created in favor of the state in accordance with this section, when filed or otherwise perfected as provided in subsection (5) of this section, has, with respect to any of the property described in subsection (6) of this section, the same priority determined pursuant to the laws of this state as a mortgage or security interest given for value (but not a purchase money security interest) and perfected in the same manner with respect to such property; except that any lien perfected pursuant to Title 60 RCW by any person who, in the ordinary course of his or her business, furnishes labor, services, or materials, or rents, leases, or otherwise supplies equipment, without knowledge of the criminal profiteering lien, is superior to the criminal profiteering lien.

(8) Upon entry of judgment in favor of the state, the state may proceed to execute thereon as in the case of any other judgment, except that in order to preserve the state's lien priority as provided in this section the state shall, in addition to such other notice as is required by law, give at least thirty days' notice of the execution to any person possessing at the time the notice is given, an interest recorded subsequent to the date the state's lien was perfected.

(9) Upon the entry of a final judgment in favor of the state providing for forfeiture of property to the state, the title of the state to the property:

(a) In the case of real property or a beneficial interest in real property, relates back to the date of filing the criminal profiteering lien or, if no criminal profiteering lien is filed, then to the date of recording of the final judgment or the abstract thereof; or

(b) In the case of personal property or a beneficial interest in personal property, relates back to the date the personal property was seized by the state, or the date of filing of a criminal profiteering lien in accordance with this section, whichever is earlier, but if the property was not seized and no criminal profiteering lien was filed then to the date the final judgment was filed with the department of licensing and, if the personal property is an aircraft, with the federal aviation administration.

(10) This section does not limit the right of the state to obtain any order or injunction, receivership, writ, attachment, garnishment, or other remedy authorized under RCW 9A.82.100 or appropriate to protect the interests of the state or available under other applicable law.

(11) In a civil or criminal action under this chapter, the superior court shall provide for the protection of bona fide interests in property, including community property, subject to liens of persons who were not involved in the violation of this chapter, except to the extent that such interests or property were acquired or used in such a way as to be subject to forfeiture pursuant to RCW 9A.82.100(4)(f). [2003 c 267 § 7; 2001 c 222 § 16. Prior: 1985 c 455 § 13; 1984 c 270 § 12.]

Purpose—Effective date—2001 c 222: See notes following RCW 9A.82.001.

9A.82.130 Criminal profiteering lien—Trustee of real property. (1) A trustee who is personally served in the manner provided for service of legal process with written notice that a lien notice has been recorded or a civil proceeding or criminal proceeding has been instituted under this chapter against any person for whom the trustee holds legal or record title to real property, shall immediately furnish to the attorney general or county prosecuting attorney the following:

(a) The name and address of the person, as known to the trustee;

(b) To the extent known to the trustee, the name and address of all other persons for whose benefit the trustee holds title to the real property; and

(c) If requested by the attorney general or county prosecuting attorney, a copy of the trust agreement or other instrument under which the trustee holds legal or record title to the real property.

(2) The recording of a lien notice shall not constitute a lien on the record title to real property owned by a trustee at the time of recording except to the extent that trustee is named in and served with the lien notice as provided in subsection (1) of this section. The attorney general or county prosecuting attorney may bring a civil proceeding in superior court against the trustee to recover from the trustee the amounts set forth in RCW 9A.82.150. In addition to amounts recovered under RCW 9A.82.150, the attorney general or county prosecuting attorney also may recover its investigative costs and attorneys' fees.

(3) The recording of a lien notice does not affect the use to which real property or a beneficial interest owned by the person named in the lien notice may be put or the right of the person to receive any avails, rents, or other proceeds resulting from the use and ownership except the sale of the property, until a judgment of forfeiture is entered.

(4) This section does not apply to any conveyance by a trustee under a court order unless the court order is entered in an action between the trustee and the beneficiary.

(5) Notwithstanding that a trustee is served with notice as provided in subsection (1) of this section, this section does not apply to a conveyance by a trustee required under the terms of any trust agreement in effect before service of such notice on the trustee. [2001 c 222 § 17. Prior: 1985 c 455 § 14; 1984 c 270 § 13.]

Purpose—Effective date—2001 c 222: See notes following RCW 9A.82.001.

9A.82.140 Criminal profiteering lien—Procedures after notice. (1) The term of a lien notice shall be six years from the date the lien notice is recorded. If a renewal lien notice is filed by the attorney general or county prosecuting attorney, the term of the renewal lien notice shall be for six years from the date the renewal lien notice is recorded. The attorney general or county prosecuting attorney is entitled to only one renewal of the lien notice.

(2) The attorney general or county prosecuting attorney filing the lien notice may release in whole or in part any lien notice or may release any specific property or beneficial interest from the lien notice upon such terms and conditions as the attorney general or county prosecuting attorney considers appropriate and shall release any lien upon the dismissal of the action which is the basis of the lien or satisfaction of the judgment of the court in the action or other final disposition of the claim evidenced by the lien. A release of a lien notice executed by the attorney general or county prosecuting attorney shall be recorded in the official records in which the lien notice covering that property was recorded. No charge or fee may be imposed for recording any release of a lien notice.

(3)(a) A person named in the lien notice may move the court in which the civil proceeding giving rise to the lien notice is pending for an order extinguishing the lien notice.

(b) Upon the motion of a person under (a) of this subsection, the court immediately shall enter an order setting a date for hearing, which shall be not less than five nor more than ten days after the motion is filed. The order and a copy of the motion shall be served on the attorney general or county prosecuting attorney within three days after the entry of the court's order. At the hearing, the court shall take evidence on the issue of whether any property or beneficial interest owned by the person is covered by the lien notice or otherwise subject to forfeiture under RCW 9A.82.120. If the person shows by a preponderance of the evidence that the lien notice is not applicable to the person or that any property or beneficial interest owned by the person is not subject to forfeiture under RCW 9A.82.120, the court shall enter a judgment extinguishing the lien notice or releasing the property or beneficial interest from the lien notice.

(c) The court may enter an order releasing from the lien notice any specific real property or beneficial interest if, at the time the lien notice is recorded, there is pending an arms length sale of the real property or beneficial interest in which the parties are under no undue compulsion to sell or buy and

are able, willing, and reasonably well informed and the sale is for the fair market value of the real property or beneficial interest and the recording of the lien notice prevents the sale of the property or interest. The proceeds resulting from the sale of the real property or beneficial interest shall be deposited with the court, subject to the further order of the court.

(d) At any time after filing of a lien, the court may release from the lien any property upon application by the defendant and posting of security equal to the value of the property to be released. [2001 c 222 § 18. Prior: 1985 c 455 § 15; 1984 c 270 § 14.]

Purpose—Effective date—2001 c 222: See notes following RCW 9A.82.001.

9A.82.150 Criminal profiteering lien—Conveyance of property by trustee, liability. (1) If a trustee conveys title to real property for which, at the time of the conveyance, the trustee has been personally served with notice as provided in RCW 9A.82.130(1) of a lien under this chapter, the trustee shall be liable to the state for the greater of:

(a) The amount of proceeds received by the person named in the lien notice as a result of the conveyance;

(b) The amount of proceeds received by the trustee as a result of the conveyance and distributed by the trustee to the person named in the lien notice; or

(c) The fair market value of the interest of the person named in the lien notice in the real property so conveyed.

(2) If the trustee conveys the real property for which a lien notice has been served on the trustee at the time of the conveyance and holds the proceeds that would otherwise be paid or distributed to the beneficiary or at the direction of the beneficiary or beneficiary's designee, the trustee's liability shall not exceed the amount of the proceeds so held so long as the trustee continues to hold the proceeds. [2001 c 222 § 19. Prior: 1985 c 455 § 16; 1984 c 270 § 15.]

Purpose—Effective date—2001 c 222: See notes following RCW 9A.82.001.

9A.82.160 Criminal profiteering lien—Trustee's failure to comply, evasion of procedures or lien. (1) A trustee who knowingly fails to comply with RCW 9A.82.130(1) is guilty of a gross misdemeanor.

(2) A trustee who conveys title to real property after service of the notice as provided in RCW 9A.82.130(1) with the intent to evade the provisions of RCW 9A.82.100 or 9A.82.120 with respect to such property is guilty of a class C felony. [2003 c 53 § 90; 2001 c 222 § 20. Prior: 1985 c 455 § 17; 1984 c 270 § 16.]

Intent—Effective date—2003 c 53: See notes following RCW 2.48.180.

Purpose—Effective date—2001 c 222: See notes following RCW 9A.82.001.

9A.82.170 Financial institution records—Inspection and copying—Wrongful disclosure. (1) Upon request of the attorney general or prosecuting attorney, a subpoena for the production of records of a financial institution may be signed and issued by a superior court judge if there is reason to believe that an act of criminal profiteering or a violation of RCW 9A.82.060 or 9A.82.080 has occurred or is occurring and that the records sought will materially aid in the investigation of such activity or appears reasonably calculated to lead to the discovery of information that will do so. The subpoena shall be served on the financial institution as in civil actions. The court may, upon motion timely made and in any event before the time specified for compliance with the subpoena, condition compliance upon advancement by the attorney general or prosecuting attorney of the reasonable costs of producing the records specified in the subpoena.

(2) A response to a subpoena issued under this section is sufficient if a copy or printout, duly authenticated by an officer of the financial institution as a true and correct copy or printout of its records, is provided, unless otherwise provided in the subpoena for good cause shown.

(3) Except as provided in this subsection, a financial institution served with a subpoena under this section shall not disclose to the customer the fact that a subpoena seeking records relating to the customer has been served. A judge of the superior court may order the attorney general, prosecuting attorney, or financial institution to advise the financial institution's customer of the subpoena. Unless ordered to do so by the court, disclosure of the subpoena by the financial institution or any of its employees to the customer is a misdemeanor.

(4) A financial institution shall be reimbursed in an amount set by the court for reasonable costs incurred in providing information pursuant to this section.

(5) This section does not preclude the use of other legally authorized means of obtaining records, nor preclude the assertion of any legally recognized privileges.

(6) Disclosure by the attorney general, county prosecuting attorney, or any peace officer or other person designated by the attorney general or the county prosecuting attorney, of information obtained under this section, except in the proper discharge of official duties, is punishable as a misdemeanor.

(7) Upon filing of any civil or criminal action, the nondisclosure requirements of any subpoena or order under this section shall terminate, and the attorney general or prosecuting attorney filing the action shall provide to the defendant copies of all subpoenas or other orders issued under this section.

(8) A financial institution shall not be civilly liable for harm resulting from its compliance with the provisions of this chapter. [2001 c 222 § 21. Prior: 1985 c 455 § 18; 1984 c 270 § 17.]

Purpose—Effective date—2001 c 222: See notes following RCW 9A.82.001.

9A.82.900 Severability—1984 c 270. If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected. [2001 c 222 § 22. Prior: 1984 c 270 § 20.]

Purpose—Effective date—2001 c 222: See notes following RCW 9A.82.001.

9A.82.901 Effective date—1984 c 270 as amended by 1985 c 455. Sections 12, 13, 14, 15, and 16, chapter 270, Laws of 1984 as amended by sections 13, 14, 15, 16, and 17 of this 1985 act shall take effect on July 1, 1986, and the remainder of chapter 270, Laws of 1984 shall take effect on

July 1, 1985. [2001 c 222 § 23. Prior: 1985 c 455 § 20; 1984 c 270 § 21.]

Purpose—Effective date—2001 c 222: See notes following RCW 9A.82.001.

9A.82.902 Effective date—1985 c 455. With the exception of sections 13, 14, 15, 16, and 17 of this act, this act is necessary for the immediate preservation of the public peace, health, and safety, the support of the state government and its existing public institutions, and shall take effect July 1, 1985. [1985 c 455 § 21.]

9A.82.904 Severability—1985 c 455. If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected. [1985 c 455 § 23.]

Chapter 10.31 RCW
WARRANTS AND ARRESTS

*Sections

10.31.100 Arrest without warrant.

**Partial listing of sections.*

10.31.100 Arrest without warrant. A police officer having probable cause to believe that a person has committed or is committing a felony shall have the authority to arrest the person without a warrant. A police officer may arrest a person without a warrant for committing a misdemeanor or gross misdemeanor only when the offense is committed in the presence of an officer, except as provided in subsections (1) through (11) of this section.

(1) Any police officer having probable cause to believe that a person has committed or is committing a misdemeanor or gross misdemeanor, involving physical harm or threats of harm to any person or property or the unlawful taking of property or involving the use or possession of cannabis, or involving the acquisition, possession, or consumption of alcohol by a person under the age of twenty-one years under RCW 66.44.270, or involving criminal trespass under RCW 9A.52.070 or 9A.52.080, shall have the authority to arrest the person.

(2) A police officer shall arrest and take into custody, pending release on bail, personal recognizance, or court order, a person without a warrant when the officer has probable cause to believe that:

(a) An order has been issued of which the person has knowledge under RCW 26.44.063, or chapter 7.92, 7.90, 9A.46, 10.99, 26.09, 26.10, 26.26, 26.50, or 74.34 RCW restraining the person and the person has violated the terms of the order restraining the person from acts or threats of violence, or restraining the person from going onto the grounds of or entering a residence, workplace, school, or day care, or prohibiting the person from knowingly coming within, or knowingly remaining within, a specified distance of a location or, in the case of an order issued under RCW 26.44.063, imposing any other restrictions or conditions upon the person; or

(b) A foreign protection order, as defined in RCW 26.52.010, has been issued of which the person under restraint has knowledge and the person under restraint has violated a provision of the foreign protection order prohibiting the person under restraint from contacting or communicating with another person, or excluding the person under restraint from a residence, workplace, school, or day care, or prohibiting the person from knowingly coming within, or knowingly remaining within, a specified distance of a location, or a violation of any provision for which the foreign protection order specifically indicates that a violation will be a crime; or

(c) The person is sixteen years or older and within the preceding four hours has assaulted a family or household member as defined in RCW 10.99.020 and the officer believes: (i) A felonious assault has occurred; (ii) an assault has occurred which has resulted in bodily injury to the victim, whether the injury is observable by the responding officer or not; or (iii) that any physical action has occurred which was intended to cause another person reasonably to fear imminent serious bodily injury or death. Bodily injury means physical pain, illness, or an impairment of physical condition. When the officer has probable cause to believe that family or household members have assaulted each other, the officer is not required to arrest both persons. The officer shall arrest the person whom the officer believes to be the primary physical aggressor. In making this determination, the officer shall make every reasonable effort to consider: (i) The intent to protect victims of domestic violence under RCW 10.99.010; (ii) the comparative extent of injuries inflicted or serious threats creating fear of physical injury; and (iii) the history of domestic violence of each person involved, including whether the conduct was part of an ongoing pattern of abuse.

(3) Any police officer having probable cause to believe that a person has committed or is committing a violation of any of the following traffic laws shall have the authority to arrest the person:

(a) RCW 46.52.010, relating to duty on striking an unattended car or other property;

(b) RCW 46.52.020, relating to duty in case of injury to or death of a person or damage to an attended vehicle;

(c) RCW 46.61.500 or 46.61.530, relating to reckless driving or racing of vehicles;

(d) RCW 46.61.502 or 46.61.504, relating to persons under the influence of intoxicating liquor or drugs;

(e) RCW 46.61.503 or 46.25.110, relating to persons having alcohol or THC in their system;

(f) RCW 46.20.342, relating to driving a motor vehicle while operator's license is suspended or revoked;

(g) RCW 46.61.5249, relating to operating a motor vehicle in a negligent manner.

(4) A law enforcement officer investigating at the scene of a motor vehicle accident may arrest the driver of a motor vehicle involved in the accident if the officer has probable cause to believe that the driver has committed in connection with the accident a violation of any traffic law or regulation.

(5)(a) A law enforcement officer investigating at the scene of a motor vessel accident may arrest the operator of a motor vessel involved in the accident if the officer has probable cause to believe that the operator has committed, in connection with the accident, a criminal violation of chapter 79A.60 RCW.

(b) A law enforcement officer investigating at the scene of a motor vessel accident may issue a citation for an infraction to the operator of a motor vessel involved in the accident if the officer has probable cause to believe that the operator has committed, in connection with the accident, a violation of any boating safety law of chapter 79A.60 RCW.

(6) Any police officer having probable cause to believe that a person has committed or is committing a violation of RCW 79A.60.040 shall have the authority to arrest the person.

(7) An officer may act upon the request of a law enforcement officer in whose presence a traffic infraction was committed, to stop, detain, arrest, or issue a notice of traffic infraction to the driver who is believed to have committed the infraction. The request by the witnessing officer shall give an officer the authority to take appropriate action under the laws of the state of Washington.

(8) Any police officer having probable cause to believe that a person has committed or is committing any act of indecent exposure, as defined in RCW 9A.88.010, may arrest the person.

(9) A police officer may arrest and take into custody, pending release on bail, personal recognizance, or court order, a person without a warrant when the officer has probable cause to believe that an order has been issued of which the person has knowledge under chapter 10.14 RCW and the person has violated the terms of that order.

(10) Any police officer having probable cause to believe that a person has, within twenty-four hours of the alleged violation, committed a violation of RCW 9A.50.020 may arrest such person.

(11) A police officer having probable cause to believe that a person illegally possesses or illegally has possessed a firearm or other dangerous weapon on private or public elementary or secondary school premises shall have the authority to arrest the person.

For purposes of this subsection, the term "firearm" has the meaning defined in RCW 9.41.010 and the term "dangerous weapon" has the meaning defined in RCW 9.41.250 and 9.41.280(1) (c) through (e).

(12) A law enforcement officer having probable cause to believe that a person has committed a violation under RCW 77.15.160(4) may issue a citation for an infraction to the person in connection with the violation.

(13) A law enforcement officer having probable cause to believe that a person has committed a criminal violation under RCW 77.15.809 or 77.15.811 may arrest the person in connection with the violation.

(14) Except as specifically provided in subsections (2), (3), (4), and (7) of this section, nothing in this section extends or otherwise affects the powers of arrest prescribed in Title 46 RCW.

(15) No police officer may be held criminally or civilly liable for making an arrest pursuant to subsection (2) or (9) of this section if the police officer acts in good faith and without malice.

(16) A police officer shall arrest and keep in custody, until release by a judicial officer on bail, personal recognizance, or court order, a person without a warrant when the officer has probable cause to believe that the person has violated RCW 46.61.502 or 46.61.504 or an equivalent local ordinance and the police officer has knowledge that the person has a prior offense as defined in RCW 46.61.5055 within ten years. [2014 c 202 § 307; 2014 c 100 § 2; 2014 c 5 § 1; 2013 2nd sp.s. c 35 § 22. Prior: 2013 c 278 § 4; 2013 c 84 § 32; 2010 c 274 § 201; 2006 c 138 § 23; 2000 c 119 § 4; 1999 c 184 § 14; 1997 c 66 § 10; 1996 c 248 § 4; prior: 1995 c 246 § 20; 1995 c 184 § 1; 1995 c 93 § 1; prior: 1993 c 209 § 1; 1993 c 128 § 5; 1988 c 190 § 1; prior: 1987 c 280 § 20; 1987 c 277 § 2; 1987 c 154 § 1; 1987 c 66 § 1; prior: 1985 c 303 § 9; 1985 c 267 § 3; 1984 c 263 § 19; 1981 c 106 § 1; 1980 c 148 § 8; 1979 ex.s. c 28 § 1; 1969 ex.s. c 198 § 1.]

Reviser's note: This section was amended by 2014 c 5 § 1, 2014 c 100 § 2, and by 2014 c 202 § 307, each without reference to the other. All amendments are incorporated in the publication of this section under RCW 1.12.025(2). For rule of construction, see RCW 1.12.025(1).

Findings—2014 c 202: See note following RCW 77.135.010.

Intent—2010 c 274: "The legislature intends to improve the lives of persons who suffer from the adverse effects of domestic violence and to require reasonable, coordinated measures to prevent domestic violence from occurring. The legislature intends to give law enforcement and the courts better tools to identify violent perpetrators of domestic violence and hold them accountable. The legislature intends to: Increase the safety afforded to individuals who seek protection of public and private agencies involved in domestic violence prevention; improve the ability of agencies to address the needs of victims and their children and the delivery of services; upgrade the quality of treatment programs; and enhance the ability of the justice system to respond quickly and fairly to domestic violence. In order to improve the lives of persons who have, or may suffer, the effects of domestic violence the legislature intends to achieve more uniformity in the decision-making processes at public and private agencies that address domestic violence by reducing inconsistencies and duplications allowing domestic violence victims to achieve safety and stability in their lives." [2010 c 274 § 101.]

Short title—2006 c 138: See RCW 7.90.900.

Arrest procedure involving traffic violations: Chapter 46.64 RCW.

Domestic violence, peace officers—Immunity: RCW 26.50.140.

Uniform Controlled Substances Act: Chapter 69.50 RCW.

Additional notes found at www.leg.wa.gov

Chapter 10.93 RCW
WASHINGTON MUTUAL AID PEACE OFFICERS POWERS ACT

*Sections

10.93.020 Definitions.

**Partial listing of sections.*

10.93.020 Definitions. As used in this chapter, the following terms have the meanings indicated unless the context clearly requires otherwise.

(1) "General authority Washington law enforcement agency" means any agency, department, or division of a municipal corporation, political subdivision, or other unit of local government of this state, and any agency, department, or division of state government, having as its primary function the detection and apprehension of persons committing infractions or violating the traffic or criminal laws in general, as distinguished from a limited authority Washington law enforcement agency, and any other unit of government expressly designated by statute as a general authority Washington law enforcement agency. The Washington state patrol and the department of fish and wildlife are general authority Washington law enforcement agencies.

(2) "Limited authority Washington law enforcement agency" means any agency, political subdivision, or unit of local government of this state, and any agency, department, or division of state government, having as one of its functions the apprehension or detection of persons committing infractions or violating the traffic or criminal laws relating to limited subject areas, including but not limited to, the state departments of natural resources and social and health services, the state gambling commission, the state lottery commission, the state parks and recreation commission, the state utilities and transportation commission, the state liquor control board, the office of the insurance commissioner, and the state department of corrections.

(3) "General authority Washington peace officer" means any full-time, fully compensated and elected, appointed, or employed officer of a general authority Washington law enforcement agency who is commissioned to enforce the criminal laws of the state of Washington generally.

(4) "Limited authority Washington peace officer" means any full-time, fully compensated officer of a limited authority Washington law enforcement agency empowered by that agency to detect or apprehend violators of the laws in some or all of the limited subject areas for which that agency is responsible. A limited authority Washington peace officer may be a specially commissioned Washington peace officer if otherwise qualified for such status under this chapter.

(5) "Specially commissioned Washington peace officer", for the purposes of this chapter, means any officer, whether part-time or full-time, compensated or not, commissioned by a general authority Washington law enforcement agency to enforce some or all of the criminal laws of the state of Washington, who does not qualify under this chapter as a general authority Washington peace officer for that commissioning agency, specifically including reserve peace officers, and specially commissioned full-time, fully compensated peace officers duly commissioned by the states of Oregon or Idaho or any such peace officer commissioned by a unit of local government of Oregon or Idaho. A reserve peace officer is an individual who is an officer of a Washington law enforcement agency who does not serve such agency on a full-time basis but who, when called by the agency into active service, is fully commissioned on the same basis as full-time peace officers to enforce the criminal laws of the state.

(6) "Federal peace officer" means any employee or agent of the United States government who has the authority to carry firearms and make warrantless arrests and whose duties involve the enforcement of criminal laws of the United States.

(7) "Agency with primary territorial jurisdiction" means a city or town police agency which has responsibility for police activity within its boundaries; or a county police or sheriff's department which has responsibility with regard to police activity in the unincorporated areas within the county boundaries; or a statutorily authorized port district police agency or four-year state college or university police agency which has responsibility for police activity within the statutorily authorized enforcement boundaries of the port district, state college, or university.

(8) "Primary commissioning agency" means (a) the employing agency in the case of a general authority Washington peace officer, a limited authority Washington peace officer, an Indian tribal peace officer, or a federal peace officer, and (b) the commissioning agency in the case of a specially commissioned Washington peace officer (i) who is performing functions within the course and scope of the special commission and (ii) who is not also a general authority Washington peace officer, a limited authority Washington peace officer, an Indian tribal peace officer, or a federal peace officer.

(9) "Primary function of an agency" means that function to which greater than fifty percent of the agency's resources are allocated.

(10) "Mutual law enforcement assistance" includes, but is not limited to, one or more law enforcement agencies aiding or assisting one or more other such agencies through loans or exchanges of personnel or of material resources, for law enforcement purposes. [2006 c 284 § 16; 2002 c 128 § 1; 1994 c 264 § 3; 1988 c 36 § 5; 1985 c 89 § 2.]

Severability—Effective date—2006 c 284: See RCW 48.135.900 and 48.135.901.

Chapter 15.89 RCW

WASHINGTON BEER COMMISSION

Sections

15.89.010 Legislative declaration.
15.89.020 Definitions.
15.89.025 Regulating beer—Existing comprehensive scheme—Applicable laws.
15.89.030 Washington beer commission created—Composition.
15.89.040 Director's duties—Referendum of beer producers.
15.89.050 Appointment of members—Terms, travel expenses.
15.89.060 Enforcement of commission obligations against commission assets—Liability of commission members and employees.
15.89.070 Commission powers and duties.
15.89.073 Commission's plans, programs, and projects—Director's approval required.
15.89.075 Commission speaks for state—Director's oversight.
15.89.080 Research, promotional, and educational campaign.
15.89.090 Campaign goals.
15.89.100 List of producers of beer—Reporting system.
15.89.110 Annual assessment on beer production—Approval by referendum—Rules.
15.89.120 Deposit of money.
15.89.130 Assessment constitutes debt—Penalty for nonpayment—Civil action.
15.89.140 Certain records exempt from public disclosure—Exceptions.
15.89.150 Costs—Funding staff support—Rules.
15.89.160 Enforcement.
15.89.170 Prosecution—Enforcement by superior courts.
15.89.900 Construction—2006 c 330.
15.89.901 Severability—2006 c 330.

15.89.010 Legislative declaration. The legislature declares that:

(1) Marketing is a dynamic and changing part of Washington agriculture and a vital element in expanding the state economy;

(2) The sale in this state and export to other states and abroad of beer made in this state contribute substantial benefits to the economy of the state and provide a large number of jobs and sizeable tax revenues;

(3) The production of beer in this state is a new and important segment of Washington agriculture that has potential for greater contribution to the economy of the state if it undergoes continued development; and

(4) The general welfare of the people of this state will be served by continued development of the activities of the production of beer, that will improve the tax bases of local communities where agricultural land and processing facilities are located, and reduce the need for state and federal funding of local services. The industries are therefore affected with the public interest. [2006 c 330 § 1.]

15.89.020 Definitions. The definitions in this section apply throughout this chapter unless the context clearly requires otherwise.

(1) "Beer" means any malt beverage or malt liquor as the terms are defined in chapter 66.04 RCW.

(2) "Commission" means the Washington beer commission.

(3) "Department" means the department of agriculture.

(4) "Director" means the director of the department or the director's duly authorized representative.

(5) "Fiscal year" means the twelve-month period beginning with January 1st of any year and ending December 31st.

(6) "Producer" means any person or other entity licensed under Title 66 RCW to produce beer within Washington.

(7) "Referendum" means a vote by producers that is conducted by secret ballot. [2011 c 54 § 1; 2006 c 330 § 2.]

15.89.025 Regulating beer—Existing comprehensive scheme—Applicable laws. The history, economy, culture, and future of Washington state's agriculture involve the beer industry. In order to develop and promote beer as part of an existing comprehensive scheme to regulate those products, the legislature declares that:

(1) It is vital to the continued economic well-being of the citizens of this state and their general welfare that beer produced in Washington state be properly promoted;

(2) It is in the overriding public interest that support for the Washington beer industry be clearly expressed and that beer be promoted individually, and as part of a comprehensive industry to:

(a) Enhance the reputation and image of Washington state's agriculture industry;

(b) Protect the public by educating the public in reference to the quality, care, and methods used in the production of beer;

(c) Increase the knowledge of the qualities and value of Washington's beer; and

(d) Support and engage in programs or activities that benefit the production, handling, processing, marketing, and uses of beer;

(3) This chapter is enacted in the exercise of the police powers of this state to protect the health, peace, safety, and general welfare of the people of this state; and

(4) The production and marketing of beer is a highly regulated industry and this chapter and the rules adopted under it are only one aspect of the regulated industry. Other laws applicable to the beer industry include:

(a) The organic products act, chapter 15.86 RCW;

(b) The wholesale distributors and suppliers of malt beverages, chapter 19.126 RCW;

(c) Weights and measures, chapter 19.94 RCW;

(d) Title 66 RCW, alcoholic beverage control;

(e) Title 69 RCW, food, drugs, cosmetics, and poisons;

(f) 21 C.F.R. as it relates to general manufacturing practices, food labeling, food standards, food additives, and pesticide tolerances;

(g) Chapter 69.07 RCW, Washington food processing act;

(h) 27 U.S.C. Secs. 201 through 211, 213 through 219a, and 122A;

(i) 27 C.F.R. Parts 1, 6, 9, 10, 12, 16, 240, 251, and 252; and

(j) Rules under Title 314 WAC. [2011 c 103 § 31; 2006 c 330 § 3.]

Purpose—2011 c 103: See note following RCW 15.26.120.

15.89.030 Washington beer commission created—Composition. (1) Subject to the referendum conducted under RCW 15.89.040, there is created an agricultural commodity commission, to be known as the Washington beer commission. The commission shall be comprised of seven voting members; six members shall be producers and one voting member shall be the director.

(2) Five voting members of the commission constitute a quorum for the transaction of any commission business.

(3) Each producer member shall be a citizen and resident of this state and over the age of twenty-one. Each producer member must be engaged in producing beer, and must, during his or her term of office, derive a substantial portion of income from the production of beer, or have a substantial investment in the production of beer as an owner, lessee, partner, or the manager or executive officer of such a corporation. No more than one board member may be part of the same person as defined by RCW 15.04.010. These qualifications apply throughout each member's term of office but do not apply to the director.

(4) The producer members shall serve three-year terms. Of the initial voting members, two members shall be appointed for a one-year term, two members shall be appointed for a two-year term, and two members shall be appointed for a three-year term. [2006 c 330 § 4.]

15.89.040 Director's duties—Referendum of beer producers. (1) Upon receipt of a petition containing the signatures of five beer producers from a statewide Washington state craft brewing trade association or from other producers to implement this chapter and to determine producer participation in the commission and assessment under this chapter, the director shall:

(a) Conduct a referendum of beer producers. The requirements of assent or approval of the referendum are met if:

(i) At least fifty-one percent by numbers of producers participating in the referendum vote affirmatively; and

(ii) Thirty percent of the producers and thirty percent of the production have been represented in the referendum to determine assent or approval of participation and assessment. The referendum shall be conducted within sixty days of receipt of the petition; and

(b) Establish a list of beer producers from information provided by the petitioners, by obtaining information on beer producers from applicable producer organizations or associations or other sources identified as maintaining the information. In establishing a current list of beer producers and their individual production, the director shall use the beer producer's name, mailing address, and production by the producer in the preceding fiscal year. Information on each producer shall be mailed to each beer producer on record with the director for verification. All corrections shall be filed with the director within twenty days from the date of mailing. The list of producers shall be kept in a file by the director. The list shall be certified as a true representation of the referendum mailing list. Inadvertent failure to notify a producer does not invalidate a proceeding conducted under this chapter. The director shall provide the commission the list of producers after assent in a referendum as provided in this section.

(2) If the director determines that the requisite assent has been given in the referendum conducted under subsection (1) of this section, the director shall:

(a) Within sixty days after assent of the referendum held, appoint the members of the commission; and

(b) Direct the commission to put into force the assessment as provided for in RCW 15.89.110.

(3) If the director determines that the requisite assent has not been given in the referendum conducted under subsection (1) of this section, the director shall take no further action to implement or enforce this chapter.

(4) Upon completion of the referendum conducted under subsection (1) of this section, the department shall tally the results of the vote and provide the results to producers. If a producer disputes the results of a vote, that producer within sixty days from the announced results, shall provide in writing a statement of why the vote is disputed and request a recount. Once the vote is tallied and distributed, all disputes are resolved, and all matters in a vote are finalized, the individual ballots may be destroyed.

(5) Before conducting the referendum provided for in subsection (1) of this section, the director may require the petitioners to deposit with him or her an amount of money as the director deems necessary to defray the expenses of conducting the referendum. The director shall provide the petitioners an estimate of expenses that may be incurred to conduct a referendum before any service takes place. Petitioners shall deposit funds with the director to pay for expenses incurred by the department. The commission shall reimburse petitioners the amount paid to the department when funds become available. However, if for any reason the referendum process is discontinued, the petitioners shall reimburse the department for expenses incurred by the department up until the time the process is discontinued.

(6) The director is not required to hold a referendum under subsection (1) of this section more than once in any twelve-month period. [2011 c 54 § 2; 2006 c 330 § 5.]

15.89.050 Appointment of members—Terms, travel expenses. (1) The director shall appoint the producer members of the commission. In making appointments, no later than ninety days before an expiration of a commission member's term, the director shall call for recommendations for commission member positions, and the director shall take into consideration recommendations made by a statewide Washington state craft brewing trade association or other producers. In appointing persons to the commission, the director shall seek a balanced representation on the commission that reflects the composition of the beer producers throughout the state on the basis of beer produced and geographic location. Information on beer production by geographic location shall be provided by the commission upon the director's request.

(2) If a position on the commission becomes vacant due to resignation, disqualification, death, or for any other reason, the commission shall notify the director and the unexpired term shall immediately be filled by appointment by the director.

(3) Each member or employee of the commission shall be reimbursed for actual travel expenses incurred in carrying out this chapter as defined by the commission in rule. Otherwise if not defined in rule, reimbursement for travel expenses shall be at the rates allowed by RCW 43.03.050 and 43.03.060. [2011 c 54 § 3; 2006 c 330 § 6.]

15.89.060 Enforcement of commission obligations against commission assets—Liability of commission members and employees. Obligations incurred by the commission and any other liabilities or claims against the commission shall be enforced only against the assets of the commission and, except to the extent of such assets, no liability for the debts or actions of the commission exists against either the state of Washington or any subdivision or instrumentality thereof or against any member, employee, or agent of the commission or the state of Washington in his or her individual capacity. Except as otherwise provided in this chapter, neither the commission members, nor its employees, may be held individually responsible for errors in judgment, mistakes, or other acts, either of commission or omission, as principal, agent, person, or employee, except for their own individual acts of dishonesty or crime. No person or employee may be held individually responsible for any act or omission of any other commission members. The liability of the commission members shall be several and not joint, and no member is liable for the default of any other member. This provision confirms that commission members have been and continue to be, state officers or volunteers for purposes of RCW 4.92.075 and are entitled to the defenses, indemnifications, limitations of liability, and other protections and benefits of chapter 4.92 RCW. [2006 c 330 § 7.]

15.89.070 Commission powers and duties. The commission shall:

(1) Elect a chair and officers. The officers must include a treasurer who is responsible for all receipts and disbursements by the commission and the faithful discharge of whose duties shall be guaranteed by a bond at the sole expense of the commission. The commission must adopt rules for its own governance that provide for the holding of an annual meeting for the election of officers and the transaction of other business and for other meetings the commission may direct;

(2) Do all things reasonably necessary to effect the purposes of this chapter. However, the commission has no rulemaking power except as provided in this chapter;

(3) Employ and discharge managers, secretaries, agents, attorneys, and employees and engage the services of independent contractors;

(4) Retain, as necessary, the services of private legal counsel to conduct legal actions on behalf of the commission. The retention of a private attorney is subject to review by the office of the attorney general;

(5) Receive donations of beer from producers for promotional purposes under subsections (6) and (7) of this section and for fund-raising purposes under subsection (8) of this section. Donations of beer for promotional purposes may only be disseminated without charge;

(6) Engage directly or indirectly in the promotion of Washington beer, including, without limitation, the acquisition in any lawful manner and the dissemination without charge of beer. This dissemination is not deemed a sale for any purpose and the commission is not deemed a producer, supplier, or manufacturer, or the clerk, servant, or agent of a producer, supplier, distributor, or manufacturer. This dissemination without charge shall be for agricultural development or trade promotion, and not for fund-raising purposes under subsection (8) of this section. Dissemination for promotional purposes may include promotional hosting and must in the good faith judgment of the commission be in the aid of the marketing, advertising, sale of beer, or of research related to such marketing, advertising, or sale;

(7) Promote Washington beer by conducting unique beer tastings without charge;

(8) Beginning July 1, 2007, fund the Washington beer commission through sponsorship of up to twelve beer festivals annually at which beer may be sold to festival participants. For this purpose, the commission would qualify for issue of a special occasion license as an exception to WAC 314-05-020 but must comply with laws under Title 66 RCW and rules adopted by the liquor control board under which such events may be conducted;

(9) Participate in international, federal, state, and local hearings, meetings, and other proceedings relating to the production, regulation, distribution, sale, or use of beer including activities authorized under RCW 42.17A.635, including the reporting of those activities to the public disclosure commission;

(10) Acquire and transfer personal and real property, establish offices, incur expenses, and enter into contracts, including contracts for the creation and printing of promotional literature. The contracts are not subject to *chapter 43.78 RCW, and are cancelable by the commission unless performed under conditions of employment that substantially conform to the laws of this state and the rules of the department of labor and industries. The commission may create debt and other liabilities that are reasonable for proper discharge of its duties under this chapter;

(11) Maintain accounts with one or more qualified public depositories as the commission may direct, for the deposit of money, and expend money for purposes authorized by this chapter by drafts made by the commission upon such institutions or by other means;

(12) Cause to be kept and annually closed, in accordance with generally accepted accounting principles, accurate records of all receipts, disbursements, and other financial transactions, available for audit by the state auditor;

(13) Create and maintain a list of producers and disseminate information among and solicit the opinions of producers with respect to the discharge of the duties of the commission, directly or by arrangement with trade associations or other instrumentalities;

(14) Employ, designate as an agent, act in concert with, and enter into contracts with any person, council, commission, or other entity to promote the general welfare of the beer industry and particularly to assist in the sale and distribution of Washington beer in domestic and foreign commerce. The commission shall expend money necessary or advisable for this purpose and to pay its proportionate share of the cost of any program providing direct or indirect assistance to the sale and distribution of Washington beer in domestic or foreign

commerce, employing and paying for vendors of professional services of all kinds;

(15) Sue and be sued as a commission, without individual liability for acts of the commission within the scope of the powers conferred upon it by this chapter;

(16) Serve as liaison with the liquor control board on behalf of the commission and not for any individual producer;

(17) Receive such gifts, grants, and endowments from public or private sources as may be made from time to time, in trust or otherwise, for the use and benefit of the purposes of the commission and expend the same or any income therefrom according to the terms of the gifts, grants, or endowments. [2011 c 103 § 16; 2011 c 60 § 3; 2009 c 373 § 9; 2007 c 211 § 1; 2006 c 330 § 8.]

***Reviser's note:** Chapter 43.78 RCW was entirely repealed or recodified by 2011 1st sp.s. c 43 § 306.

Purpose—2011 c 103: See note following RCW 15.26.120.

Effective date—2011 c 60: See RCW 42.17A.919.

15.89.073 Commission's plans, programs, and projects—Director's approval required. (1) The commission shall develop and submit to the director for approval any plans, programs, and projects concerning the following:

(a) The establishment, issuance, effectuation, and administration of appropriate programs or projects for advertising, promotion, and education programs related to beer; and

(b) The establishment and effectuation of market research projects, market development projects, or both to the end that the marketing of beer may be encouraged, expanded, improved, or made more efficient.

(2) The director shall review the commission's advertising or promotion program to ensure that no false claims are being made concerning beer.

(3) The commission, before the beginning of its fiscal year, shall prepare and submit to the director for approval its research plan, its commodity-related education and training plan, and its budget on a fiscal period basis.

(4) The director shall strive to review and make a determination of all submissions described in this section in a timely manner. [2006 c 330 § 9.]

15.89.075 Commission speaks for state—Director's oversight. The commission exists primarily for the benefit of the people of the state of Washington and its economy. The legislature hereby charges the commission, with oversight by the director, to speak on behalf of the Washington state government with regard to the marketing and promotion of Washington produced beer. [2006 c 330 § 10.]

15.89.080 Research, promotional, and educational campaign. The commission may create, provide for, and conduct a comprehensive and extensive research, promotional, and educational campaign as sales and market conditions reasonably require. It shall investigate and ascertain the needs of producers, conditions of markets, and degree of public awareness of products, and take into account this information in the discharge of its duties under this chapter. [2006 c 330 § 11.]

15.89.090 Campaign goals. The commission shall adopt as major objectives of its research, promotional, and educational campaign goals that serve the needs of producers. The goals may include efforts to:

(1) Establish Washington beer as a major factor in markets everywhere;

(2) Promote Washington breweries as tourist attractions;

(3) Encourage favorable reporting of Washington beer and breweries in the press throughout the world;

(4) Establish Washington beer in markets everywhere as a major source of premium beer;

(5) Encourage favorable legislative and regulatory treatment of Washington beer in markets everywhere;

(6) Encourage promotion of Washington agriculture related to beer production, specifically hops, malting barley, and wheat grown in the state; and

(7) Foster economic conditions favorable to investment in the production of Washington beer. [2006 c 330 § 12.]

15.89.100 List of producers of beer—Reporting system. (1) The commission shall prepare a list of all producers from information available from the liquor control board, the department, or the producers' association. This list must contain the names and addresses of producers within this state and the amount, by barrelage, of beer produced during the period designated by the commission. A qualified person may, at any time, have his or her name placed upon the list by delivering or mailing the information to the commission. This list shall be corrected and brought up-to-date in accordance with evidence and information available to the commission by December 31st of each year. For the purposes of giving notice and holding referendums, the list updated before the date for issuing notices or ballots is the list of all producers entitled to notice, to assent or dissent, or to vote. Inadvertent failure to notify a producer does not invalidate a proceeding conducted under this chapter.

(2) It is the responsibility of producers to ensure that their correct address is filed with the commission. It is also the responsibility of producers to submit production data to the commission as prescribed by this chapter.

(3) The commission shall develop a reporting system to document that the producers in this state are reporting quantities of beer produced and are paying the assessment as provided in RCW 15.89.110. [2011 c 54 § 4; 2006 c 330 § 13.]

15.89.110 Annual assessment on beer production—Approval by referendum—Rules. (1) Pursuant to referendum in accordance with RCW 15.89.040, there is levied, and the commission shall collect, upon beer produced by a producer, an annual assessment of ten cents per barrel of beer produced, up to ten thousand barrels per location.

(2) The commission shall adopt rules prescribing the time, place, and method for payment and collection of this assessment and provide for the collection of assessments from producers who ship directly out-of-state.

(3) The commission may reduce the assessment per producer based upon in-kind contributions to the commission. [2011 c 54 § 5; 2006 c 330 § 14.]

15.89.120 Deposit of money. The commission shall deposit money collected under RCW 15.89.110 in a separate

account in the name of the commission in any bank that is a state depositary. All expenditures and disbursements made from this account under this chapter may be made without the necessity of a specific legislative appropriation. RCW 43.01.050 does not apply to this account or to the money received, collected, or expended as provided in this chapter. [2006 c 330 § 15.]

15.89.130 Assessment constitutes debt—Penalty for nonpayment—Civil action. An assessment levied in an amount determined by the commission under RCW 15.89.110 constitutes a personal debt of every person assessed or who otherwise owes the assessment, and the assessment is due and payable to the commission when payment is called for by the commission. If a producer fails to pay the commission the full amount of the assessment by the date due, the commission may add to the unpaid assessment an amount not exceeding ten percent of the assessment to defray the cost of enforcing its collection. If the person fails to pay an assessment, the commission may bring a civil action for collection against the person or persons in a court of competent jurisdiction. The action shall be tried and judgment rendered as in any other cause of action for a debt due and payable. [2006 c 330 § 16.]

15.89.140 Certain records exempt from public disclosure—Exceptions. (1) Under RCW 42.56.380, certain agricultural business records, commission records, and department of agriculture records relating to the commission and producers of agricultural commodities are exempt from public disclosure.

(2) Financial and commercial information and records submitted to either the department or the commission for the purpose of administering this chapter may be shared between the department and the commission. They may also be used, if required, in any suit or administrative hearing involving this chapter.

(3) This section does not prohibit:

(a) The issuance of general statements based upon the reports of persons subject to this chapter as long as the statements do not identify the information furnished by any person; or

(b) The publication by the director or the commission of the name of any person violating this chapter and a statement of the manner of the violation by that person. [2006 c 330 § 17.]

15.89.150 Costs—Funding staff support—Rules. (1) All costs incurred by the department, including the adoption of rules and other actions necessary to carry out this chapter, shall be reimbursed by the commission.

(2) The director may provide by rule for a method to fund staff support for all commodity boards or commissions in accordance with RCW 43.23.033 if a position is not directly funded by the legislature and costs are related to the specific activity undertaken on behalf of an individual commodity board or commission. The commission shall provide funds to the department according to the rules adopted by the director. [2006 c 330 § 18.]

15.89.160 Enforcement. County and state law enforcement officers, the liquor control board and its enforcement agents, and employees of the department shall enforce this chapter. [2006 c 330 § 19.]

15.89.170 Prosecution—Enforcement by superior courts. (1) Any prosecution brought under this chapter may be instituted in any county in which the defendant or any defendant resides, or in which the violation was committed, or in which the defendant or any defendant has his or her principal place of business.

(2) The superior courts may enforce this chapter and the rules and regulations of the commission issued hereunder, and may prevent and restrain violations thereof. [2006 c 330 § 20.]

15.89.900 Construction—2006 c 330. This act shall be liberally construed to effectuate its purposes. [2006 c 330 § 21.]

15.89.901 Severability—2006 c 330. If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected. [2006 c 330 § 29.]

Chapter 19.126 RCW

WHOLESALE DISTRIBUTORS AND SUPPLIERS OF SPIRITS OR MALT BEVERAGES

(Formerly: Wholesale distributors and suppliers of wine and malt beverages)

Sections

19.126.010 Purpose.
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19.126.010 Purpose. (1) The legislature recognizes that both suppliers and wholesale distributors of malt beverages and spirits are interested in the goal of best serving the public interest through the fair, efficient, and competitive distribution of such beverages. The legislature encourages them to achieve this goal by:

(a) Assuring the wholesale distributor's freedom to manage the business enterprise, including the wholesale distributor's right to independently establish its selling prices; and

(b) Assuring the supplier and the public of service from wholesale distributors who will devote their best competitive efforts and resources to sales and distribution of the supplier's products which the wholesale distributor has been granted the right to sell and distribute.

(2) This chapter governs the relationship between suppliers of malt beverages and spirits and their wholesale distributors to the full extent consistent with the Constitution and laws of this state and of the United States. [2012 c 2 § 212 (Initiative Measure No. 1183, approved November 8, 2011); 2003 c 59 § 1; 1984 c 169 § 1.]

Finding—Application—Rules—Effective date—Contingent effective date—2012 c 2 (Initiative Measure No. 1183): See notes following RCW 66.24.620.

Additional notes found at www.leg.wa.gov

19.126.020 Definitions. The definitions in this section apply throughout this chapter unless the context clearly requires otherwise.

(1) "Agreement of distributorship" means any contract, agreement, commercial relationship, license, association, or any other arrangement, for a definite or indefinite period, between a supplier and distributor.

(2) "Authorized representative" has the same meaning as "authorized representative" as defined in RCW 66.04.010.

(3) "Brand" means any word, name, group of letters, symbol, or combination thereof, including the name of the distiller or brewer if the distiller's or brewer's name is also a significant part of the product name, adopted and used by a supplier to identify specific spirits or a specific malt beverage product and to distinguish that product from other spirits or malt beverages produced by that supplier or other suppliers.

(4) "Distributor" means any person, including but not limited to a component of a supplier's distribution system constituted as an independent business, importing or causing to be imported into this state, or purchasing or causing to be purchased within this state, any spirits or malt beverages for sale or resale to retailers licensed under the laws of this state, regardless of whether the business of such person is conducted under the terms of any agreement with a distiller or malt beverage manufacturer.

(5) "Importer" means any distributor importing spirits or beer into this state for sale to retailer accounts or for sale to other distributors designated as "subjobbers" for resale.

(6) "Malt beverage manufacturer" means every brewer, fermenter, processor, bottler, or packager of malt beverages located within or outside this state, or any other person, whether located within or outside this state, who enters into an agreement of distributorship for the resale of malt beverages in this state with any wholesale distributor doing business in the state of Washington.

(7) "Person" means any natural person, corporation, partnership, trust, agency, or other entity, as well as any individual officers, directors, or other persons in active control of the activities of such entity.

(8) "Spirits manufacturer" means every distiller, processor, bottler, or packager of spirits located within or outside this state, or any other person, whether located within or outside this state, who enters into an agreement of distributorship for the resale of spirits in this state with any wholesale distributor doing business in the state of Washington.

(9) "Successor distributor" means any distributor who enters into an agreement, whether oral or written, to distribute a brand of spirits or malt beverages after the supplier with whom such agreement is made or the person from whom that supplier acquired the right to manufacture or distribute the brand has terminated, canceled, or failed to renew an agreement of distributorship, whether oral or written, with another distributor to distribute that same brand of spirits or malt beverages.

(10) "Supplier" means any spirits or malt beverage manufacturer or importer who enters into or is a party to any agreement of distributorship with a wholesale distributor. "Supplier" does not include: (a) Any distiller licensed under RCW 66.24.140 or 66.24.145 and producing less than one hundred fifty thousand proof gallons of spirits annually or any brewery or microbrewery licensed under RCW 66.24.240 and producing less than two hundred thousand barrels of malt liquor annually; (b) any brewer or manufacturer of malt liquor producing less than two hundred thousand barrels of malt liquor annually and holding a certificate of approval issued under RCW 66.24.270; or (c) any authorized representative of distillers or malt liquor manufacturers who

holds an appointment from one or more distillers or malt liquor manufacturers which, in the aggregate, produce less than two hundred thousand barrels of malt liquor or one hundred fifty thousand proof gallons of spirits.

(11) "Terminated distribution rights" means distribution rights with respect to a brand of malt beverages which are lost by a terminated distributor as a result of termination, cancellation, or nonrenewal of an agreement of distributorship for that brand.

(12) "Terminated distributor" means a distributor whose agreement of distributorship with respect to a brand of spirits or malt beverages, whether oral or written, has been terminated, canceled, or not renewed. [2014 c 92 § 3; 2012 c 2 § 213 (Initiative Measure No. 1183, approved November 8, 2011). Prior: 2009 c 155 § 1; 2004 c 160 § 19; 2003 c 59 § 2; 1997 c 321 § 41; 1984 c 169 § 2.]

Finding—Application—Rules—Effective date—Contingent effective date—2012 c 2 (Initiative Measure No. 1183): See notes following RCW 66.24.620.

Additional notes found at www.leg.wa.gov

19.126.030 Suppliers' protections. Suppliers are entitled to the following protections which are deemed to be incorporated into every agreement of distributorship:

(1) Agreements between suppliers and wholesale distributors shall be in writing;

(2) A wholesale distributor shall maintain the financial and competitive capability necessary to achieve efficient and effective distribution of the supplier's products;

(3) A wholesale distributor shall maintain the quality and integrity of the supplier's product in the manner set forth by the supplier;

(4) A wholesale distributor shall exert its best efforts to sell the product of the supplier and shall merchandise such products in the stores of its retail customers as agreed between the wholesale distributor and supplier;

(5) The supplier may cancel or otherwise terminate any agreement with a wholesale distributor immediately and without notice if the reason for such termination is fraudulent conduct in any of the wholesale distributor's dealings with the supplier or its products, insolvency, the occurrence of an assignment for the benefit of creditors, bankruptcy, or suspension in excess of fourteen days or revocation of a license issued by the state liquor board;

(6) A wholesale distributor shall give the supplier prior written notice, of not less than ninety days, of any material change in its ownership or management and the supplier has the right to reasonable prior approval of any such change; and

(7) A wholesale distributor shall give the supplier prior written notice, of not less than ninety days, of the wholesale distributor's intent to cancel or otherwise terminate the distributorship agreement. [2009 c 155 § 2; 1984 c 169 § 3.]

19.126.040 Distributors' protections. Wholesale distributors are entitled to the following protections which are deemed to be incorporated into every agreement of distributorship:

(1) Agreements between wholesale distributors and suppliers must be in writing;

(2) A supplier must give the wholesale distributor at least sixty days prior written notice of the supplier's intent to cancel or otherwise terminate the agreement, unless such termination is based on a reason set forth in RCW 19.126.030(5) or results from a supplier acquiring the right to manufacture or distribute a particular brand and electing to have that brand handled by a different distributor. The notice must state all the reasons for the intended termination or cancellation. Upon receipt of notice, the wholesale distributor has sixty days in which to rectify any claimed deficiency. If the deficiency is rectified within this sixty-day period, the proposed termination or cancellation is null and void and without legal effect;

(3) The wholesale distributor may sell or transfer its business, or any portion thereof, including the agreement, to successors in interest upon prior approval of the transfer by the supplier. No supplier may unreasonably withhold or delay its approval of any transfer, including wholesaler's rights and obligations under the terms of the agreement, if the person or persons to be substituted meet reasonable standards imposed by the supplier;

(4) If an agreement of distributorship is terminated, canceled, or not renewed for any reason other than for cause, failure to live up to the terms and conditions of the agreement, or a reason set forth in RCW 19.126.030(5), the wholesale distributor is entitled to compensation from the successor distributor for the laid-in cost of inventory and for the fair market value of the terminated distribution rights. For purposes of this section, termination, cancellation, or nonrenewal of a distributor's right to distribute a particular brand constitutes termination, cancellation, or nonrenewal of an agreement of distributorship whether or not the distributor retains the right to continue distribution of other brands for the supplier. In the case of terminated distribution rights resulting from a supplier acquiring the right to manufacture or distribute a particular brand and electing to have that brand handled by a different distributor, the affected distribution rights will not transfer until such time as the compensation to be paid to the terminated distributor has been finally determined by agreement or arbitration;

(5) When a terminated distributor is entitled to compensation under subsection (4) of this section, a successor distributor must compensate the terminated distributor for the fair market value of the terminated distributor's rights to distribute the brand, less any amount paid to the terminated distributor by a supplier or other person with respect to the terminated distribution rights for the brand. If the terminated distributor's distribution rights to a brand of spirits or malt beverages are divided among two or more successor distributors, each successor distributor must compensate the terminated distributor for the fair market value of the distribution rights assumed by that successor distributor, less any amount paid to the terminated distributor by a supplier or other person with respect to the terminated distribution rights assumed by the successor distributor. A terminated distributor may not receive total compensation under this subsection that exceeds the fair market value of the terminated distributor's distribution rights with respect to the affected brand. Nothing in this section may be construed to require any supplier or other third person to make any payment to a terminated distributor;

(6) For purposes of this section, the "fair market value" of distribution rights as to a particular brand means the amount that a willing buyer would pay and a willing seller

would accept for such distribution rights when neither is acting under compulsion and both have knowledge of all facts material to the transaction. "Fair market value" is determined as of the date on which the distribution rights are to be transferred in accordance with subsection (4) of this section;

(7) In the event the terminated distributor and the successor distributor do not agree on the fair market value of the affected distribution rights within thirty days after the terminated distributor is given notice of termination, the matter must be submitted to binding arbitration. Unless the parties agree otherwise, such arbitration must be conducted in accordance with the American arbitration association commercial arbitration rules with each party to bear its own costs and attorneys' fees;

(8) Unless the parties otherwise agree, or the arbitrator for good cause shown orders otherwise, an arbitration conducted pursuant to subsection (7) of this section must proceed as follows: (a) The notice of intent to arbitrate must be served within forty days after the terminated distributor receives notice of terminated distribution rights; (b) the arbitration must be conducted within ninety days after service of the notice of intent to arbitrate; and (c) the arbitrator or arbitrators must issue an order within thirty days after completion of the arbitration;

(9) In the event of a material change in the terms of an agreement of distribution, the revised agreement must be considered a new agreement for purposes of determining the law applicable to the agreement after the date of the material change, whether or not the agreement of distribution is or purports to be a continuing agreement and without regard to the process by which the material change is effected. [2012 c 2 § 214 (Initiative Measure No. 1183, approved November 8, 2011); 2009 c 155 § 3; 1984 c 169 § 4.]

Finding—Application—Rules—Effective date—Contingent effective date—2012 c 2 (Initiative Measure No. 1183): See notes following RCW 66.24.620.

19.126.050 Suppliers' prohibited acts. No supplier may:

(1) Coerce or induce, or attempt to induce or coerce, any wholesale distributor to engage in any illegal act or course of conduct;

(2) Require a wholesale distributor to assent to any unreasonable requirement, condition, understanding, or term of an agreement which prohibits a wholesaler from selling the product of any other supplier or suppliers;

(3) Require a wholesale distributor to accept delivery of any product or any other item or commodity which was not ordered by the wholesale distributor; or

(4) Fail or refuse to enter into an agreement of distributorship with a wholesale distributor that handles the supplier's products. [1985 c 440 § 1; 1984 c 169 § 5.]

19.126.060 Attorney's fees—Costs. In any action or arbitration brought by a wholesale distributor or a supplier pursuant to this chapter, other than an arbitration to determine the compensation due to a terminated distributor under RCW 19.126.040(4), the prevailing party shall be awarded its reasonable attorney's fees and costs. [2009 c 155 § 4; 1984 c 169 § 6.]

19.126.070 Suspension or cancellation of license or certificate. Continued violation of this chapter constitutes grounds, in the discretion of the state liquor control board, for suspension or cancellation under RCW 66.24.010 of any license or certificate held by a supplier or its agent. [1985 c 440 § 2.]

19.126.080 Civil actions—Injunctive relief. A person injured by a violation of this chapter, other than a person seeking only a determination of the compensation due to a terminated distributor under RCW 19.126.040(4), may bring a civil action in a court of competent jurisdiction to enjoin further violations. Injunctive relief may be granted in an action brought under this chapter without the injured party being required to post bond if, in the opinion of the court, there exists a likelihood that the injured party will prevail on the merits. [2009 c 155 § 5; 1985 c 440 § 3.]

19.126.900 Short title. This chapter may be known and cited as the wholesale distributor/supplier equity agreement act. [1984 c 169 § 7.]

19.126.901 Severability—1984 c 169. If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected. [1984 c 169 § 9.]

Chapter 19.192 RCW
PROOF OF IDENTITY

Sections

19.192.010 Identification cards—Distinguishing official and not official proofs of identification—Penalties.
19.192.020 Verification of identity by merchant/retailer—Prohibition on verification void.

19.192.010 Identification cards—Distinguishing official and not official proofs of identification—Penalties. (1) Any person or entity, other than those listed in subsection (2) of this section, issuing an identification card that purports to identify the holder as a resident of this or any other state and that contains at least a name, photograph, and date of birth, must label the card "not official proof of identification" in flourescent yellow ink, on the face of the card, and in not less than fourteen-point font. The background color of the card must be a color other than the color used for official Washington state driver's licenses and identicards.

(2) This section does not apply to the following persons and entities:

(a) Department of licensing;

(b) Any federal, state, or local government agency;

(c) The Washington state liquor control board;

(d) Private employers issuing cards identifying employees;

(e) Banks and credit card companies issuing credit, debit, or bank cards containing a person's photograph; and

(f) Retail or wholesale stores issuing membership cards containing a person's photograph.

(3) Failure to comply with this section is a class 1 civil infraction. [1998 c 24 § 1.]

19.192.020 Verification of identity by merchant/retailer—Prohibition on verification void. (1) Any provision of a contract between a merchant or retailer and a credit or debit card issuer, financial institution, or other person that prohibits the merchant or retailer from verifying the identity of a customer who offers to pay for goods or services with a credit or debit card by requiring or requesting that the customer present additional identification is void for violation of public policy.

(2) Nothing in this section shall be interpreted as: (a) Compelling merchants or retailers to verify identification; or (b) interfering with the ability of the owner or manager of a retail store or chain to make and enforce its own policies regarding verification of identification. [2003 c 89 § 2.]

Findings—2003 c 89: "The legislature finds that financial fraud is too common, and that it threatens the safety and well-being of the public by driving up the costs of goods and services and unduly burdening the law enforcement community. Further, the legislature finds that financial fraud can be deterred by allowing retailers to verify the identity of persons who seek to pay for goods or services with a credit or debit card. Finally, the legislature finds that some retailers are deterred from verifying their customers' identity by contractual arrangements with credit card issuers. The legislature declares that such contracts violate the public policy that all citizens should be able to take reasonable steps to prevent themselves and their communities from falling victim to crime." [2003 c 89 § 1.]

Chapter 26.28 RCW
AGE OF MAJORITY
(Formerly: Infants)

*Sections

26.28.080 Selling or giving tobacco to minor—Belief of representative capacity, no defense—Penalty.

**Partial listing of sections.*

26.28.080 Selling or giving tobacco to minor—Belief of representative capacity, no defense—Penalty. (1) Every person who sells or gives, or permits to be sold or given, to any person under the age of eighteen years any cigar, cigarette, cigarette paper or wrapper, tobacco in any form, or a vapor product is guilty of a gross misdemeanor.

(2) It shall be no defense to a prosecution for a violation of this section that the person acted, or was believed by the defendant to act, as agent or representative of another.

(3) For the purposes of this section, "vapor product" means a noncombustible tobacco-derived product containing nicotine that employs a mechanical heating element, battery, or circuit, regardless of shape or size, that can be used to heat a liquid nicotine solution contained in cartridges. Vapor product does not include any product that is regulated by the United States food and drug administration under chapter V of the federal food, drug, and cosmetic act. [2013 c 47 § 1; 1994 sp.s. c 7 § 437. Prior: 1987 c 250 § 2; 1987 c 204 § 1; 1971 ex.s. c 292 § 37; 1919 c 17 § 1; 1911 c 133 § 1; 1909 ex.s. c 27 § 1; 1909 c 249 § 193; 1901 c 122 § 1; 1895 c 126 §§ 1, 3 and 4; RRS § 2445. Formerly RCW 26.08.080, 26.08.090, and 26.08.100.]

Finding—Intent—Severability—1994 sp.s. c 7: See notes following RCW 43.70.540.

Juvenile courts and juvenile offenders: Title 13 RCW.

Minors, access to tobacco, role of liquor control board: Chapter 70.155 RCW.

Additional notes found at www.leg.wa.gov

Chapter 34.05 RCW
ADMINISTRATIVE PROCEDURE ACT

*Sections

34.05.422 Rate changes, licenses.

**Partial listing of sections.*

34.05.422 Rate changes, licenses. (1) Unless otherwise provided by law: (a) Applications for rate changes and uncontested applications for licenses may, in the agency's discretion, be conducted as adjudicative proceedings; (b) applications for licenses that are contested by a person having standing to contest under the law and review of denials of applications for licenses or rate changes must be conducted as adjudicative proceedings; and (c) an agency may not revoke, suspend, or modify a license unless the agency gives notice of an opportunity for an appropriate adjudicative proceeding in accordance with this chapter or other statute.

(2) An agency with authority to grant or deny a professional or occupational license must notify an applicant for a new or renewal license not later than twenty days prior to the date of the examination required for that license of any grounds for denial of the license which are based on specific information disclosed in the application submitted to the agency. The agency must notify the applicant either that the license is denied or that the decision to grant or deny the license will be made at a future date. If the agency fails to give the notification prior to the examination and the applicant is denied licensure, the examination fee must be refunded to the applicant. If the applicant takes the examination, the agency must notify the applicant of the result.

(3) When a licensee has made timely and sufficient application for the renewal of a license or a new license with reference to any activity of a continuing nature, an existing full, temporary, or provisional license does not expire until the application has been finally determined by the agency, and, in case the application is denied or the terms of the new license limited, until the last day for seeking review of the agency order or a later date fixed by order of the reviewing court.

(4) If the agency finds that public health, safety, or welfare imperatively requires emergency action, and incorporates a finding to that effect in its order, summary suspension of a license may be ordered pending proceedings for revocation or other action. These proceedings must be promptly instituted and determined.

(5) This section does not apply to requests made by the department of revenue, under the authority of RCW 82.08.155, to the liquor control board to suspend a person's spirits license and to refuse to renew any spirits license held by the person and to issue any new spirits license to the person. [2012 c 39 § 6; 1989 c 175 § 13; 1988 c 288 § 405; 1980 c 33 § 1; 1967 c 237 § 8. Formerly RCW 34.04.170.]

Construction—Effective date—2012 c 39: See notes following RCW 82.08.155.

Additional notes found at www.leg.wa.gov

Chapter 42.56 RCW
PUBLIC RECORDS ACT

*Sections

42.56.001 Finding, purpose.
42.56.010 Definitions.
42.56.020 Short title.
42.56.030 Construction.
42.56.040 Duty to publish procedures.
42.56.050 Invasion of privacy, when.
42.56.060 Disclaimer of public liability.
42.56.070 Documents and indexes to be made public.
42.56.080 Facilities for copying—Availability of public records.
42.56.090 Times for inspection and copying—Posting on web site.
42.56.100 Protection of public records—Public access.
42.56.110 Destruction of information relating to employee misconduct.
42.56.120 Charges for copying.
42.56.130 Other provisions not superseded.
42.56.210 Certain personal and other records exempt.
42.56.230 Personal information.
42.56.240 Investigative, law enforcement, and crime victims.
42.56.250 Employment and licensing.
42.56.260 Real estate appraisals.
42.56.270 Financial, commercial, and proprietary information.
42.56.280 Preliminary drafts, notes, recommendations, intra-agency memorandums.
42.56.290 Agency party to controversy.
42.56.320 Educational information.
42.56.510 Duty to disclose or withhold information—Otherwise provided.
42.56.520 Prompt responses required.
42.56.530 Review of agency denial.
42.56.540 Court protection of public records.
42.56.550 Judicial review of agency actions.
42.56.560 Application of RCW 42.56.550.
42.56.565 Inspection or copying by persons serving criminal sentences—Injunction.
42.56.570 Explanatory pamphlet.
42.56.580 Public records officers.
42.56.590 Personal information—Notice of security breaches.
42.56.600 Mediation communications.

**Partial listing of sections.*

42.56.001 Finding, purpose. The legislature finds that *chapter 42.17 RCW contains laws relating to several discrete subjects. Therefore, the purpose of chapter 274, Laws of 2005 is to recodify some of those laws and create a new chapter in the Revised Code of Washington that contains laws pertaining to public records. [2005 c 274 § 1.]

***Reviser's note:** Provisions in chapter 42.17 RCW relating to public records were recodified in chapter 42.56 RCW by 2005 c 274, effective July 1, 2006. Provisions in chapter 42.17 RCW relating to campaign disclosure and contribution were recodified in chapter 42.17A RCW by 2010 c 204, effective January 1, 2012.

42.56.010 Definitions. The definitions in this section apply throughout this chapter unless the context clearly requires otherwise.

(1) "Agency" includes all state agencies and all local agencies. "State agency" includes every state office, department, division, bureau, board, commission, or other state agency. "Local agency" includes every county, city, town, municipal corporation, quasi-municipal corporation, or special purpose district, or any office, department, division, bureau, board, commission, or agency thereof, or other local public agency.

(2) "Person in interest" means the person who is the subject of a record or any representative designated by that person, except that if that person is under a legal disability, "person in interest" means and includes the parent or duly appointed legal representative.

(3) "Public record" includes any writing containing information relating to the conduct of government or the performance of any governmental or proprietary function prepared, owned, used, or retained by any state or local agency regardless of physical form or characteristics. For the office of the secretary of the senate and the office of the chief clerk of the house of representatives, public records means legislative records as defined in RCW 40.14.100 and also means the following: All budget and financial records; personnel leave, travel, and payroll records; records of legislative sessions; reports submitted to the legislature; and any other record designated a public record by any official action of the senate or the house of representatives.

(4) "Writing" means handwriting, typewriting, printing, photostating, photographing, and every other means of recording any form of communication or representation including, but not limited to, letters, words, pictures, sounds, or symbols, or combination thereof, and all papers, maps, magnetic or paper tapes, photographic films and prints, motion picture, film and video recordings, magnetic or punched cards, discs, drums, diskettes, sound recordings, and other documents including existing data compilations from which information may be obtained or translated. [2010 c 204 § 1005; 2007 c 197 § 1; 2005 c 274 § 101.]

42.56.020 Short title. This chapter may be known and cited as the public records act. [2005 c 274 § 102.]

42.56.030 Construction. The people of this state do not yield their sovereignty to the agencies that serve them. The people, in delegating authority, do not give their public servants the right to decide what is good for the people to know and what is not good for them to know. The people insist on remaining informed so that they may maintain control over the instruments that they have created. This chapter shall be liberally construed and its exemptions narrowly construed to promote this public policy and to assure that the public interest will be fully protected. In the event of conflict between the provisions of this chapter and any other act, the provisions of this chapter shall govern. [2007 c 197 § 2; 2005 c 274 § 283; 1992 c 139 § 2. Formerly RCW 42.17.251.]

42.56.040 Duty to publish procedures. (1) Each state agency shall separately state and currently publish in the Washington Administrative Code and each local agency shall prominently display and make available for inspection and copying at the central office of such local agency, for guidance of the public:

(a) Descriptions of its central and field organization and the established places at which, the employees from whom, and the methods whereby, the public may obtain information, make submittals or requests, or obtain copies of agency decisions;

(b) Statements of the general course and method by which its operations are channeled and determined, including the nature and requirements of all formal and informal procedures available;

(c) Rules of procedure;

(d) Substantive rules of general applicability adopted as authorized by law, and statements of general policy or interpretations of general applicability formulated and adopted by the agency; and

(e) Each amendment or revision to, or repeal of any of the foregoing.

(2) Except to the extent that he or she has actual and timely notice of the terms thereof, a person may not in any manner be required to resort to, or be adversely affected by, a matter required to be published or displayed and not so published or displayed. [2012 c 117 § 127; 1973 c 1 § 25 (Initiative Measure No. 276, approved November 7, 1972). Formerly RCW 42.17.250.]

42.56.050 Invasion of privacy, when. A person's "right to privacy," "right of privacy," "privacy," or "personal privacy," as these terms are used in this chapter, is invaded or violated only if disclosure of information about the person: (1) Would be highly offensive to a reasonable person, and (2) is not of legitimate concern to the public. The provisions of this chapter dealing with the right to privacy in certain public records do not create any right of privacy beyond those rights that are specified in this chapter as express exemptions from the public's right to inspect, examine, or copy public records. [1987 c 403 § 2. Formerly RCW 42.17.255.]

Intent—1987 c 403: "The legislature intends to restore the law relating to the release of public records largely to that which existed prior to the Washington Supreme Court decision in "*In Re Rosier*," 105 Wn.2d 606 (1986). The intent of this legislation is to make clear that: (1) Absent statutory provisions to the contrary, agencies possessing records should in responding to requests for disclosure not make any distinctions in releasing or not releasing records based upon the identity of the person or agency which requested the records, and (2) agencies having public records should rely only upon statutory exemptions or prohibitions for refusal to provide public records. Further, to avoid unnecessary confusion, "privacy" as used in RCW 42.17.255 is intended to have the same meaning as the definition given that word by the Supreme Court in "*Hearst v. Hoppe*," 90 Wn.2d 123, 135 (1978)." [1987 c 403 § 1.]

Additional notes found at www.leg.wa.gov

42.56.060 Disclaimer of public liability. No public agency, public official, public employee, or custodian shall be liable, nor shall a cause of action exist, for any loss or damage based upon the release of a public record if the public agency, public official, public employee, or custodian acted in good faith in attempting to comply with the provisions of this chapter. [1992 c 139 § 11. Formerly RCW 42.17.258]

42.56.070 Documents and indexes to be made public. (1) Each agency, in accordance with published rules, shall make available for public inspection and copying all public records, unless the record falls within the specific exemptions of *subsection (6) of this section, this chapter, or other statute which exempts or prohibits disclosure of specific information or records. To the extent required to prevent an unreasonable invasion of personal privacy interests protected by this chapter, an agency shall delete identifying details in a manner consistent with this chapter when it makes available or publishes any public record; however, in each case, the justification for the deletion shall be explained fully in writing.

(2) For informational purposes, each agency shall publish and maintain a current list containing every law, other than those listed in this chapter, that the agency believes exempts or prohibits disclosure of specific information or records of the agency. An agency's failure to list an exemption shall not affect the efficacy of any exemption.

(3) Each local agency shall maintain and make available for public inspection and copying a current index providing identifying information as to the following records issued, adopted, or promulgated after January 1, 1973:

(a) Final opinions, including concurring and dissenting opinions, as well as orders, made in the adjudication of cases;

(b) Those statements of policy and interpretations of policy, statute, and the Constitution which have been adopted by the agency;

(c) Administrative staff manuals and instructions to staff that affect a member of the public;

(d) Planning policies and goals, and interim and final planning decisions;

(e) Factual staff reports and studies, factual consultant's reports and studies, scientific reports and studies, and any other factual information derived from tests, studies, reports, or surveys, whether conducted by public employees or others; and

(f) Correspondence, and materials referred to therein, by and with the agency relating to any regulatory, supervisory, or enforcement responsibilities of the agency, whereby the agency determines, or opines upon, or is asked to determine or opine upon, the rights of the state, the public, a subdivision of state government, or of any private party.

(4) A local agency need not maintain such an index, if to do so would be unduly burdensome, but it shall in that event:

(a) Issue and publish a formal order specifying the reasons why and the extent to which compliance would unduly burden or interfere with agency operations; and

(b) Make available for public inspection and copying all indexes maintained for agency use.

(5) Each state agency shall, by rule, establish and implement a system of indexing for the identification and location of the following records:

(a) All records issued before July 1, 1990, for which the agency has maintained an index;

(b) Final orders entered after June 30, 1990, that are issued in adjudicative proceedings as defined in RCW 34.05.010 and that contain an analysis or decision of substantial importance to the agency in carrying out its duties;

(c) Declaratory orders entered after June 30, 1990, that are issued pursuant to RCW 34.05.240 and that contain an analysis or decision of substantial importance to the agency in carrying out its duties;

(d) Interpretive statements as defined in RCW 34.05.010 that were entered after June 30, 1990; and

(e) Policy statements as defined in RCW 34.05.010 that were entered after June 30, 1990.

Rules establishing systems of indexing shall include, but not be limited to, requirements for the form and content of the index, its location and availability to the public, and the schedule for revising or updating the index. State agencies that have maintained indexes for records issued before July 1, 1990, shall continue to make such indexes available for public inspection and copying. Information in such indexes may be incorporated into indexes prepared pursuant to this subsection. State agencies may satisfy the requirements of this subsection by making available to the public indexes prepared by other parties but actually used by the agency in its operations. State agencies shall make indexes available for public inspection and copying. State agencies may charge a fee to cover the actual costs of providing individual mailed copies of indexes.

(6) A public record may be relied on, used, or cited as precedent by an agency against a party other than an agency and it may be invoked by the agency for any other purpose only if:

(a) It has been indexed in an index available to the public; or

(b) Parties affected have timely notice (actual or constructive) of the terms thereof.

(7) Each agency shall establish, maintain, and make available for public inspection and copying a statement of the actual per page cost or other costs, if any, that it charges for providing photocopies of public records and a statement of the factors and manner used to determine the actual per page cost or other costs, if any.

(a) In determining the actual per page cost for providing photocopies of public records, an agency may include all costs directly incident to copying such public records including the actual cost of the paper and the per page cost for use of agency copying equipment. In determining other actual costs for providing photocopies of public records, an agency may include all costs directly incident to shipping such public records, including the cost of postage or delivery charges and the cost of any container or envelope used.

(b) In determining the actual per page cost or other costs for providing copies of public records, an agency may not include staff salaries, benefits, or other general administrative or overhead charges, unless those costs are directly related to the actual cost of copying the public records. Staff time to copy and mail the requested public records may be included in an agency's costs.

(8) An agency need not calculate the actual per page cost or other costs it charges for providing photocopies of public records if to do so would be unduly burdensome, but in that event: The agency may not charge in excess of fifteen cents per page for photocopies of public records or for the use of agency equipment to photocopy public records and the actual postage or delivery charge and the cost of any container or envelope used to mail the public records to the requestor.

(9) This chapter shall not be construed as giving authority to any agency, the office of the secretary of the senate, or the office of the chief clerk of the house of representatives to give, sell or provide access to lists of individuals requested for commercial purposes, and agencies, the office of the secretary of the senate, and the office of the chief clerk of the house of representatives shall not do so unless specifically authorized or directed by law: PROVIDED, HOWEVER, That lists of applicants for professional licenses and of professional licensees shall be made available to those professional associations or educational organizations recognized by their professional licensing or examination board, upon payment of a reasonable charge therefor: PROVIDED FURTHER, That such recognition may be refused only for a good cause pursuant to a hearing under the provisions of chapter 34.05 RCW, the Administrative Procedure Act. [2005 c 274 § 284; 1997 c 409 § 601. Prior: 1995 c 397 § 11; 1995 c 341 § 1; 1992 c 139 § 3; 1989 c 175 § 36; 1987 c 403 § 3; 1975 1st ex.s. c 294 § 14; 1973 c 1 § 26 (Initiative Measure No. 276, approved November 7, 1972). Formerly RCW 42.17.260.]

***Reviser's note:** Subsection (6) of this section was renumbered as subsection (7) by 1992 c 139 § 3; and subsection (7) was subsequently renumbered as subsection (9) by 1995 c 341 § 1.

Intent—Severability—1987 c 403: See notes following RCW 42.56.050.

Exemption for registered trade names: RCW 19.80.065.

Additional notes found at www.leg.wa.gov

42.56.080 Facilities for copying—Availability of public records. Public records shall be available for inspection and copying, and agencies shall, upon request for identifiable public records, make them promptly available to any person including, if applicable, on a partial or installment basis as records that are part of a larger set of requested records are assembled or made ready for inspection or disclosure. Agencies shall not deny a request for identifiable public records solely on the basis that the request is overbroad. Agencies shall not distinguish among persons requesting records, and such persons shall not be required to provide information as to the purpose for the request except to establish whether inspection and copying would violate RCW 42.56.070(9) or other statute which exempts or prohibits disclosure of specific information or records to certain persons. Agency facilities shall be made available to any person for the copying of public records except when and to the extent that this would unreasonably disrupt the operations of the agency. Agencies shall honor requests received by mail for identifiable public records unless exempted by provisions of this chapter. [2005 c 483 § 1; 2005 c 274 § 285; 1987 c 403 § 4; 1975 1st ex.s. c 294 § 15; 1973 c 1 § 27 (Initiative Measure No. 276, approved November 7, 1972). Formerly RCW 42.17.270.]

Reviser's note: This section was amended by 2005 c 274 § 285 and by 2005 c 483 § 1, each without reference to the other. Both amendments are incorporated in the publication of this section under RCW 1.12.025(2). For rule of construction, see RCW 1.12.025(1).

Intent—Severability—1987 c 403: See notes following RCW 42.56.050.

42.56.090 Times for inspection and copying—Posting on web site. Public records shall be available for inspection and copying during the customary office hours of the agency, the office of the secretary of the senate, and the office of the chief clerk of the house of representatives for a minimum of thirty hours per week, except weeks that include state legal holidays, unless the person making the request and the agency, the office of the secretary of the senate, or the office of the chief clerk of the house of representatives or its representative agree on a different time. Customary business hours must be posted on the agency or office's web site and made

known by other means designed to provide the public with notice. [2009 c 428 § 2; 1995 c 397 § 12; 1973 c 1 § 28 (Initiative Measure No. 276, approved November 7, 1972). Formerly RCW 42.17.280.]

42.56.100 Protection of public records—Public access. Agencies shall adopt and enforce reasonable rules and regulations, and the office of the secretary of the senate and the office of the chief clerk of the house of representatives shall adopt reasonable procedures allowing for the time, resource, and personnel constraints associated with legislative sessions, consonant with the intent of this chapter to provide full public access to public records, to protect public records from damage or disorganization, and to prevent excessive interference with other essential functions of the agency, the office of the secretary of the senate, or the office of the chief clerk of the house of representatives. Such rules and regulations shall provide for the fullest assistance to inquirers and the most timely possible action on requests for information. Nothing in this section shall relieve agencies, the office of the secretary of the senate, and the office of the chief clerk of the house of representatives from honoring requests received by mail for copies of identifiable public records.

If a public record request is made at a time when such record exists but is scheduled for destruction in the near future, the agency, the office of the secretary of the senate, or the office of the chief clerk of the house of representatives shall retain possession of the record, and may not destroy or erase the record until the request is resolved. [1995 c 397 § 13; 1992 c 139 § 4; 1975 1st ex.s. c 294 § 16; 1973 c 1 § 29 (Initiative Measure No. 276, approved November 7, 1972). Formerly RCW 42.17.290.]

42.56.110 Destruction of information relating to employee misconduct. Nothing in this chapter prevents an agency from destroying information relating to employee misconduct or alleged misconduct, in accordance with RCW 41.06.450, to the extent necessary to ensure fairness to the employee. [1982 c 208 § 13. Formerly RCW 42.17.295.]

Additional notes found at www.leg.wa.gov

42.56.120 Charges for copying. No fee shall be charged for the inspection of public records. No fee shall be charged for locating public documents and making them available for copying. A reasonable charge may be imposed for providing copies of public records and for the use by any person of agency equipment or equipment of the office of the secretary of the senate or the office of the chief clerk of the house of representatives to copy public records, which charges shall not exceed the amount necessary to reimburse the agency, the office of the secretary of the senate, or the office of the chief clerk of the house of representatives for its actual costs directly incident to such copying. Agency charges for photocopies shall be imposed in accordance with the actual per page cost or other costs established and published by the agency. In no event may an agency charge a per page cost greater than the actual per page cost as established and published by the agency. To the extent the agency has not determined the actual per page cost for photocopies of public records, the agency may not charge in excess of fifteen cents per page. An agency may require a deposit in an amount not to exceed ten percent of the estimated cost of providing copies for a request. If an agency makes a request available on a partial or installment basis, the agency may charge for each part of the request as it is provided. If an installment of a records request is not claimed or reviewed, the agency is not obligated to fulfill the balance of the request. [2005 c 483 § 2. Prior: 1995 c 397 § 14; 1995 c 341 § 2; 1973 c 1 § 30 (Initiative Measure No. 276, approved November 7, 1972). Formerly RCW 42.17.300.]

42.56.130 Other provisions not superseded. The provisions of RCW 42.56.070(7) and (8) and 42.56.120 that establish or allow agencies to establish the costs charged for photocopies of public records do not supersede other statutory provisions, other than in this chapter, authorizing or governing fees for copying public records. [2005 c 274 § 286; 1995 c 341 § 3. Formerly RCW 42.17.305.]

42.56.210 Certain personal and other records exempt. (1) Except for information described in *RCW 42.56.230(3)(a) and confidential income data exempted from public inspection pursuant to RCW 84.40.020, the exemptions of this chapter are inapplicable to the extent that information, the disclosure of which would violate personal privacy or vital governmental interests, can be deleted from the specific records sought. No exemption may be construed to permit the nondisclosure of statistical information not descriptive of any readily identifiable person or persons.

(2) Inspection or copying of any specific records exempt under the provisions of this chapter may be permitted if the superior court in the county in which the record is maintained finds, after a hearing with notice thereof to every person in interest and the agency, that the exemption of such records is clearly unnecessary to protect any individual's right of privacy or any vital governmental function.

(3) Agency responses refusing, in whole or in part, inspection of any public record shall include a statement of the specific exemption authorizing the withholding of the record (or part) and a brief explanation of how the exemption applies to the record withheld. [2005 c 274 § 402. Prior: (2006 c 302 § 11 expired July 1, 2006); (2006 c 75 § 2 expired July 1, 2006); (2006 c 8 § 111 expired July 1, 2006); (2003 1st sp.s. c 26 § 926 expired June 30, 2005); 2003 c 277 § 3; 2003 c 124 § 1; prior: 2002 c 335 § 1; 2002 c 224 § 2; 2002 c 205 § 4; 2002 c 172 § 1; prior: 2001 c 278 § 1; 2001 c 98 § 2; 2001 c 70 § 1; prior: 2000 c 134 § 3; 2000 c 56 § 1; 2000 c 6 § 5; prior: 1999 c 326 § 3; 1999 c 290 § 1; 1999 c 215 § 1; 1998 c 69 § 1; prior: 1997 c 310 § 2; 1997 c 274 § 8; 1997 c 250 § 7; 1997 c 239 § 4; 1997 c 220 § 120 (Referendum Bill No. 48, approved June 17, 1997); 1997 c 58 § 900; prior: 1996 c 305 § 2; 1996 c 253 § 302; 1996 c 191 § 88; 1996 c 80 § 1; 1995 c 267 § 6; prior: 1994 c 233 § 2; 1994 c 182 § 1; prior: 1993 c 360 § 2; 1993 c 320 § 9; 1993 c 280 § 35; prior: 1992 c 139 § 5; 1992 c 71 § 12; 1991 c 301 § 13; 1991 c 87 § 13; 1991 c 23 § 10; 1991 c 1 § 1; 1990 2nd ex.s. c 1 § 1103; 1990 c 256 § 1; prior: 1989 1st ex.s. c 9 § 407; 1989 c 352 § 7; 1989 c 279 § 23; 1989 c 238 § 1; 1989 c 205 § 20; 1989 c 189 § 3; 1989 c 11 § 12; prior: 1987 c 411 § 10; 1987 c 404 § 1; 1987 c 370 § 16; 1987 c 337 § 1; 1987 c 107 § 2; prior: 1986 c 299 § 25; 1986 c 276 § 7; 1985 c 414 § 8;

1984 c 143 § 21; 1983 c 133 § 10; 1982 c 64 § 1; 1977 ex.s. c 314 § 13; 1975-'76 2nd ex.s. c 82 § 5; 1975 1st ex.s. c 294 § 17; 1973 c 1 § 31 (Initiative Measure No. 276, approved November 7, 1972). Formerly RCW 42.17.310.]

***Reviser's note:** RCW 42.56.230 was amended by 2011 c 173 § 1, changing subsection (3)(a) to subsection (4)(a).

Expiration date—2006 c 302 §§ 9 and 11: See note following RCW 66.28.180.

Expiration date—2006 c 75 § 2: "Section 2 of this act expires July 1, 2006." [2006 c 75 § 4.]

Expiration date—2006 c 8 § 111: "Section 111 of this act expires July 1, 2006." [2006 c 8 § 404.]

Working group on veterans' records: "The protection from identity theft for veterans who choose to file their discharge papers with the county auditor is a matter of gravest concern. At the same time, the integrity of the public record of each county is a matter of utmost importance to the economic life of this state and to the right of each citizen to be secure in his or her ownership of real property and other rights and obligations of our citizens that rely upon the public record for their proof. Likewise the integrity of the public record is essential for the establishment of ancestral ties that may be of interest to this and future generations. While the public record as now kept by the county auditors is sufficient by itself for the accomplishment of these and many other public and private purposes, the proposed use of the public record for purposes that in their nature and intent are not public, so as to keep the veterans' discharge papers from disclosure to those of ill intent, causes concern among many segments of the population of this state.

In order to voice these concerns effectively and thoroughly, a working group may be convened by the joint committee on veterans' and military affairs to develop a means to preserve the integrity of the public record while protecting those veterans from identity theft." [2002 c 224 § 1.]

Findings—Severability—Effective dates—2002 c 205 §§ 2, 3, and 4: See notes following RCW 28A.320.125.

Finding—2001 c 98: "The legislature finds that public health and safety is promoted when the public has knowledge that enables them to make informed choices about their health and safety. Therefore, the legislature declares, as a matter of public policy, that the public has a right to information necessary to protect members of the public from harm caused by alleged hazards or threats to the public.

The legislature also recognizes that the public disclosure of those portions of records containing specific and unique vulnerability assessments or specific and unique response plans, either of which is intended to prevent or mitigate criminal terrorist acts as defined in RCW 70.74.285, could have a substantial likelihood of threatening public safety. Therefore, the legislature declares, as a matter of public policy, that such specific and unique information should be protected from unnecessary disclosure." [2001 c 98 § 1.]

Findings—Conflict with federal requirements—Severability—2000 c 134: See notes following RCW 50.13.060.

Referendum—Other legislation limited—Legislators' personal intent not indicated—Reimbursements for election—Voters' pamphlet, election requirements—1997 c 220: See RCW 36.102.800 through 36.102.803.

Findings—Purpose—Severability—Part headings not law—1996 c 253: See notes following RCW 28B.109.010.

Finding—1991 c 301: See note following RCW 10.99.020.

Exemptions from public inspection

basic health plan records: RCW 70.47.150.
bill drafting service of code reviser's office: RCW 1.08.027, 44.68.060.
certificate submitted by individual with physical or mental disability seeking a driver's license: RCW 46.20.041.
commercial fertilizers, sales reports: RCW 15.54.362.
criminal records: Chapter 10.97 RCW.
employer information: RCW 50.13.060.
family and children's ombuds: RCW 43.06A.050.
legislative service center, information: RCW 44.68.060.
medical quality assurance commission, reports required to be filed with: RCW 18.71.0195.
organized crime investigative information: RCW 43.43.856.
public transportation information: RCW 47.04.240.
salary and fringe benefit survey information: RCW 41.06.160.

Additional notes found at www.leg.wa.gov

42.56.230 Personal information. The following personal information is exempt from public inspection and copying under this chapter:

(1) Personal information in any files maintained for students in public schools, patients or clients of public institutions or public health agencies, or welfare recipients;

(2)(a) Personal information:

(i) For a child enrolled in licensed child care in any files maintained by the department of early learning; or

(ii) For a child enrolled in a public or nonprofit program serving or pertaining to children, adolescents, or students, including but not limited to early learning or child care services, parks and recreation programs, youth development programs, and after-school programs.

(b) Emergency contact information under this subsection (2) may be provided to appropriate authorities and medical personnel for the purpose of treating the individual during an emergency situation;

(3) Personal information in files maintained for employees, appointees, or elected officials of any public agency to the extent that disclosure would violate their right to privacy;

(4) Information required of any taxpayer in connection with the assessment or collection of any tax if the disclosure of the information to other persons would: (a) Be prohibited to such persons by RCW 84.08.210, 82.32.330, 84.40.020, 84.40.340, or any ordinance authorized under RCW 35.102.145; or (b) violate the taxpayer's right to privacy or result in unfair competitive disadvantage to the taxpayer;

(5) Credit card numbers, debit card numbers, electronic check numbers, card expiration dates, or bank or other financial account numbers, except when disclosure is expressly required by or governed by other law;

(6) Personal and financial information related to a small loan or any system of authorizing a small loan in RCW 31.45.093;

(7)(a) Any record used to prove identity, age, residential address, social security number, or other personal information required to apply for a driver's license or identicard.

(b) Information provided under RCW 46.20.111 that indicates that an applicant declined to register with the selective service system.

(c) Any record pertaining to a vehicle license plate, driver's license, or identicard issued under RCW 46.08.066 that, alone or in combination with any other records, may reveal the identity of an individual, or reveal that an individual is or was, performing an undercover or covert law enforcement, confidential public health work, public assistance fraud, or child support investigative activity. This exemption does not prevent the release of the total number of vehicle license plates, drivers' licenses, or identicards that, under RCW 46.08.066, an agency or department has applied for, been issued, denied, returned, destroyed, lost, and reported for misuse.

(d) Any record pertaining to a vessel registration issued under RCW 88.02.330 that, alone or in combination with any other records, may reveal the identity of an individual, or reveal that an individual is or was, performing an undercover or covert law enforcement activity. This exemption does not prevent the release of the total number of vessel registrations that, under RCW 88.02.330, an agency or department has

applied for, been issued, denied, returned, destroyed, lost, and reported for misuse; and

(8) All information related to individual claims resolution structured settlement agreements submitted to the board of industrial insurance appeals under RCW 51.04.063, other than final orders from the board of industrial insurance appeals.

Upon request by the legislature, the department of licensing shall provide a report to the legislature containing all of the information in subsection (7)(c) and (d) of this section that is subject to public disclosure. [2014 c 142 § 1. Prior: 2013 c 336 § 3; 2013 c 220 § 1; prior: 2011 c 350 § 2; 2011 c 173 § 1; 2010 c 106 § 102; 2009 c 510 § 8; 2008 c 200 § 5; 2005 c 274 § 403.]

Effective date—2013 c 336: See note following RCW 46.08.066.

Effective date—2011 c 350: See note following RCW 46.20.111.

Effective date—2010 c 106: See note following RCW 35.102.145.

Effective date—2009 c 510: See RCW 31.45.901.

Finding—Intent—Liberal construction—2009 c 510: See note following RCW 31.45.010.

42.56.240 Investigative, law enforcement, and crime victims. The following investigative, law enforcement, and crime victim information is exempt from public inspection and copying under this chapter:

(1) Specific intelligence information and specific investigative records compiled by investigative, law enforcement, and penology agencies, and state agencies vested with the responsibility to discipline members of any profession, the nondisclosure of which is essential to effective law enforcement or for the protection of any person's right to privacy;

(2) Information revealing the identity of persons who are witnesses to or victims of crime or who file complaints with investigative, law enforcement, or penology agencies, other than the commission, if disclosure would endanger any person's life, physical safety, or property. If at the time a complaint is filed the complainant, victim, or witness indicates a desire for disclosure or nondisclosure, such desire shall govern. However, all complaints filed with the commission about any elected official or candidate for public office must be made in writing and signed by the complainant under oath;

(3) Any records of investigative reports prepared by any state, county, municipal, or other law enforcement agency pertaining to sex offenses contained in chapter 9A.44 RCW or sexually violent offenses as defined in RCW 71.09.020, which have been transferred to the Washington association of sheriffs and police chiefs for permanent electronic retention and retrieval pursuant to RCW 40.14.070(2)(b);

(4) License applications under RCW 9.41.070; copies of license applications or information on the applications may be released to law enforcement or corrections agencies;

(5) Information revealing the identity of child victims of sexual assault who are under age eighteen. Identifying information means the child victim's name, address, location, photograph, and in cases in which the child victim is a relative or stepchild of the alleged perpetrator, identification of the relationship between the child and the alleged perpetrator;

(6) The statewide gang database referenced in RCW 43.43.762;

(7) Data from the electronic sales tracking system established in RCW 69.43.165;

(8) Information submitted to the statewide unified sex offender notification and registration program under RCW 36.28A.040(6) by a person for the purpose of receiving notification regarding a registered sex offender, including the person's name, residential address, and e-mail address;

(9) Personally identifying information collected by law enforcement agencies pursuant to local security alarm system programs and vacation crime watch programs. Nothing in this subsection shall be interpreted so as to prohibit the legal owner of a residence or business from accessing information regarding his or her residence or business; and

(10) The felony firearm offense conviction database of felony firearm offenders established in RCW 43.43.822; and

(11) The identity of a state employee or officer who has in good faith filed a complaint with an ethics board, as provided in RCW 42.52.410, or who has in good faith reported improper governmental action, as defined in RCW 42.40.020, to the auditor or other public official, as defined in RCW 42.40.020; and

(12) The following security threat group information collected and maintained by the department of corrections pursuant to RCW 72.09.745: (a) Information that could lead to the identification of a person's security threat group status, affiliation, or activities; (b) information that reveals specific security threats associated with the operation and activities of security threat groups; and (c) information that identifies the number of security threat group members, affiliates, or associates. [2013 c 315 § 2; 2013 c 190 § 7; 2013 c 183 § 1; 2012 c 88 § 1. Prior: 2010 c 266 § 2; 2010 c 182 § 5; 2008 c 276 § 202; 2005 c 274 § 404.]

Reviser's note: This section was amended by 2013 c 183 § 1, 2013 c 190 § 7, and by 2013 c 315 § 2, each without reference to the other. All amendments are incorporated in the publication of this section under RCW 1.12.025(2). For rule of construction, see RCW 1.12.025(1).

Finding—2013 c 190: See note following RCW 42.52.410.

Severability—Part headings, subheadings not law—2008 c 276: See notes following RCW 36.28A.200.

42.56.250 Employment and licensing. The following employment and licensing information is exempt from public inspection and copying under this chapter:

(1) Test questions, scoring keys, and other examination data used to administer a license, employment, or academic examination;

(2) All applications for public employment, including the names of applicants, resumes, and other related materials submitted with respect to an applicant;

(3) The following information held by any public agency in personnel records, public employment related records, volunteer rosters, or included in any mailing list of employees or volunteers of any public agency: Residential addresses, residential telephone numbers, personal wireless telephone numbers, personal electronic mail addresses, social security numbers, driver's license numbers, identicard numbers, and emergency contact information of employees or volunteers of a public agency, and the names, dates of birth, residential addresses, residential telephone numbers, personal wireless telephone numbers, personal electronic mail addresses, social security numbers, and emergency contact information of dependents of employees or volunteers of a public agency. For purposes of this subsection, "employees" includes inde-

pendent provider home care workers as defined in RCW 74.39A.240;

(4) Information that identifies a person who, while an agency employee: (a) Seeks advice, under an informal process established by the employing agency, in order to ascertain his or her rights in connection with a possible unfair practice under chapter 49.60 RCW against the person; and (b) requests his or her identity or any identifying information not be disclosed;

(5) Investigative records compiled by an employing agency conducting an active and ongoing investigation of a possible unfair practice under chapter 49.60 RCW or of a possible violation of other federal, state, or local laws prohibiting discrimination in employment;

(6) Criminal history records checks for board staff finalist candidates conducted pursuant to RCW 43.33A.025;

(7) Except as provided in *RCW 47.64.220, salary and benefit information for maritime employees collected from private employers under *RCW 47.64.220(1) and described in *RCW 47.64.220(2); and

(8) Photographs and month and year of birth in the personnel files of employees and workers of criminal justice agencies as defined in RCW 10.97.030. The news media, as defined in RCW 5.68.010(5), shall have access to the photographs and full date of birth. For the purposes of this subsection, news media does not include any person or organization of persons in the custody of a criminal justice agency as defined in RCW 10.97.030. [2014 c 106 § 1. Prior: 2010 c 257 § 1; 2010 c 128 § 9; 2006 c 209 § 6; 2005 c 274 § 405.]

***Reviser's note:** RCW 47.64.220 was repealed by 2010 c 283 § 20.

42.56.260 Real estate appraisals. Except as provided by chapter 8.26 RCW, the contents of real estate appraisals, made for or by any agency relative to the acquisition or sale of property, until the project or prospective sale is abandoned or until such time as all of the property has been acquired or the property to which the sale appraisal relates is sold, are exempt from disclosure under this chapter. In no event may disclosure be denied for more than three years after the appraisal. [2005 c 274 § 406.]

42.56.270 Financial, commercial, and proprietary information. The following financial, commercial, and proprietary information is exempt from disclosure under this chapter:

(1) Valuable formulae, designs, drawings, computer source code or object code, and research data obtained by any agency within five years of the request for disclosure when disclosure would produce private gain and public loss;

(2) Financial information supplied by or on behalf of a person, firm, or corporation for the purpose of qualifying to submit a bid or proposal for (a) a ferry system construction or repair contract as required by RCW 47.60.680 through 47.60.750 or (b) highway construction or improvement as required by RCW 47.28.070;

(3) Financial and commercial information and records supplied by private persons pertaining to export services provided under chapters 43.163 and 53.31 RCW, and by persons pertaining to export projects under RCW 43.23.035;

(4) Financial and commercial information and records supplied by businesses or individuals during application for loans or program services provided by chapters 43.325, 43.163, 43.160, 43.330, and 43.168 RCW, or during application for economic development loans or program services provided by any local agency;

(5) Financial information, business plans, examination reports, and any information produced or obtained in evaluating or examining a business and industrial development corporation organized or seeking certification under chapter 31.24 RCW;

(6) Financial and commercial information supplied to the state investment board by any person when the information relates to the investment of public trust or retirement funds and when disclosure would result in loss to such funds or in private loss to the providers of this information;

(7) Financial and valuable trade information under RCW 51.36.120;

(8) Financial, commercial, operations, and technical and research information and data submitted to or obtained by the clean Washington center in applications for, or delivery of, program services under chapter 70.95H RCW;

(9) Financial and commercial information requested by the public stadium authority from any person or organization that leases or uses the stadium and exhibition center as defined in RCW 36.102.010;

(10)(a) Financial information, including but not limited to account numbers and values, and other identification numbers supplied by or on behalf of a person, firm, corporation, limited liability company, partnership, or other entity related to an application for a horse racing license submitted pursuant to RCW 67.16.260(1)(b), marijuana producer, processor, or retailer license, liquor license, gambling license, or lottery retail license;

(b) Internal control documents, independent auditors' reports and financial statements, and supporting documents: (i) Of house-banked social card game licensees required by the gambling commission pursuant to rules adopted under chapter 9.46 RCW; or (ii) submitted by tribes with an approved tribal/state compact for class III gaming;

(11) Proprietary data, trade secrets, or other information that relates to: (a) A vendor's unique methods of conducting business; (b) data unique to the product or services of the vendor; or (c) determining prices or rates to be charged for services, submitted by any vendor to the department of social and health services for purposes of the development, acquisition, or implementation of state purchased health care as defined in RCW 41.05.011;

(12)(a) When supplied to and in the records of the department of commerce:

(i) Financial and proprietary information collected from any person and provided to the department of commerce pursuant to RCW 43.330.050(8); and

(ii) Financial or proprietary information collected from any person and provided to the department of commerce or the office of the governor in connection with the siting, recruitment, expansion, retention, or relocation of that person's business and until a siting decision is made, identifying information of any person supplying information under this subsection and the locations being considered for siting, relocation, or expansion of a business;

(b) When developed by the department of commerce based on information as described in (a)(i) of this subsection, any work product is not exempt from disclosure;

(c) For the purposes of this subsection, "siting decision" means the decision to acquire or not to acquire a site;

(d) If there is no written contact for a period of sixty days to the department of commerce from a person connected with siting, recruitment, expansion, retention, or relocation of that person's business, information described in (a)(ii) of this subsection will be available to the public under this chapter;

(13) Financial and proprietary information submitted to or obtained by the department of ecology or the authority created under chapter 70.95N RCW to implement chapter 70.95N RCW;

(14) Financial, commercial, operations, and technical and research information and data submitted to or obtained by the life sciences discovery fund authority in applications for, or delivery of, grants under chapter 43.350 RCW, to the extent that such information, if revealed, would reasonably be expected to result in private loss to the providers of this information;

(15) Financial and commercial information provided as evidence to the department of licensing as required by RCW 19.112.110 or 19.112.120, except information disclosed in aggregate form that does not permit the identification of information related to individual fuel licensees;

(16) Any production records, mineral assessments, and trade secrets submitted by a permit holder, mine operator, or landowner to the department of natural resources under RCW 78.44.085;

(17)(a) Farm plans developed by conservation districts, unless permission to release the farm plan is granted by the landowner or operator who requested the plan, or the farm plan is used for the application or issuance of a permit;

(b) Farm plans developed under chapter 90.48 RCW and not under the federal clean water act, 33 U.S.C. Sec. 1251 et seq., are subject to RCW 42.56.610 and 90.64.190;

(18) Financial, commercial, operations, and technical and research information and data submitted to or obtained by a health sciences and services authority in applications for, or delivery of, grants under RCW 35.104.010 through 35.104.060, to the extent that such information, if revealed, would reasonably be expected to result in private loss to providers of this information;

(19) Information gathered under chapter 19.85 RCW or RCW 34.05.328 that can be identified to a particular business;

(20) Financial and commercial information submitted to or obtained by the University of Washington, other than information the university is required to disclose under RCW 28B.20.150, when the information relates to investments in private funds, to the extent that such information, if revealed, would reasonably be expected to result in loss to the University of Washington consolidated endowment fund or to result in private loss to the providers of this information; and

(21) Market share data submitted by a manufacturer under RCW 70.95N.190(4); and

(22) Financial information supplied to the department of financial institutions or to a portal under RCW 21.20.883, when filed by or on behalf of an issuer of securities for the purpose of obtaining the exemption from state securities registration for small securities offerings provided under RCW 21.20.880 or when filed by or on behalf of an investor for the purpose of purchasing such securities. [2014 c 192 § 6; 2014 c 174 § 5; 2014 c 144 § 6; 2013 c 305 § 14; 2011 1st sp.s. c 14 § 15; 2009 c 394 § 3; 2008 c 306 § 1. Prior: 2007 c 470 § 2; (2007 c 470 § 1 expired June 30, 2008); 2007 c 251 § 13; (2007 c 251 § 12 expired June 30, 2008); 2007 c 197 § 4; (2007 c 197 § 3 expired June 30, 2008); prior: 2006 c 369 § 2; 2006 c 341 § 6; 2006 c 338 § 5; 2006 c 302 § 12; 2006 c 209 § 7; 2006 c 183 § 37; 2006 c 171 § 8; 2005 c 274 § 407.]

Reviser's note: This section was amended by 2014 c 144 § 6, 2014 c 174 § 5, and by 2014 c 192 § 6, each without reference to the other. All amendments are incorporated in the publication of this section under RCW 1.12.025(2). For rule of construction, see RCW 1.12.025(1).

Intent—2014 c 174: See note following RCW 43.333.011.

Short title—Findings—Intent—2014 c 144: See notes following RCW 21.20.880.

Effective date—2013 c 305: See note following RCW 70.95N.020.

Intent—2009 c 394: See note following RCW 28B.20.150.

Effective date—2008 c 306 § 1: "Section 1 of this act takes effect June 30, 2008." [2008 c 306 § 2.]

Effective date—2007 c 470 § 2: "Section 2 of this act takes effect June 30, 2008." [2007 c 470 § 4.]

Expiration date—2007 c 470 § 1: "Section 1 of this act expires June 30, 2008." [2007 c 470 § 3.]

Effective date—2007 c 251 § 13: "Section 13 of this act takes effect June 30, 2008." [2007 c 251 § 18.]

Expiration date—2007 c 251 § 12: "Section 12 of this act expires June 30, 2008." [2007 c 251 § 17.]

Captions not law—Severability—2007 c 251: See notes following RCW 35.104.010.

Effective date—2007 c 197 § 4: "Section 4 of this act takes effect June 30, 2008." [2007 c 197 § 11.]

Expiration date—2007 c 197 § 3: "Section 3 of this act expires June 30, 2008." [2007 c 197 § 10.]

Effective date—2006 c 369 § 2: "Section 2 of this act takes effect July 1, 2006." [2006 c 369 § 3.]

Effective date—2006 c 341 § 6: "Section 6 of this act takes effect July 1, 2006." [2006 c 341 § 7.]

Findings—Intent—2006 c 338: See note following RCW 19.112.110.

Effective date—Severability—2006 c 338: See RCW 19.112.903 and 19.112.904.

Effective date—2006 c 302 §§ 10 and 12: See note following RCW 66.28.180.

Construction—Severability—Effective date—2006 c 183: See RCW 70.95N.900 through 70.95N.902.

Effective date—2006 c 171 §§ 8 and 10: "Sections 8 and 10 of this act take effect July 1, 2006." [2006 c 171 § 13.]

Findings—Severability—2006 c 171: See RCW 43.325.001 and 43.325.901.

42.56.280 Preliminary drafts, notes, recommendations, intra-agency memorandums. Preliminary drafts, notes, recommendations, and intra-agency memorandums in which opinions are expressed or policies formulated or recommended are exempt under this chapter, except that a specific record is not exempt when publicly cited by an agency in connection with any agency action. [2005 c 274 § 408.]

42.56.290 Agency party to controversy. Records that are relevant to a controversy to which an agency is a party but which records would not be available to another party under the rules of pretrial discovery for causes pending in the supe-

rior courts are exempt from disclosure under this chapter. [2005 c 274 § 409.]

42.56.320 Educational information. The following educational information is exempt from disclosure under this chapter:

(1) Financial disclosures filed by private vocational schools under chapters 28B.85 and 28C.10 RCW;

(2) Financial and commercial information supplied by or on behalf of a person, firm, corporation, or entity under chapter 28B.95 RCW relating to the purchase or sale of tuition units and contracts for the purchase of multiple tuition units;

(3) Individually identifiable information received by the workforce training and education coordinating board for research or evaluation purposes;

(4) Except for public records as defined in RCW 40.14.010, any records or documents obtained by a state college, university, library, or archive through or concerning any gift, grant, conveyance, bequest, or devise, the terms of which restrict or regulate public access to those records or documents; and

(5) The annual declaration of intent filed by parents under RCW 28A.200.010 for a child to receive home-based instruction. [2009 c 191 § 1; 2005 c 274 § 412.]

42.56.510 Duty to disclose or withhold information—Otherwise provided. Nothing in RCW 42.56.250 and 42.56.330 shall affect a positive duty of an agency to disclose or a positive duty to withhold information which duty to disclose or withhold is contained in any other law. [2005 c 274 § 287; 1991 c 23 § 11; 1990 c 256 § 2; 1987 c 404 § 3. Formerly RCW 42.17.311.]

42.56.520 Prompt responses required. Responses to requests for public records shall be made promptly by agencies, the office of the secretary of the senate, and the office of the chief clerk of the house of representatives. Within five business days of receiving a public record request, an agency, the office of the secretary of the senate, or the office of the chief clerk of the house of representatives must respond by either (1) providing the record; (2) providing an internet address and link on the agency's web site to the specific records requested, except that if the requester notifies the agency that he or she cannot access the records through the internet, then the agency must provide copies of the record or allow the requester to view copies using an agency computer; (3) acknowledging that the agency, the office of the secretary of the senate, or the office of the chief clerk of the house of representatives has received the request and providing a reasonable estimate of the time the agency, the office of the secretary of the senate, or the office of the chief clerk of the house of representatives will require to respond to the request; or (4) denying the public record request. Additional time required to respond to a request may be based upon the need to clarify the intent of the request, to locate and assemble the information requested, to notify third persons or agencies affected by the request, or to determine whether any of the information requested is exempt and that a denial should be made as to all or part of the request. In acknowledging receipt of a public record request that is unclear, an agency, the office of the secretary of the senate, or the office of the chief clerk of the house of representatives may ask the requestor to clarify what information the requestor is seeking. If the requestor fails to clarify the request, the agency, the office of the secretary of the senate, or the office of the chief clerk of the house of representatives need not respond to it. Denials of requests must be accompanied by a written statement of the specific reasons therefor. Agencies, the office of the secretary of the senate, and the office of the chief clerk of the house of representatives shall establish mechanisms for the most prompt possible review of decisions denying inspection, and such review shall be deemed completed at the end of the second business day following the denial of inspection and shall constitute final agency action or final action by the office of the secretary of the senate or the office of the chief clerk of the house of representatives for the purposes of judicial review. [2010 c 69 § 2; 1995 c 397 § 15; 1992 c 139 § 6; 1975 1st ex.s. c 294 § 18; 1973 c 1 § 32 (Initiative Measure No. 276, approved November 7, 1972). Formerly RCW 42.17.320.]

Finding—2010 c 69: "The internet provides for instant access to public records at a significantly reduced cost to the agency and the public. Agencies are encouraged to make commonly requested records available on agency web sites. When an agency has made records available on its web site, members of the public with computer access should be encouraged to preserve taxpayer resources by accessing those records online." [2010 c 69 § 1.]

42.56.530 Review of agency denial. Whenever a state agency concludes that a public record is exempt from disclosure and denies a person opportunity to inspect or copy a public record for that reason, the person may request the attorney general to review the matter. The attorney general shall provide the person with his or her written opinion on whether the record is exempt.

Nothing in this section shall be deemed to establish an attorney-client relationship between the attorney general and a person making a request under this section. [1992 c 139 § 10. Formerly RCW 42.17.325.]

42.56.540 Court protection of public records. The examination of any specific public record may be enjoined if, upon motion and affidavit by an agency or its representative or a person who is named in the record or to whom the record specifically pertains, the superior court for the county in which the movant resides or in which the record is maintained, finds that such examination would clearly not be in the public interest and would substantially and irreparably damage any person, or would substantially and irreparably damage vital governmental functions. An agency has the option of notifying persons named in the record or to whom a record specifically pertains, that release of a record has been requested. However, this option does not exist where the agency is required by law to provide such notice. [1992 c 139 § 7; 1975 1st ex.s. c 294 § 19; 1973 c 1 § 33 (Initiative Measure No. 276, approved November 7, 1972). Formerly RCW 42.17.330.]

42.56.550 Judicial review of agency actions. (1) Upon the motion of any person having been denied an opportunity to inspect or copy a public record by an agency, the superior court in the county in which a record is maintained may require the responsible agency to show cause why it has refused to allow inspection or copying of a specific public

record or class of records. The burden of proof shall be on the agency to establish that refusal to permit public inspection and copying is in accordance with a statute that exempts or prohibits disclosure in whole or in part of specific information or records.

(2) Upon the motion of any person who believes that an agency has not made a reasonable estimate of the time that the agency requires to respond to a public record request, the superior court in the county in which a record is maintained may require the responsible agency to show that the estimate it provided is reasonable. The burden of proof shall be on the agency to show that the estimate it provided is reasonable.

(3) Judicial review of all agency actions taken or challenged under RCW 42.56.030 through 42.56.520 shall be de novo. Courts shall take into account the policy of this chapter that free and open examination of public records is in the public interest, even though such examination may cause inconvenience or embarrassment to public officials or others. Courts may examine any record in camera in any proceeding brought under this section. The court may conduct a hearing based solely on affidavits.

(4) Any person who prevails against an agency in any action in the courts seeking the right to inspect or copy any public record or the right to receive a response to a public record request within a reasonable amount of time shall be awarded all costs, including reasonable attorney fees, incurred in connection with such legal action. In addition, it shall be within the discretion of the court to award such person an amount not to exceed one hundred dollars for each day that he or she was denied the right to inspect or copy said public record.

(5) For actions under this section against counties, the venue provisions of RCW 36.01.050 apply.

(6) Actions under this section must be filed within one year of the agency's claim of exemption or the last production of a record on a partial or installment basis. [2011 c 273 § 1. Prior: 2005 c 483 § 5; 2005 c 274 § 288; 1992 c 139 § 8; 1987 c 403 § 5; 1975 1st ex.s. c 294 § 20; 1973 c 1 § 34 (Initiative Measure No. 276, approved November 7, 1972). Formerly RCW 42.17.340.]

Intent—Severability—1987 c 403: See notes following RCW 42.56.050.

Application of chapter 300, Laws of 2011: See note following RCW 42.56.565.

42.56.560 Application of RCW 42.56.550. The procedures in RCW 42.56.550 govern denials of an opportunity to inspect or copy a public record by the office of the secretary of the senate or the office of the chief clerk of the house of representatives. [2005 c 274 § 289; 1995 c 397 § 16. Formerly RCW 42.17.341.]

42.56.565 Inspection or copying by persons serving criminal sentences—Injunction. (1) A court shall not award penalties under RCW 42.56.550(4) to a person who was serving a criminal sentence in a state, local, or privately operated correctional facility on the date the request for public records was made, unless the court finds that the agency acted in bad faith in denying the person the opportunity to inspect or copy a public record.

(2) The inspection or copying of any nonexempt public record by persons serving criminal sentences in state, local, or privately operated correctional facilities may be enjoined pursuant to this section.

(a) The injunction may be requested by: (i) An agency or its representative; (ii) a person named in the record or his or her representative; or (iii) a person to whom the requests specifically pertains or his or her representative.

(b) The request must be filed in: (i) The superior court in which the movant resides; or (ii) the superior court in the county in which the record is maintained.

(c) In order to issue an injunction, the court must find that:

(i) The request was made to harass or intimidate the agency or its employees;

(ii) Fulfilling the request would likely threaten the security of correctional facilities;

(iii) Fulfilling the request would likely threaten the safety or security of staff, inmates, family members of staff, family members of other inmates, or any other person; or

(iv) Fulfilling the request may assist criminal activity.

(3) In deciding whether to enjoin a request under subsection (2) of this section, the court may consider all relevant factors including, but not limited to:

(a) Other requests by the requestor;

(b) The type of record or records sought;

(c) Statements offered by the requestor concerning the purpose for the request;

(d) Whether disclosure of the requested records would likely harm any person or vital government interest;

(e) Whether the request seeks a significant and burdensome number of documents;

(f) The impact of disclosure on correctional facility security and order, the safety or security of correctional facility staff, inmates, or others; and

(g) The deterrence of criminal activity.

(4) The motion proceeding described in this section shall be a summary proceeding based on affidavits or declarations, unless the court orders otherwise. Upon a showing by a preponderance of the evidence, the court may enjoin all or any part of a request or requests. Based on the evidence, the court may also enjoin, for a period of time the court deems reasonable, future requests by:

(a) The same requestor; or

(b) An entity owned or controlled in whole or in part by the same requestor.

(5) An agency shall not be liable for penalties under RCW 42.56.550(4) for any period during which an order under this section is in effect, including during an appeal of an order under this section, regardless of the outcome of the appeal. [2011 c 300 § 1; 2009 c 10 § 1.]

Application—2011 c 300: "This act applies to all actions brought under RCW 42.56.550 in which final judgment has not been entered as of July 22, 2011." [2011 c 300 § 2.]

Effective date—2009 c 10: "This act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and takes effect immediately [March 20, 2009]." [2009 c 10 § 2.]

42.56.570 Explanatory pamphlet. (1) The attorney general's office shall publish, and update when appropriate, a pamphlet, written in plain language, explaining this chapter.

(2) The attorney general, by February 1, 2006, shall adopt by rule an advisory model rule for state and local agencies, as defined in RCW 42.56.010, addressing the following subjects:

(a) Providing fullest assistance to requestors;

(b) Fulfilling large requests in the most efficient manner;

(c) Fulfilling requests for electronic records; and

(d) Any other issues pertaining to public disclosure as determined by the attorney general.

(3) The attorney general, in his or her discretion, may from time to time revise the model rule. [2007 c 197 § 8. Prior: 2005 c 483 § 4; 2005 c 274 § 290; 1992 c 139 § 9. Formerly RCW 42.17.348.]

42.56.580 Public records officers. (1) Each state and local agency shall appoint and publicly identify a public records officer whose responsibility is to serve as a point of contact for members of the public in requesting disclosure of public records and to oversee the agency's compliance with the public records disclosure requirements of this chapter. A state or local agency's public records officer may appoint an employee or official of another agency as its public records officer.

(2) For state agencies, the name and contact information of the agency's public records officer to whom members of the public may direct requests for disclosure of public records and who will oversee the agency's compliance with the public records disclosure requirements of this chapter shall be published in the state register at the time of designation and maintained thereafter on the code reviser web site for the duration of the designation.

(3) For local agencies, the name and contact information of the agency's public records officer to whom members of the public may direct requests for disclosure of public records and who will oversee the agency's compliance within the public records disclosure requirements of this chapter shall be made in a way reasonably calculated to provide notice to the public, including posting at the local agency's place of business, posting on its internet site, or including in its publications. [2007 c 456 § 6; 2005 c 483 § 3. Formerly RCW 42.17.253.]

42.56.590 Personal information—Notice of security breaches. (1)(a) Any agency that owns or licenses computerized data that includes personal information shall disclose any breach of the security of the system following discovery or notification of the breach in the security of the data to any resident of this state whose unencrypted personal information was, or is reasonably believed to have been, acquired by an unauthorized person. The disclosure shall be made in the most expedient time possible and without unreasonable delay, consistent with the legitimate needs of law enforcement, as provided in subsection (3) of this section, or any measures necessary to determine the scope of the breach and restore the reasonable integrity of the data system.

(b) For purposes of this section, "agency" means the same as in RCW 42.56.010.

(2) Any agency that maintains computerized data that includes personal information that the agency does not own shall notify the owner or licensee of the information of any breach of the security of the data immediately following discovery, if the personal information was, or is reasonably believed to have been, acquired by an unauthorized person.

(3) The notification required by this section may be delayed if a law enforcement agency determines that the notification will impede a criminal investigation. The notification required by this section shall be made after the law enforcement agency determines that it will not compromise the investigation.

(4) For purposes of this section, "breach of the security of the system" means unauthorized acquisition of computerized data that compromises the security, confidentiality, or integrity of personal information maintained by the agency. Good faith acquisition of personal information by an employee or agent of the agency for the purposes of the agency is not a breach of the security of the system when the personal information is not used or subject to further unauthorized disclosure.

(5) For purposes of this section, "personal information" means an individual's first name or first initial and last name in combination with any one or more of the following data elements, when either the name or the data elements are not encrypted:

(a) Social security number;

(b) Driver's license number or Washington identification card number; or

(c) Account number or credit or debit card number, in combination with any required security code, access code, or password that would permit access to an individual's financial account.

(6) For purposes of this section, "personal information" does not include publicly available information that is lawfully made available to the general public from federal, state, or local government records.

(7) For purposes of this section and except under subsection (8) of this section, notice may be provided by one of the following methods:

(a) Written notice;

(b) Electronic notice, if the notice provided is consistent with the provisions regarding electronic records and signatures set forth in 15 U.S.C. Sec. 7001; or

(c) Substitute notice, if the agency demonstrates that the cost of providing notice would exceed two hundred fifty thousand dollars, or that the affected class of subject persons to be notified exceeds five hundred thousand, or the agency does not have sufficient contact information. Substitute notice shall consist of all of the following:

(i) E-mail notice when the agency has an e-mail address for the subject persons;

(ii) Conspicuous posting of the notice on the agency's web site page, if the agency maintains one; and

(iii) Notification to major statewide media.

(8) An agency that maintains its own notification procedures as part of an information security policy for the treatment of personal information and is otherwise consistent with the timing requirements of this section is in compliance with the notification requirements of this section if it notifies subject persons in accordance with its policies in the event of a breach of security of the system.

(9) Any waiver of the provisions of this section is contrary to public policy, and is void and unenforceable.

(10)(a) Any customer injured by a violation of this section may institute a civil action to recover damages.

(b) Any business that violates, proposes to violate, or has violated this section may be enjoined.

(c) The rights and remedies available under this section are cumulative to each other and to any other rights and remedies available under law.

(d) An agency shall not be required to disclose a technical breach of the security system that does not seem reasonably likely to subject customers to a risk of criminal activity. [2007 c 197 § 9; 2005 c 368 § 1. Formerly RCW 42.17.31922.]

Similar provision: RCW 19.255.010.

42.56.600 Mediation communications. Records of mediation communications that are privileged under chapter 7.07 RCW are exempt from disclosure under this chapter. [2006 c 209 § 15.]

Chapter 43.05 RCW
TECHNICAL ASSISTANCE PROGRAMS

*Sections

43.05.020 Agency programs—List of technical assistance providers.
43.05.030 Technical assistance visit—Notice of violation.
43.05.040 Time to correct violations—Revisit—Issuance of penalties.
43.05.050 Issuance of penalty during technical assistance visit.

**Partial listing of sections.*

43.05.020 Agency programs—List of technical assistance providers. All regulatory agencies shall develop programs to encourage voluntary compliance by providing technical assistance consistent with statutory requirements. The programs shall include but are not limited to technical assistance visits, printed information, information and assistance by telephone, training meetings, and other appropriate methods to provide technical assistance. In addition, all regulatory agencies shall provide upon request a list of organizations, including private companies, that provide technical assistance. This list shall be compiled by the agencies from information submitted by the organizations and shall not constitute an endorsement by an agency of any organization. [1995 c 403 § 603.]

43.05.030 Technical assistance visit—Notice of violation. (1) For the purposes of this chapter, a technical assistance visit is a visit by a regulatory agency to a facility, business, or other location that:

(a) Has been requested or is voluntarily accepted; and

(b) Is declared by the regulatory agency at the beginning of the visit to be a technical assistance visit.

(2) A technical assistance visit also includes a consultative visit pursuant to RCW 49.17.250.

(3) During a technical assistance visit, or within a reasonable time thereafter, a regulatory agency shall inform the owner or operator of the facility of any violations of law or agency rules identified by the agency as follows:

(a) A description of the condition that is not in compliance and the text of the specific section or subsection of the applicable state or federal law or rule;

(b) A statement of what is required to achieve compliance;

(c) The date by which the agency requires compliance to be achieved;

(d) Notice of the means to contact any technical assistance services provided by the agency or others; and

(e) Notice of when, where, and to whom a request to extend the time to achieve compliance for good cause may be filed with the agency. [1996 c 206 § 2; 1995 c 403 § 604.]

Findings—1996 c 206: "The legislature finds that many individuals and small businesses who are required to comply with laws and agency rules often do not have access to the Revised Code of Washington, the Washington Administrative Code, the United States Code, or the Code of Federal Regulations. In this case, those informed of violations do not know whether, or to what extent, the cited law or agency rule actually applies to their situation. In order to facilitate greater understanding of the law and agency rules, the legislature finds that those who make the effort to obtain technical assistance from a regulatory agency, and those who are issued a notice of correction, should be given the text of the specific section or subsection of the law or agency rule they are alleged to have violated." [1996 c 206 § 1.]

43.05.040 Time to correct violations—Revisit—Issuance of penalties. (1) The owner and operator shall be given a reasonable period of time to correct violations identified during a technical assistance visit before any civil penalty provided for by law is imposed for those violations. A regulatory agency may revisit a facility, business, or other location after a technical assistance visit and a reasonable period of time has passed to correct violations identified by the agency in writing and issue civil penalties as provided for by law for any uncorrected violations.

(2) During a visit under subsection (1) of this section, the regulatory agency may not issue civil penalties for violations not previously identified in a technical assistance visit, unless the violations are of the type for which the agency may issue a citation: (a) During a technical assistance visit under RCW 43.05.050; or (b) under RCW 43.05.090. [2001 c 190 § 1; 1995 c 403 § 605.]

43.05.050 Issuance of penalty during technical assistance visit. A regulatory agency that observes a violation during a technical assistance visit may issue a civil penalty as provided for by law if: (1) The individual or business has previously been subject to an enforcement action for the same or similar type of violation of the same statute or rule or has been given previous notice of the same or similar type of violation of the same statute or rule; or (2) the issue involves sales taxes due to the state and the individual or business is not remitting previously collected sales taxes to the state; or (3) the violation has a probability of placing a person in danger of death or bodily harm, has a probability of causing more than minor environmental harm, or has a probability of causing physical damage to the property of another in an amount exceeding one thousand dollars. [1995 c 403 § 606.]

Chapter 43.06 RCW
GOVERNOR

*Sections

43.06.460 Cigarette tax contracts—Eligible tribes—Tax rate.
43.06.465 Cigarette tax agreement with Puyallup Tribe of Indians.
43.06.466 Cigarette tax agreement—Yakama Nation.

**Partial listing of sections.*

43.06.460 Cigarette tax contracts—Eligible tribes—Tax rate. (1) The governor is authorized to enter into cigarette tax contracts with the Squaxin Island Tribe, the Nisqually Tribe, Tulalip Tribes, the Muckleshoot Indian Tribe, the Quinault Nation, the Jamestown S'Klallam Indian Tribe, the Port Gamble S'Klallam Tribe, the Stillaguamish Tribe, the Sauk-Suiattle Tribe, the Skokomish Indian Tribe, the Yakama Nation, the Suquamish Tribe, the Nooksack Indian Tribe, the Lummi Nation, the Chehalis Confederated Tribes, the Upper Skagit Tribe, the Snoqualmie Tribe, the Swinomish Tribe, the Samish Indian Nation, the Quileute Tribe, the Kalispel Tribe, the Confederated Tribes of the Colville Reservation, the Cowlitz Indian Tribe, the Lower Elwha Klallam Tribe, the Makah Tribe, the Hoh Tribe, the Spokane Tribe, and the Shoalwater Bay Tribe. Each contract adopted under this section shall provide that the tribal cigarette tax rate be one hundred percent of the state cigarette and state and local sales and use taxes within three years of enacting the tribal tax and shall be set no lower than eighty percent of the state cigarette and state and local sales and use taxes during the three-year phase-in period. The three-year phase-in period shall be shortened by three months each quarter the number of cartons of nontribal manufactured cigarettes is at least ten percent or more than the quarterly average number of cartons of nontribal manufactured cigarettes from the six-month period preceding the imposition of the tribal tax under the contract. Sales at a retailer operation not in existence as of the date a tribal tax under this section is imposed are subject to the full rate of the tribal tax under the contract. The tribal cigarette tax is in lieu of the state cigarette and state and local sales and use taxes, as provided in RCW 43.06.455(3).

(2) A cigarette tax contract under this section is subject to RCW 43.06.455. [2008 c 241 § 1; 2007 c 320 § 1; 2005 c 208 § 1; 2003 c 236 § 1; 2002 c 87 § 1; 2001 2nd sp.s. c 21 § 1; 2001 c 235 § 3.]

Effective date—2007 c 320: "This act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and takes effect July 1, 2007." [2007 c 320 § 2.]

43.06.465 Cigarette tax agreement with Puyallup Tribe of Indians. (1) The governor may enter into a cigarette tax agreement with the Puyallup Tribe of Indians concerning the sale of cigarettes, subject to the limitations in this section. The legislature intends to address the uniqueness of the Puyallup Indian reservation and its selling environment through pricing and compliance strategies, rather than through the imposition of equivalent taxes. It is the legislature's intent (a) that an increase in prices through a flat tax will reduce much of the competitive advantage that has historically existed due to the discrepancy in the difference between state and tribal taxes, and (b) that the tribal retailers can remain in business under the changed circumstances. The governor may delegate the authority to negotiate a cigarette tax agreement with the Puyallup Tribe to the department of revenue. The department of revenue shall consult with the liquor control board during the negotiations.

(2) Any agreement must require the tribe to impose a tax of eleven dollars and seventy-five cents on each carton of cigarettes, with ten packs a carton and twenty cigarettes per pack being the industry standard. This tax shall be prorated for cartons and packs that are nonstandard. This tribal tax is in lieu of the combined state and local sales and use taxes, and state cigarette taxes, and as such these state taxes are not imposed during the term of the agreement on any transaction governed by the agreement. The tribal tax shall increase or decrease by the same dollar amount as any increase or decrease in the state cigarette tax.

(3) The agreement must include a provision requiring the tribe to transmit thirty percent of the tribal tax revenue on all cigarette sales to the state. The funds shall be transmitted to the state treasurer on a quarterly basis for deposit by the state treasurer into the general fund. The remaining tribal tax revenue must be used for essential government services, as that term is defined in RCW 43.06.455.

(4) The agreement is limited to retail sales in which Indian retailers make delivery and physical transfer of possession of the cigarettes from the seller to the buyer within Indian country, and are not in regard to transactions by non-Indian retailers. In addition, agreements shall provide that retailers shall not sell or give, or permit to be sold or given, cigarettes to any person under the age of eighteen years.

(5)(a) The agreement must include a provision to price and sell the cigarettes so that the retail selling price is not less than the price paid by the retailer for the cigarettes.

(b) The tribal tax is in addition to the retail selling price.

(c) The agreement must include a provision to assure the price paid to the retailer includes the tribal tax, as evidenced by the tribe's cigarette stamp.

(d) If the tribe is acting as a wholesaler to tribal retailers, the retail selling price must not be less than the price the tribe paid for such cigarettes plus the tribal tax, as evidenced by the tribe's cigarette stamp.

(6)(a) The agreement must include provisions regarding enforcement and compliance by the tribe in regard to enrolled tribal members who sell cigarettes and shall describe the individual and joint responsibilities of the tribe, the department of revenue, and the liquor control board.

(b) The agreement must include provisions for tax administration and compliance, such as transport and notice

requirements, inspection procedures, stamping requirements, recordkeeping, and audit requirements.

(c) The agreement must include provisions for sharing of information among the tribe, the department of revenue, and the liquor control board.

(7) The agreement must provide that all cigarettes possessed or sold by a tribal retailer shall bear a tribal cigarette stamp obtained by wholesalers from a bank or other suitable stamp vendor and applied to the cigarettes. Tribal stamps must have serial numbers or some other discrete identification so that each stamp can be traced to its source.

(8) The agreement must provide that retailers shall purchase cigarettes only from wholesalers or manufacturers licensed to do business in the state of Washington.

(9) The agreement must be for a renewable period of no more than eight years.

(10) The agreement must include provisions to resolve disputes using a nonjudicial process, such as mediation, and shall include a dispute resolution protocol. The protocol shall include a procedure for notifying the other party that a violation has occurred, a procedure for establishing whether a violation has in fact occurred, an opportunity to correct such violation, and a provision providing for termination of the agreement should the violation fail to be resolved through this process, such termination subject to mediation should the terms of the agreement so allow. An agreement must provide for termination of the agreement if resolution of a dispute does not occur within twenty-four months from the time notification of a violation has occurred. Intervening violations do not extend this time period.

(11) The agreement may not include any provisions that impact the state's share of the master settlement agreement, and as such this agreement does not authorize negotiation regarding a redistribution of the state's proceeds under the master settlement agreement.

(12) Information received by the state or open to state review under the terms of an agreement is subject to RCW 82.32.330.

(13) It is the intent of the legislature that the liquor control board and the department of revenue continue the division of duties and shared authority under chapter 82.24 RCW.

(14) For purposes of this section:

(a) "Indian country" has the same meaning as in chapter 82.24 RCW.

(b) "Indian retailer" or "retailer" means (i) a retailer wholly owned and operated by an Indian tribe or (ii) a business wholly owned and operated by an enrolled tribal member and licensed by the tribe.

(c) "Indian tribe" or "tribe" means the Puyallup Tribe of Indians, which is a federally recognized Indian tribe located within the geographical boundaries of the state of Washington. [2005 c 11 § 2.]

Findings—Intent—2005 c 11: "In 2001, the legislature enacted Engrossed Substitute Senate Bill No. 5372, which authorized the governor to enter into cigarette contracts with fourteen Indian tribes. In subsequent sessions, the legislature increased to twenty-one the number of tribes with whom the governor may negotiate under the terms of RCW 43.06.460. The legislature finds that this effort has been effective, as measured by the success of the existing agreements.

The legislature further finds the agreements resolved decades of conflict between the state and tribes over the sale of contraband cigarettes to non-Indians; benefited the tribes through tribal tax revenues; benefited the state because cigarettes are stamped and taxed; enhanced public health because access to low-priced cigarettes is reduced; improved law and order; and reduced the competitive advantage gained through the sale of tax-free cigarettes.

The 2001 legislation and its later amendments did not encompass the Puyallup Tribe of Indians within its scope due to the very different nature of the cigarette trade on the Puyallup Indian reservation. The legislature therefore intends to address the special circumstances on the Puyallup Indian reservation by recognizing the substantial distinctions and enacting legislation authorizing a cigarette tax agreement with the tribe that differs from the contracts entered into under RCW 43.06.460. Section 2 of this act provides the governor authority to enter into an agreement and sets forth the general framework for the agreement." [2005 c 11 § 1.]

Explanatory statement—Effective date—2005 c 11: "(1) On January 5, 2005, it was announced that a cigarette tax agreement had been reached between the state of Washington and the Puyallup Indian Tribe. Before being signed by the governor, the legislature must provide authorization to the governor to sign such an agreement. Because the state and the Puyallup Indian Tribe have reached an agreement in principle, time for implementation is of the essence.

(2) This act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and takes effect immediately [April 5, 2005]." [2005 c 11 § 6.]

43.06.466 Cigarette tax agreement—Yakama Nation. (1) The legislature finds that entering into a cigarette tax agreement with the Yakama Nation is a positive step and that such an agreement will support a stable and orderly environment on the Yakima Reservation for regulation of cigarette sales. The legislature further finds that the very special circumstances of the Yakama Nation pursuant to the Treaty with the Yakamas of 1855 (12 Stat. 951) support a cigarette tax agreement that reflects those circumstances. The legislature also finds that the provisions of the agreement with the Yakama Nation authorized by chapter 228, Laws of 2008 are reasonably necessary to prevent fraudulent transactions and place a minimal burden on the Yakama Nation, pursuant to the United States supreme court's decision in*Washington v. Confederated Tribes of the Colville Indian Reservation*, 447 U.S. 134 (1980).

It is the intent of the legislature that the cigarette tax agreement with the Yakama Nation reflects the uniqueness of the Yakama Nation's Treaty through specific terms that govern pricing of cigarettes, tribal cigarette tax revenue, information sharing, and administration of the agreement.

(2) For purposes of this section:

(a) "Cigarette" has the same meaning as in chapter 82.24 RCW; and

(b) "Tribal retailer" means a cigarette retailer as that term is defined in RCW 82.24.010 that is licensed by and located within the jurisdiction of the Yakama Nation and is wholly owned by the Yakama Nation or any of its enrolled members.

(3) The governor may enter into a cigarette tax agreement with the Yakama Nation, a federally recognized Indian tribe located within the geographical boundaries of the state of Washington, concerning the sale of cigarettes, subject to the provisions of this section. The governor may delegate the authority to negotiate the agreement to the department of revenue.

(4) The agreement must be for a renewable period of no more than eight years.

(5) All cigarettes possessed or sold by tribal retailers must be subject to the agreement, except cigarettes manufac-

tured within the jurisdiction of the Yakama Nation by the Yakama Nation or its enrolled members.

(6) The agreement must allow the Yakama Nation to exempt its enrolled members from the tribal cigarette tax imposed under subsection (7) of this section.

(a) Sales of cigarettes exempt under this subsection must be subject to the requirements of subsection (9) of this section.

(b) The exemption must be provided only at the point of sale and reimbursement provided to the tribal retailer by the Yakama Nation.

(7) The agreement must require the Yakama Nation to impose and maintain in effect on the sale of cigarettes by tribal retailers a tax as provided in this subsection.

(a) The rate of tax will be expressed in dollars and cents and must be the percentage of tax imposed by the state under chapter 82.24 RCW for the period of the agreement as stated here:

(i) Eighty percent during the first six years;

(ii) Eighty-four percent during the seventh year; and

(iii) Eighty-seven and six-tenths percent during the eighth year.

(b) The tax must be imposed on each carton, or portion of a carton, of cigarettes, with ten packs per carton and twenty cigarettes per pack being the industry standard, and prorated for cartons and packs that are not standard.

(c) The tax must be in lieu of the combined state and local sales and use taxes, and state cigarette taxes, and, as provided in RCW 82.24.302, 82.08.0316, and 82.12.0316, the taxes imposed by chapters 82.08, 82.12, and 82.24 RCW do not apply during the term of the agreement on any transaction governed by the agreement.

(d) Throughout the term of the agreement and any renewal of the agreement, the tax must increase or decrease in correspondence with the state cigarette tax by applying the percentages in (a) of this subsection.

(8) The revenue generated by the tax imposed under subsection (7) of this section must be used by the Yakama Nation for essential government services, as that term is defined in RCW 43.06.455.

(9) All cigarettes possessed or sold by a tribal retailer must bear a tribal cigarette tax stamp as provided in this subsection.

(a) The Yakama Nation may act as its own stamp vendor, subject to meeting reasonable requirements for internal controls.

(b) The stamps must have serial numbers or other discrete identification that allow stamps to be traced to their source.

(10) The price paid by the tribal retailer to the wholesaler must not be less than the total of the price paid by the Yakama Nation or other wholesaler and the tax imposed under subsection (7) of this section.

(11) The retail selling price of cigarettes sold by tribal retailers must not be less than the price paid by them under subsection (10) of this section.

(12) Tribal retailers must not sell or give, or permit to be sold or given, cigarettes to any person under the age of eighteen years.

(13) The authority and the individual and joint responsibility of the Yakama Nation, the department of revenue, and the liquor control board for administration and enforcement must be specified in the agreement including, but not limited to, requirements regarding transport of cigarettes, keeping of records, reporting, notice, inspection, audit, and mutual exchange of information.

(a) Requirements must provide for sharing of information regarding transport of cigarettes in the state of Washington by the Yakama Nation or its enrolled members, reporting of information on sales to customers located outside the jurisdiction of the Yakama Nation, and authority for unannounced inspection by the state of tribal retailers to verify compliance with stamping and pricing provisions.

(b) Information received by the state or open to state review under the terms of the agreement is subject to RCW 82.32.330.

(14) The agreement must provide for resolution of disputes using a nonjudicial process, such as mediation, and establish a dispute resolution protocol that includes the following elements:

(a) A procedure for notifying the other party that a violation has occurred;

(b) A procedure for establishing whether a violation has in fact occurred;

(c) An opportunity to correct the violation;

(d) A procedure for terminating the agreement in the event of a failure to correct the violation, such termination subject to mediation should the terms of the agreement so allow; and

(e) Termination of the agreement for cause.

(15) The agreement may not include any provisions that impact the state's share of the master settlement agreement or concern redistribution of the state's proceeds under the master settlement agreement.

(16) The department of revenue may share with the Yakama Nation tax information under RCW 82.32.330 that is necessary for the Yakama Nation's compliance with the agreement. [2008 c 228 § 1.]

Authorization for agreement—2008 c 228: "In December 2007 it was announced that a cigarette tax agreement between the state of Washington and the Yakama Nation had been reached in principle. The legislature must provide authorization to the governor to sign such an agreement. Because the parties have reached an agreement in principle, time for implementation is of the essence." [2008 c 228 § 5.]

Effective date—2008 c 228: "This act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and takes effect immediately [March 28, 2008]." [2008 c 228 § 6.]

Chapter 46.61 RCW
RULES OF THE ROAD

*Sections

46.61.502 Driving under the influence.
46.61.504 Physical control of vehicle under the influence.

**Partial listing of sections.*

46.61.502 Driving under the influence. (1) A person is guilty of driving while under the influence of intoxicating liquor, marijuana, or any drug if the person drives a vehicle within this state:

(a) And the person has, within two hours after driving, an alcohol concentration of 0.08 or higher as shown by analysis of the person's breath or blood made under RCW 46.61.506; or

(b) The person has, within two hours after driving, a THC concentration of 5.00 or higher as shown by analysis of the person's blood made under RCW 46.61.506; or

(c) While the person is under the influence of or affected by intoxicating liquor, marijuana, or any drug; or

(d) While the person is under the combined influence of or affected by intoxicating liquor, marijuana, and any drug.

(2) The fact that a person charged with a violation of this section is or has been entitled to use a drug under the laws of this state shall not constitute a defense against a charge of violating this section.

(3)(a) It is an affirmative defense to a violation of subsection (1)(a) of this section, which the defendant must prove by a preponderance of the evidence, that the defendant consumed a sufficient quantity of alcohol after the time of driving and before the administration of an analysis of the person's breath or blood to cause the defendant's alcohol concentration to be 0.08 or more within two hours after driving. The court shall not admit evidence of this defense unless the defendant notifies the prosecution prior to the omnibus or pretrial hearing in the case of the defendant's intent to assert the affirmative defense.

(b) It is an affirmative defense to a violation of subsection (1)(b) of this section, which the defendant must prove by a preponderance of the evidence, that the defendant consumed a sufficient quantity of marijuana after the time of driving and before the administration of an analysis of the person's blood to cause the defendant's THC concentration to be 5.00 or more within two hours after driving. The court shall not admit evidence of this defense unless the defendant notifies the prosecution prior to the omnibus or pretrial hearing in the case of the defendant's intent to assert the affirmative defense.

(4)(a) Analyses of blood or breath samples obtained more than two hours after the alleged driving may be used as evidence that within two hours of the alleged driving, a person had an alcohol concentration of 0.08 or more in violation of subsection (1)(a) of this section, and in any case in which the analysis shows an alcohol concentration above 0.00 may be used as evidence that a person was under the influence of or affected by intoxicating liquor or any drug in violation of subsection (1)(c) or (d) of this section.

(b) Analyses of blood samples obtained more than two hours after the alleged driving may be used as evidence that within two hours of the alleged driving, a person had a THC concentration of 5.00 or more in violation of subsection (1)(b) of this section, and in any case in which the analysis shows a THC concentration above 0.00 may be used as evidence that a person was under the influence of or affected by marijuana in violation of subsection (1)(c) or (d) of this section.

(5) Except as provided in subsection (6) of this section, a violation of this section is a gross misdemeanor.

(6) It is a class C felony punishable under chapter 9.94A RCW, or chapter 13.40 RCW if the person is a juvenile, if:

(a) The person has four or more prior offenses within ten years as defined in RCW 46.61.5055; or

(b) The person has ever previously been convicted of:

(i) Vehicular homicide while under the influence of intoxicating liquor or any drug, RCW 46.61.520(1)(a);

(ii) Vehicular assault while under the influence of intoxicating liquor or any drug, RCW 46.61.522(1)(b);

(iii) An out-of-state offense comparable to the offense specified in (b)(i) or (ii) of this subsection; or

(iv) A violation of this subsection (6) or RCW 46.61.504(6). [2013 c 3 § 33 (Initiative Measure No. 502, approved November 6, 2012); 2011 c 293 § 2; 2008 c 282 § 20; 2006 c 73 § 1; 1998 c 213 § 3; 1994 c 275 § 2; 1993 c 328 § 1; 1987 c 373 § 2; 1986 c 153 § 2; 1979 ex.s. c 176 § 1.]

Rules of court: *Bail in criminal traffic offense cases—Mandatory appearance—CrRLJ 3.2.*

Intent—2013 c 3 (Initiative Measure No. 502): See note following RCW 69.50.101.

Effective date—2011 c 293 §§ 1-9: See note following RCW 46.20.385.

Effective date—2006 c 73: "This act takes effect July 1, 2007." [2006 c 73 § 19.]

Legislative finding, purpose—1987 c 373: "The legislature finds the existing statutes that establish the criteria for determining when a person is guilty of driving a motor vehicle under the influence of intoxicating liquor or drugs are constitutional and do not require any additional criteria to ensure their legality. The purpose of this act is to provide an additional method of defining the crime of driving while intoxicated. This act is not an acknowledgment that the existing breath alcohol standard is legally improper or invalid." [1987 c 373 § 1.]

Business operation of vessel or vehicle while intoxicated: RCW 9.91.020.

Criminal history and driving record: RCW 46.61.513.

Operating aircraft recklessly or under influence of intoxicants or drugs: RCW 47.68.220.

Use of vessel in reckless manner or while under influence of alcohol or drugs prohibited: RCW 79A.60.040.

Additional notes found at www.leg.wa.gov

46.61.504 Physical control of vehicle under the influence. (1) A person is guilty of being in actual physical con-

trol of a motor vehicle while under the influence of intoxicating liquor or any drug if the person has actual physical control of a vehicle within this state:

(a) And the person has, within two hours after being in actual physical control of the vehicle, an alcohol concentration of 0.08 or higher as shown by analysis of the person's breath or blood made under RCW 46.61.506; or

(b) The person has, within two hours after being in actual physical control of a vehicle, a THC concentration of 5.00 or higher as shown by analysis of the person's blood made under RCW 46.61.506; or

(c) While the person is under the influence of or affected by intoxicating liquor or any drug; or

(d) While the person is under the combined influence of or affected by intoxicating liquor and any drug.

(2) The fact that a person charged with a violation of this section is or has been entitled to use a drug under the laws of this state does not constitute a defense against any charge of violating this section. No person may be convicted under this section if, prior to being pursued by a law enforcement officer, the person has moved the vehicle safely off the roadway.

(3)(a) It is an affirmative defense to a violation of subsection (1)(a) of this section which the defendant must prove by a preponderance of the evidence that the defendant consumed a sufficient quantity of alcohol after the time of being in actual physical control of the vehicle and before the administration of an analysis of the person's breath or blood to cause the defendant's alcohol concentration to be 0.08 or more within two hours after being in such control. The court shall not admit evidence of this defense unless the defendant notifies the prosecution prior to the omnibus or pretrial hearing in the case of the defendant's intent to assert the affirmative defense.

(b) It is an affirmative defense to a violation of subsection (1)(b) of this section, which the defendant must prove by a preponderance of the evidence, that the defendant consumed a sufficient quantity of marijuana after the time of being in actual physical control of the vehicle and before the administration of an analysis of the person's blood to cause the defendant's THC concentration to be 5.00 or more within two hours after being in control of the vehicle. The court shall not admit evidence of this defense unless the defendant notifies the prosecution prior to the omnibus or pretrial hearing in the case of the defendant's intent to assert the affirmative defense.

(4)(a) Analyses of blood or breath samples obtained more than two hours after the alleged being in actual physical control of a vehicle may be used as evidence that within two hours of the alleged being in such control, a person had an alcohol concentration of 0.08 or more in violation of subsection (1)(a) of this section, and in any case in which the analysis shows an alcohol concentration above 0.00 may be used as evidence that a person was under the influence of or affected by intoxicating liquor or any drug in violation of subsection (1)(c) or (d) of this section.

(b) Analyses of blood samples obtained more than two hours after the alleged being in actual physical control of a vehicle may be used as evidence that within two hours of the alleged being in control of the vehicle, a person had a THC concentration of 5.00 or more in violation of subsection (1)(b) of this section, and in any case in which the analysis shows a THC concentration above 0.00 may be used as evidence that a person was under the influence of or affected by marijuana in violation of subsection (1)(c) or (d) of this section.

(5) Except as provided in subsection (6) of this section, a violation of this section is a gross misdemeanor.

(6) It is a class C felony punishable under chapter 9.94A RCW, or chapter 13.40 RCW if the person is a juvenile, if:

(a) The person has four or more prior offenses within ten years as defined in RCW 46.61.5055; or

(b) The person has ever previously been convicted of:

(i) Vehicular homicide while under the influence of intoxicating liquor or any drug, RCW 46.61.520(1)(a);

(ii) Vehicular assault while under the influence of intoxicating liquor or any drug, RCW 46.61.522(1)(b);

(iii) An out-of-state offense comparable to the offense specified in (b)(i) or (ii) of this subsection; or

(iv) A violation of this subsection (6) or RCW 46.61.502(6). [2013 c 3 § 35 (Initiative Measure No. 502, approved November 6, 2012); 2011 c 293 § 3; 2008 c 282 § 21; 2006 c 73 § 2; 1998 c 213 § 5; 1994 c 275 § 3; 1993 c 328 § 2; 1987 c 373 § 3; 1986 c 153 § 3; 1979 ex.s. c 176 § 2.]

Rules of court: *Bail in criminal traffic offense cases—Mandatory appearance—CrRLJ 3.2.*

Intent—2013 c 3 (Initiative Measure No. 502): See note following RCW 69.50.101.

Effective date—2011 c 293 §§ 1-9: See note following RCW 46.20.385.

Effective date—2006 c 73: See note following RCW 46.61.502.

Legislative finding, purpose—Severability—1987 c 373: See notes following RCW 46.61.502.

Criminal history and driving record: RCW 46.61.513.

Additional notes found at www.leg.wa.gov

Chapter 67.70 RCW
STATE LOTTERY

*Sections

67.70.070 Licenses for lottery sales agents—Factors—"Person" defined.

**Partial listing of sections.*

67.70.070 Licenses for lottery sales agents—Factors—"Person" defined. No license as an agent to sell lottery tickets or shares may be issued to any person to engage in business exclusively as a lottery sales agent. Before issuing a license, the director shall consider such factors as: (1) The financial responsibility and security of the person and his or her business or activity, (2) the accessibility of his or her place of business or activity to the public, (3) the sufficiency of existing licenses to serve the public convenience, and (4) the volume of expected sales.

For purposes of this section, the term "person" means an individual, association, corporation, club, trust, estate, society, company, joint stock company, receiver, trustee, assignee, referee, or any other person acting in a fiduciary or representative capacity, whether appointed by a court or otherwise, and any combination of individuals. "Person" does not mean any department, commission, agency, or instrumentality of the state, or any county or municipality or any agency or instrumentality thereof, except for retail outlets of the state liquor control board. [2012 c 117 § 308; 1982 2nd ex.s. c 7 § 7.]

Chapter 68.50 RCW
HUMAN REMAINS

*Sections

68.50.107 State toxicological laboratory established—State toxicologist.

**Partial listing of sections.*

68.50.107 State toxicological laboratory established—State toxicologist. There shall be established in conjunction with the chief of the Washington state patrol and under the authority of the state forensic investigations council a state toxicological laboratory under the direction of the state toxicologist whose duty it will be to perform all necessary toxicologic procedures requested by all coroners, medical examiners, and prosecuting attorneys. The state forensic investigations council, after consulting with the chief of the Washington state patrol and director of the bureau of forensic laboratory services, shall appoint a toxicologist as state toxicologist, who shall report to the director of the bureau of forensic laboratory services and the office of the chief of the Washington state patrol. Toxicological services shall be funded by disbursement from the spirits, beer, and wine restaurant; spirits, beer, and wine private club; spirits, beer, and wine nightclub; spirits, beer, and wine VIP airport lounge; and sports entertainment facility license fees as provided in RCW 66.08.180 and by appropriation from the death investigations account as provided in RCW 43.79.445. [2011 c 325 § 9; 2009 c 271 § 11. Prior: 1999 c 281 § 13; 1999 c 40 § 8; 1995 c 398 § 10; 1986 c 87 § 2; 1983 1st ex.s. c 16 § 10; 1975-'76 2nd ex.s. c 84 § 1; 1970 ex.s. c 24 § 1; 1953 c 188 § 13. Formerly RCW 68.08.107.]

State forensic investigations council: Chapter 43.103 RCW.

Additional notes found at www.leg.wa.gov

Chapter 69.04 RCW
INTRASTATE COMMERCE IN FOOD, DRUGS, AND COSMETICS

(Formerly: Food, drug, and cosmetic act)

*Sections

69.04.240 Confectionery—Adulteration.

**Partial listing of sections.*

69.04.240 Confectionery—Adulteration. A food shall be deemed to be adulterated if it is confectionery and it bears or contains any alcohol from natural or artificial alcohol flavoring in excess of one percent of the weight of the confection or any nonnutritive article or substance except harmless coloring, harmless flavoring, harmless resinous glaze not in excess of four-tenths of one percent, natural gum, and pectin. This section shall not apply to any chewing gum by reason of its containing harmless nonnutritive masticatory substances, or to any confection permitted to be sold by an endorsement from the liquor control board under RCW 66.24.360. [2007 c 226 § 3; 1984 c 78 § 2; 1945 c 257 § 42; Rem. Supp. 1945 § 6163-91. Prior: 1923 c 36 § 1, part; 1907 c 211 § 3, part.]

Finding and declaration—Severability—1984 c 78: See notes following RCW 66.12.160.

Chapter 70.96A RCW

TREATMENT FOR ALCOHOLISM, INTOXICATION, AND DRUG ADDICTION

(Formerly: Uniform alcoholism and intoxication treatment)

*Sections

70.96A.087 Liquor taxes and profits—City and county eligibility conditioned.

**Partial listing of sections.*

70.96A.087 Liquor taxes and profits—City and county eligibility conditioned. To be eligible to receive its share of liquor taxes and profits, each city and county shall devote no less than two percent of its share of liquor taxes and profits to the support of a program of alcoholism and other drug addiction approved by the alcoholism and other drug addiction board authorized by RCW 70.96A.300 and the secretary. [1989 c 270 § 13.]

Chapter 70.155 RCW
TOBACCO—ACCESS TO MINORS

Sections

70.155.005 Finding.
70.155.010 Definitions.
70.155.020 Cigarette wholesaler or retailer licensee duties—Prohibition sign to be posted.
70.155.030 Cigarette machine location.
70.155.040 Cigarettes must be sold in original package—Exception.
70.155.050 Sampling prohibited—Penalty.
70.155.070 Coupons.
70.155.080 Purchasing, possessing by persons under eighteen—Civil infraction—Jurisdiction.
70.155.090 Age identification requirement.
70.155.100 Penalties, sanctions, and actions against licensees.
70.155.110 Liquor control board authority.
70.155.120 Youth tobacco prevention account—Source and use of funds.
70.155.130 Preemption of political subdivisions.
70.155.140 Shipping or transporting tobacco products ordered or purchased by mail or through the internet prohibited—Penalty.
70.155.900 Severability—1993 c 507.

70.155.005 Finding. The legislature finds that while present state law prohibits the sale and distribution of tobacco to minors, youth obtain tobacco products with ease. Availability and lack of enforcement put tobacco products in the hands of youth.

Federal law requires states to enforce laws prohibiting sale and distribution of tobacco products to minors in a manner that can reasonably be expected to reduce the extent to which the products are available to minors. It is imperative to effectively reduce the sale, distribution, and availability of tobacco products to minors. [1993 c 507 § 1.]

Minors and tobacco: RCW 26.28.080.

Taxation: Chapters 82.24 and 82.26 RCW.

Tobacco on school grounds: RCW 28A.210.310.

70.155.010 Definitions. The definitions set forth in RCW 82.24.010 shall apply to this chapter. In addition, for the purposes of this chapter, unless otherwise required by the context:

(1) "Board" means the Washington state liquor control board.

(2) "Internet" means any computer network, telephonic network, or other electronic network.

(3) "Minor" refers to an individual who is less than eighteen years old.

(4) "Sample" means a tobacco product distributed to members of the general public at no cost or at nominal cost for product promotion purposes.

(5) "Sampling" means the distribution of samples to members of the public.

(6) "Tobacco product" means a product that contains tobacco and is intended for human use, including any product defined in RCW 82.24.010(2) or *82.26.010(1), except that for the purposes of RCW 70.155.140 only, "tobacco product" does not include cigars defined in RCW 82.26.010 as to which one thousand units weigh more than three pounds. [2009 c 278 § 1; 2006 c 14 § 2; 2003 c 113 § 1; 1993 c 507 § 2.]

Reviser's note: *(1) RCW 82.26.010 was alphabetized pursuant to RCW 1.08.015(2)(k), changing subsection (1) to subsection (21).

(2) In an order on motion for reconsideration and request for stay pending appeal dated September 25, 2006, the United States District Court for the Western District ruled that chapter 14, Laws of 2006 is preempted by the Federal Cigarette Labeling and Advertising Act, 15 U.S.C. Sec. 1334(b) only in application of the law to cigarette sampling. (Case No. C06-5223, W.D. Wash. 2006.)

Finding—Intent—2006 c 14: See note following RCW 70.155.050.

70.155.020 Cigarette wholesaler or retailer licensee duties—Prohibition sign to be posted. A person who holds a license issued under RCW 82.24.520 or 82.24.530 shall:

(1) Display the license or a copy in a prominent location at the outlet for which the license is issued; and

(2) Display a sign concerning the prohibition of tobacco sales to minors.

Such sign shall:

(a) Be posted so that it is clearly visible to anyone purchasing tobacco products from the licensee;

(b) Be designed and produced by the department of health to read: "THE SALE OF TOBACCO PRODUCTS TO PERSONS UNDER AGE 18 IS STRICTLY PROHIBITED BY STATE LAW. IF YOU ARE UNDER 18, YOU COULD BE PENALIZED FOR PURCHASING A TOBACCO PRODUCT; PHOTO ID REQUIRED"; and

(c) Be provided free of charge by the liquor control board. [1993 c 507 § 3.]

70.155.030 Cigarette machine location. No person shall sell or permit to be sold any tobacco product through any device that mechanically dispenses tobacco products unless the device is located fully within premises from which minors are prohibited or in industrial worksites where minors are not employed and not less than ten feet from all entrance or exit ways to and from each premise. The board shall adopt rules that allow an exception to the requirement that a device be located not less than ten feet from all entrance or exit ways to and from a premise if it is architecturally impractical for the device to be located not less than ten feet from all entrance and exit ways. [1994 c 202 § 1; 1993 c 507 § 4.]

70.155.040 Cigarettes must be sold in original package—Exception. No person shall sell or permit to be sold cigarettes not in the original unopened package or container to which the stamps required by RCW 82.24.060 have been affixed.

This section does not apply to the sale of loose leaf tobacco by a retail business that generates a minimum of sixty percent of annual gross sales from the sale of tobacco products. [1993 c 507 § 5.]

70.155.050 Sampling prohibited—Penalty. (1) No person may engage in the business of sampling tobacco products.

(2) A violation of this section is a misdemeanor. [2006 c 14 § 3; 1993 c 507 § 6.]

Reviser's note: In an order on motion for reconsideration and request for stay pending appeal dated September 25, 2006, the United States District Court for the Western District ruled that chapter 14, Laws of 2006 is preempted by the Federal Cigarette Labeling and Advertising Act, 15 U.S.C. Sec. 1334(b) only in application of the law to cigarette sampling. (Case No. C06-5223, W.D. Wash. 2006.)

Finding—Intent—2006 c 14: "The legislature recognizes that tobacco use among children is a serious and preventable health problem. Every day sixty-five more children in Washington state become smokers, and every year more than eight thousand two hundred state residents die from tobacco-related illnesses. The legislature further finds that tobacco samples contribute to children's access to tobacco products by providing a no-cost initiation that encourages minors to experiment with nicotine at early ages. Sampling activity often occurs in venues frequented by minors, and tobacco samples are distributed along with other promotional items that contain tobacco brand logos, thus increasing the appeal of the tobacco products as well as the chances that children will obtain them. Sampling events in this state have increased twenty-fold over the past nine years, and nationwide, tobacco industry spending on samples has increased significantly. It is therefore the intent of the legislature to protect minors from the influence of tobacco sampling by eliminating the distribution of samples in this state." [2006 c 14 § 1.]

70.155.070 Coupons. No person shall give or distribute cigarettes or other tobacco products to a person by a coupon if such coupon is redeemed in any manner that does not require an in-person transaction in a retail store. [1993 c 507 § 8.]

70.155.080 Purchasing, possessing by persons under eighteen—Civil infraction—Jurisdiction. (1) A person under the age of eighteen who purchases or attempts to purchase, possesses, or obtains or attempts to obtain cigarettes or tobacco products commits a class 3 civil infraction under chapter 7.80 RCW and is subject to a fine as set out in chapter 7.80 RCW or participation in up to four hours of community restitution, or both. The court may also require participation in a smoking cessation program. This provision does not apply if a person under the age of eighteen, with parental authorization, is participating in a controlled purchase as part of a liquor control board, law enforcement, or local health department activity.

(2) Municipal and district courts within the state have jurisdiction for enforcement of this section. [2002 c 175 § 47; 1998 c 133 § 2; 1993 c 507 § 9.]

Finding—Intent—1998 c 133: "The legislature finds that the protection of adolescents' health requires a strong set of comprehensive health and law enforcement interventions. We know that youth are deterred from using alcohol in public because of existing laws making possession illegal. However, while the purchase of tobacco by youth is clearly prohibited, the possession of tobacco is not. It is the legislature's intent that youth hear consistent messages from public entities, including law enforcement, about public opposition to their illegal use of tobacco products." [1998 c 133 § 1.]

Additional notes found at www.leg.wa.gov

70.155.090 Age identification requirement. (1) Where there may be a question of a person's right to purchase or obtain tobacco products by reason of age, the retailer or agent thereof, shall require the purchaser to present any one of the following officially issued identification that shows the purchaser's age and bears his or her signature and photograph: (a) Liquor control authority card of identification of a state or province of Canada; (b) driver's license, instruction permit, or identification card of a state or province of Canada; (c) "identicard" issued by the Washington state department of licensing under chapter 46.20 RCW; (d) United States military identification; (e) passport; (f) enrollment card, issued by the governing authority of a federally recognized Indian tribe located in Washington, that incorporates security features comparable to those implemented by the department of licensing for Washington drivers' licenses. At least ninety days prior to implementation of an enrollment card under this subsection, the appropriate tribal authority shall give notice to the board. The board shall publish and communicate to licensees regarding the implementation of each new enrollment card; or (g) merchant marine identification card issued by the United States coast guard.

(2) It is a defense to a prosecution under RCW 26.28.080 that the person making a sale reasonably relied on any of the officially issued identification as defined in subsection (1) of this section. The liquor control board shall waive the suspension or revocation of a license if the licensee clearly establishes that he or she acted in good faith to prevent violations and a violation occurred despite the licensee's exercise of due diligence. [2006 c 14 § 4; 2005 c 206 § 2; 1993 c 507 § 10.]

Reviser's note: In an order on motion for reconsideration and request for stay pending appeal dated September 25, 2006, the United States District Court for the Western District ruled that chapter 14, Laws of 2006 is preempted by the Federal Cigarette Labeling and Advertising Act, 15 U.S.C. Sec. 1334(b) only in application of the law to cigarette sampling. (Case No. C06-5223, W.D. Wash. 2006.)

Finding—Intent—2006 c 14: See note following RCW 70.155.050.

70.155.100 Penalties, sanctions, and actions against licensees. (1) The liquor control board may suspend or revoke a retailer's license issued under RCW 82.24.510(1)(b) held by a business at any location, or may impose a monetary penalty as set forth in subsection (2) of this section, if the liquor control board finds that the licensee has violated RCW 26.28.080, 70.155.020, 70.155.030, 70.155.040, 70.155.050, 70.155.070, or 70.155.090.

(2) The sanctions that the liquor control board may impose against a person licensed under RCW 82.24.530 based upon one or more findings under subsection (1) of this section may not exceed the following:

(a) For violation of RCW 26.28.080 or 70.155.020:

(i) A monetary penalty of one hundred dollars for the first violation within any two-year period;

(ii) A monetary penalty of three hundred dollars for the second violation within any two-year period;

(iii) A monetary penalty of one thousand dollars and suspension of the license for a period of six months for the third violation within any two-year period;

(iv) A monetary penalty of one thousand five hundred dollars and suspension of the license for a period of twelve months for the fourth violation within any two-year period;

(v) Revocation of the license with no possibility of reinstatement for a period of five years for the fifth or more violation within any two-year period;

(b) For violations of RCW 70.155.030, a monetary penalty in the amount of one hundred dollars for each day upon which such violation occurred;

(c) For violations of RCW 70.155.040 occurring on the licensed premises:

(i) A monetary penalty of one hundred dollars for the first violation within any two-year period;

(ii) A monetary penalty of three hundred dollars for the second violation within any two-year period;

(iii) A monetary penalty of one thousand dollars and suspension of the license for a period of six months for the third violation within any two-year period;

(iv) A monetary penalty of one thousand five hundred dollars and suspension of the license for a period of twelve months for the fourth violation within any two-year period;

(v) Revocation of the license with no possibility of reinstatement for a period of five years for the fifth or more violation within any two-year period;

(d) For violations of RCW 70.155.050, a monetary penalty in the amount of three hundred dollars for each violation;

(e) For violations of RCW 70.155.070, a monetary penalty in the amount of one thousand dollars for each violation.

(3) The liquor control board may impose a monetary penalty upon any person other than a licensed cigarette retailer if the liquor control board finds that the person has violated RCW 26.28.080, 70.155.020, 70.155.030, 70.155.040, 70.155.050, 70.155.070, or 70.155.090.

(4) The monetary penalty that the liquor control board may impose based upon one or more findings under subsection (3) of this section may not exceed the following:

(a) For violation of RCW 26.28.080 or 70.155.020, fifty dollars for the first violation and one hundred dollars for each subsequent violation;

(b) For violations of RCW 70.155.030, one hundred dollars for each day upon which such violation occurred;

(c) For violations of RCW 70.155.040, one hundred dollars for each violation;

(d) For violations of RCW 70.155.050, three hundred dollars for each violation;

(e) For violations of RCW 70.155.070, one thousand dollars for each violation.

(5) The liquor control board may develop and offer a class for retail clerks and use this class in lieu of a monetary penalty for the clerk's first violation.

(6) The liquor control board may issue a cease and desist order to any person who is found by the liquor control board to have violated or intending to violate the provisions of this chapter, RCW 26.28.080 or 82.24.500, requiring such person to cease specified conduct that is in violation. The issuance of a cease and desist order shall not preclude the imposition of other sanctions authorized by this statute or any other provision of law.

(7) The liquor control board may seek injunctive relief to enforce the provisions of RCW 26.28.080 or 82.24.500 or this chapter. The liquor control board may initiate legal action to collect civil penalties imposed under this chapter if the same have not been paid within thirty days after imposition of such penalties. In any action filed by the liquor control board under this chapter, the court may, in addition to any other relief, award the liquor control board reasonable attorneys' fees and costs.

(8) All proceedings under subsections (1) through (6) of this section shall be conducted in accordance with chapter 34.05 RCW.

(9) The liquor control board may reduce or waive either the penalties or the suspension or revocation of a license, or both, as set forth in this chapter where the elements of proof are inadequate or where there are mitigating circumstances. Mitigating circumstances may include, but are not limited to, an exercise of due diligence by a retailer. Further, the board may exceed penalties set forth in this chapter based on aggravating circumstances. [2006 c 14 § 5; 1998 c 133 § 3; 1993 c 507 § 11.]

Reviser's note: In an order on motion for reconsideration and request for stay pending appeal dated September 25, 2006, the United States District Court for the Western District ruled that chapter 14, Laws of 2006 is preempted by the Federal Cigarette Labeling and Advertising Act, 15 U.S.C. Sec. 1334(b) only in application of the law to cigarette sampling. (Case No. C06-5223, W.D. Wash. 2006.)

Finding—Intent—2006 c 14: See note following RCW 70.155.050.

Finding—Intent—1998 c 133: See note following RCW 70.155.080.

70.155.110 Liquor control board authority. (1) The liquor control board shall, in addition to the board's other powers and authorities, have the authority to enforce the provisions of this chapter and *RCW 26.28.080(4) and 82.24.500. The liquor control board shall have full power to revoke or suspend the license of any retailer or wholesaler in accordance with the provisions of RCW 70.155.100.

(2) The liquor control board and the board's authorized agents or employees shall have full power and authority to enter any place of business where tobacco products are sold for the purpose of enforcing the provisions of this chapter.

(3) For the purpose of enforcing the provisions of this chapter and *RCW 26.28.080(4) and 82.24.500, a peace officer or enforcement officer of the liquor control board who has reasonable grounds to believe a person observed by the officer purchasing, attempting to purchase, or in possession of tobacco products is under the age of eighteen years of age, may detain such person for a reasonable period of time and in such a reasonable manner as is necessary to determine the person's true identity and date of birth. Further, tobacco products possessed by persons under the age of eighteen years of age are considered contraband and may be seized by a peace officer or enforcement officer of the liquor control board.

(4) The liquor control board may work with local county health departments or districts and local law enforcement agencies to conduct random, unannounced, inspections to assure compliance. [1993 c 507 § 12.]

***Reviser's note:** RCW 26.28.080 was amended by 1994 sp.s. c 7 § 437, and no longer has numbered subsections.

70.155.120 Youth tobacco prevention account—Source and use of funds. (1) The youth tobacco prevention account is created in the state treasury. All fees collected pursuant to RCW 82.24.520 and 82.24.530 and funds collected by the liquor control board from the imposition of monetary penalties and samplers' fees shall be deposited into this account, except that ten percent of all such fees and penalties shall be deposited in the state general fund.

(2) Moneys appropriated from the youth tobacco prevention account to the department of health shall be used by the department of health for implementation of this chapter, including collection and reporting of data regarding enforcement and the extent to which access to tobacco products by youth has been reduced.

(3) The department of health shall enter into interagency agreements with the liquor control board to pay the costs incurred, up to thirty percent of available funds, in carrying out its enforcement responsibilities under this chapter. Such

agreements shall set forth standards of enforcement, consistent with the funding available, so as to reduce the extent to which tobacco products are available to individuals under the age of eighteen. The agreements shall also set forth requirements for data reporting by the liquor control board regarding its enforcement activities.

(4) The department of health and the department of revenue shall enter into an interagency agreement for payment of the cost of administering the tobacco retailer licensing system and for the provision of quarterly documentation of tobacco wholesaler, retailer, and vending machine names and locations.

(5) The department of health shall, within up to seventy percent of available funds, provide grants to local health departments or other local community agencies to develop and implement coordinated tobacco intervention strategies to prevent and reduce tobacco use by youth. [1993 c 507 § 13.]

70.155.130 Preemption of political subdivisions. This chapter preempts political subdivisions from adopting or enforcing requirements for the licensure and regulation of tobacco product promotions and sales within retail stores, except that political subdivisions that have adopted ordinances prohibiting sampling by January 1, 1993, may continue to enforce these ordinances. No political subdivision may: (1) Impose fees or license requirements on retail businesses for possessing or selling cigarettes or tobacco products, other than general business taxes or license fees not primarily levied on tobacco products; or (2) regulate or prohibit activities covered by RCW 70.155.020 through 70.155.080. This chapter does not otherwise preempt political subdivisions from adopting ordinances regulating the sale, purchase, use, or promotion of tobacco products not inconsistent with chapter 507, Laws of 1993. [1993 c 507 § 14.]

70.155.140 Shipping or transporting tobacco products ordered or purchased by mail or through the internet prohibited—Penalty. (1) A person may not:

(a) Ship or transport, or cause to be shipped or transported, any tobacco product ordered or purchased by mail or through the internet to anyone in this state other than a licensed wholesaler or retailer; or

(b) With knowledge or reason to know of the violation, provide substantial assistance to a person who is in violation of this section.

(2)(a) A person who knowingly violates subsection (1) of this section is guilty of a class C felony, except that the maximum fine that may be imposed is five thousand dollars.

(b) In addition to or in lieu of any other civil or criminal remedy provided by law, a person who has violated subsection (1) of this section is subject to a civil penalty of up to five thousand dollars for each violation. The attorney general, acting in the name of the state, may seek recovery of the penalty in a civil action in superior court. For purposes of this subsection, each shipment or transport of tobacco products constitutes a separate violation.

(3) The attorney general may seek an injunction in superior court to restrain a threatened or actual violation of subsection (1) of this section and to compel compliance with subsection (1) of this section.

(4) Any violation of subsection (1) of this section is not reasonable in relation to the development and preservation of business and is an unfair and deceptive act or practice and an unfair method of competition in the conduct of trade or commerce in violation of RCW 19.86.020. Standing to bring an action to enforce RCW 19.86.020 for violation of subsection (1) of this section lies solely with the attorney general. Remedies provided by chapter 19.86 RCW are cumulative and not exclusive.

(5)(a) In any action brought under this section, the state is entitled to recover, in addition to other relief, the costs of investigation, expert witness fees, costs of the action, and reasonable attorneys' fees.

(b) If a court determines that a person has violated subsection (1) of this section, the court shall order any profits, gain, gross receipts, or other benefit from the violation to be disgorged and paid to the state treasurer for deposit in the general fund.

(6) Unless otherwise expressly provided, the penalties or remedies, or both, under this section are in addition to any other penalties and remedies available under any other law of this state. [2009 c 278 § 2.]

70.155.900 Severability—1993 c 507. If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected. [1993 c 507 § 20.]

Chapter 70.157 RCW

NATIONAL UNIFORM TOBACCO SETTLEMENT—NONPARTICIPATING TOBACCO PRODUCT MANUFACTURERS

Sections

70.157.005 Findings and purpose.
70.157.010 Definitions.
70.157.020 Requirements.
70.157.030 Contingent expiration date—Court action.

Additional notes found at www.leg.wa.gov

70.157.005 Findings and purpose. (a) Cigarette smoking presents serious public health concerns to the State and to the citizens of the State. The Surgeon General has determined that smoking causes lung cancer, heart disease and other serious diseases, and that there are hundreds of thousands of tobacco-related deaths in the United States each year. These diseases most often do not appear until many years after the person in question begins smoking.

(b) Cigarette smoking also presents serious financial concerns for the State. Under certain health-care programs, the State may have a legal obligation to provide medical assistance to eligible persons for health conditions associated with cigarette smoking, and those persons may have a legal entitlement to receive such medical assistance.

(c) Under these programs, the State pays millions of dollars each year to provide medical assistance for these persons for health conditions associated with cigarette smoking.

(d) It is the policy of the State that financial burdens imposed on the State by cigarette smoking be borne by tobacco product manufacturers rather than by the State to the extent that such manufacturers either determine to enter into a settlement with the State or are found culpable by the courts.

(e) On November 23, 1998, leading United States tobacco product manufacturers entered into a settlement agreement, entitled the "Master Settlement Agreement," with the State. The Master Settlement Agreement obligates these manufacturers, in return for a release of past, present and certain future claims against them as described therein, to pay substantial sums to the State (tied in part to their volume of sales); to fund a national foundation devoted to the interests of public health; and to make substantial changes in their advertising and marketing practices and corporate culture, with the intention of reducing underage smoking.

(f) It would be contrary to the policy of the State if tobacco product manufacturers who determine not to enter into such a settlement could use a resulting cost advantage to derive large, short-term profits in the years before liability may arise without ensuring that the State will have an eventual source of recovery from them if they are proven to have acted culpably. It is thus in the interest of the State to require that such manufacturers establish a reserve fund to guarantee a source of compensation and to prevent such manufacturers from deriving large, short-term profits and then becoming judgment-proof before liability may arise. [1999 c 393 § 1.]

70.157.010 Definitions. (a) "Adjusted for inflation" means increased in accordance with the formula for inflation adjustment set forth in Exhibit C to the Master Settlement Agreement.

(b) "Affiliate" means a person who directly or indirectly owns or controls, is owned or controlled by, or is under common ownership or control with, another person. Solely for purposes of this definition, the terms "owns," "is owned" and "ownership" mean ownership of an equity interest, or the equivalent thereof, of ten percent or more, and the term "person" means an individual, partnership, committee, association, corporation or any other organization or group of persons.

(c) "Allocable share" means Allocable Share as that term is defined in the Master Settlement Agreement.

(d) "Cigarette" means any product that contains nicotine, is intended to be burned or heated under ordinary conditions of use, and consists of or contains (1) any roll of tobacco wrapped in paper or in any substance not containing tobacco; or (2) tobacco, in any form, that is functional in the product, which, because of its appearance, the type of tobacco used in the filler, or its packaging and labeling, is likely to be offered to, or purchased by, consumers as a cigarette; or (3) any roll of tobacco wrapped in any substance containing tobacco which, because of its appearance, the type of tobacco used in the filler, or its packaging and labeling, is likely to be offered to, or purchased by, consumers as a cigarette described in clause (1) of this definition. The term "cigarette" includes "roll-your-own" (i.e., any tobacco which, because of its appearance, type, packaging, or labeling is suitable for use and likely to be offered to, or purchased by, consumers as tobacco for making cigarettes). For purposes of this definition of "cigarette," 0.09 ounces of "roll-your-own" tobacco shall constitute one individual "cigarette".

(e) "Master Settlement Agreement" means the settlement agreement (and related documents) entered into on November 23, 1998 by the State and leading United States tobacco product manufacturers.

(f) "Qualified escrow fund" means an escrow arrangement with a federally or State chartered financial institution having no affiliation with any tobacco product manufacturer and having assets of at least $1,000,000,000 where such arrangement requires that such financial institution hold the escrowed funds' principal for the benefit of releasing parties and prohibits the tobacco product manufacturer placing the funds into escrow from using, accessing or directing the use of the funds' principal except as consistent with RCW 70.157.020(b).

(g) "Released claims" means Released Claims as that term is defined in the Master Settlement Agreement.

(h) "Releasing parties" means Releasing Parties as that term is defined in the Master Settlement Agreement.

(i) "Tobacco Product Manufacturer" means an entity that after the date of enactment of this Act directly (and not exclusively through any affiliate):

(1) manufactures cigarettes anywhere that such manufacturer intends to be sold in the United States, including cigarettes intended to be sold in the United States through an importer (except where such importer is an original participating manufacturer (as that term is defined in the Master Settlement Agreement) that will be responsible for the payments under the Master Settlement Agreement with respect to such cigarettes as a result of the provisions of subsections II(mm) of the Master Settlement Agreement and that pays the taxes specified in subsection II(z) of the Master Settlement Agreement, and provided that the manufacturer of such cigarettes does not market or advertise such cigarettes in the United States);

(2) is the first purchaser anywhere for resale in the United States of cigarettes manufactured anywhere that the manufacturer does not intend to be sold in the United States; or

(3) becomes a successor of an entity described in paragraph (1) or (2).

The term "Tobacco Product Manufacturer" shall not include an affiliate of a tobacco product manufacturer unless such affiliate itself falls within any of (1)-(3) above.

(j) "Units sold" means the number of individual cigarettes sold in the State by the applicable tobacco product manufacturer (whether directly or through a distributor, retailer or similar intermediary or intermediaries) during the year in question, as measured by excise taxes collected by the State on packs bearing the excise tax stamp of the State or "roll-your-own" tobacco containers. The department of revenue shall promulgate such regulations as are necessary to ascertain the amount of State excise tax paid on the cigarettes of such tobacco product manufacturer for each year. [1999 c 393 § 2.]

Additional notes found at www.leg.wa.gov

70.157.020 Requirements. ***(Contingent expiration date.)*** Any tobacco product manufacturer selling cigarettes to consumers within the State (whether directly or through a distributor, retailer or similar intermediary or intermediaries) after May 18, 1999, shall do one of the following:

(a) become a participating manufacturer (as that term is defined in section II(jj) of the Master Settlement Agreement) and generally perform its financial obligations under the Master Settlement Agreement; or

(b)(1) place into a qualified escrow fund by April 15 of the year following the year in question the following amounts (as such amounts are adjusted for inflation)—

1999: $.0094241 per unit sold after May 18, 1999;

2000: $.0104712 per unit sold;

for each of 2001 and 2002: $.0136125 per unit sold;

for each of 2003 through 2006: $.0167539 per unit sold;

for each of 2007 and each year thereafter: $.0188482 per unit sold.

(2) A tobacco product manufacturer that places funds into escrow pursuant to paragraph (1) shall receive the interest or other appreciation on such funds as earned. Such funds themselves shall be released from escrow only under the following circumstances—

(A) to pay a judgment or settlement on any released claim brought against such tobacco product manufacturer by the State or any releasing party located or residing in the State. Funds shall be released from escrow under this subparagraph (i) in the order in which they were placed into escrow and (ii) only to the extent and at the time necessary to make payments required under such judgment or settlement;

(B) to the extent that a tobacco product manufacturer establishes that the amount it was required to place into escrow on account of units sold in the state in a particular year was greater than the Master Settlement Agreement payments, as determined pursuant to section IX(i) of that Agreement including after final determination of all adjustments, that such manufacturer would have been required to make on account of such units sold, had it been a Participating Manufacturer, the excess shall be released from escrow and revert back to such tobacco product manufacturer; or

(C) to the extent not released from escrow under subparagraphs (A) or (B), funds shall be released from escrow and revert back to such tobacco product manufacturer twenty-five years after the date on which they were placed into escrow.

(3) Each tobacco product manufacturer that elects to place funds into escrow pursuant to this subsection shall annually certify to the Attorney General that it is in compliance with this subsection. The Attorney General may bring a civil action on behalf of the State against any tobacco product manufacturer that fails to place into escrow the funds required under this section. Any tobacco product manufacturer that fails in any year to place into escrow the funds required under this section shall—

(A) be required within 15 days to place such funds into escrow as shall bring it into compliance with this section. The court, upon a finding of a violation of this subsection, may impose a civil penalty to be paid to the general fund of the state in an amount not to exceed 5 percent of the amount improperly withheld from escrow per day of the violation and in a total amount not to exceed 100 percent of the original amount improperly withheld from escrow;

(B) in the case of a knowing violation, be required within 15 days to place such funds into escrow as shall bring it into compliance with this section. The court, upon a finding of a knowing violation of this subsection, may impose a civil penalty to be paid to the general fund of the state in an amount not to exceed 15 percent of the amount improperly withheld from escrow per day of the violation and in a total amount not to exceed 300 percent of the original amount improperly withheld from escrow; and

(C) in the case of a second knowing violation, be prohibited from selling cigarettes to consumers within the State (whether directly or through a distributor, retailer or similar intermediary) for a period not to exceed 2 years.

Each failure to make an annual deposit required under this section shall constitute a separate violation. The violator shall also pay the State's costs and attorney's fees incurred

during a successful prosecution under this paragraph (3). [2003 c 342 § 1; 1999 c 393 § 3.]

Additional notes found at www.leg.wa.gov

70.157.020 Requirements. ***(Contingent effective date.)*** Any tobacco product manufacturer selling cigarettes to consumers within the State (whether directly or through a distributor, retailer or similar intermediary or intermediaries) after May 18, 1999, shall do one of the following:

(a) become a participating manufacturer (as that term is defined in section II(jj) of the Master Settlement Agreement) and generally perform its financial obligations under the Master Settlement Agreement; or

(b)(1) place into a qualified escrow fund by April 15 of the year following the year in question the following amounts (as such amounts are adjusted for inflation)—

1999: $.0094241 per unit sold after May 18, 1999;

2000: $.0104712 per unit sold;

for each of 2001 and 2002: $.0136125 per unit sold;

for each of 2003 through 2006: $.0167539 per unit sold;

for each of 2007 and each year thereafter: $.0188482 per unit sold.

(2) A tobacco product manufacturer that places funds into escrow pursuant to paragraph (1) shall receive the interest or other appreciation on such funds as earned. Such funds themselves shall be released from escrow only under the following circumstances—

(A) to pay a judgment or settlement on any released claim brought against such tobacco product manufacturer by the State or any releasing party located or residing in the State. Funds shall be released from escrow under this subparagraph (i) in the order in which they were placed into escrow and (ii) only to the extent and at the time necessary to make payments required under such judgment or settlement;

(B) to the extent that a tobacco product manufacturer establishes that the amount it was required to place into escrow in a particular year was greater than the State's allocable share of the total payments that such manufacturer would have been required to make in that year under the Master Settlement Agreement (as determined pursuant to section IX(i)(2) of the Master Settlement Agreement, and before any of the adjustments or offsets described in section IX(i)(3) of that Agreement other than the Inflation Adjustment) had it been a participating manufacturer, the excess shall be released from escrow and revert back to such tobacco product manufacturer; or

(C) to the extent not released from escrow under subparagraphs (A) or (B), funds shall be released from escrow and revert back to such tobacco product manufacturer twenty-five years after the date on which they were placed into escrow.

(3) Each tobacco product manufacturer that elects to place funds into escrow pursuant to this subsection shall annually certify to the Attorney General that it is in compliance with this subsection. The Attorney General may bring a civil action on behalf of the State against any tobacco product manufacturer that fails to place into escrow the funds required under this section. Any tobacco product manufacturer that fails in any year to place into escrow the funds required under this section shall—

(A) be required within 15 days to place such funds into escrow as shall bring it into compliance with this section. The court, upon a finding of a violation of this subsection, may impose a civil penalty to be paid to the general fund of the state in an amount not to exceed 5 percent of the amount improperly withheld from escrow per day of the violation and in a total amount not to exceed 100 percent of the original amount improperly withheld from escrow;

(B) in the case of a knowing violation, be required within 15 days to place such funds into escrow as shall bring it into compliance with this section. The court, upon a finding of a knowing violation of this subsection, may impose a civil penalty to be paid to the general fund of the state in an amount not to exceed 15 percent of the amount improperly withheld from escrow per day of the violation and in a total amount not to exceed 300 percent of the original amount improperly withheld from escrow; and

(C) in the case of a second knowing violation, be prohibited from selling cigarettes to consumers within the State (whether directly or through a distributor, retailer or similar intermediary) for a period not to exceed 2 years.

Each failure to make an annual deposit required under this section shall constitute a separate violation. The violator shall also pay the State's costs and attorney's fees incurred during a successful prosecution under this paragraph (3). [1999 c 393 § 3.]

Additional notes found at www.leg.wa.gov

70.157.030 Contingent expiration date—Court action. If chapter 342, Laws of 2003 is held by a court of competent jurisdiction to be unconstitutional, then RCW 70.157.020(b)(2)(B) shall be repealed in its entirety. If RCW 70.157.020(b)(2) shall thereafter be held by a court of competent jurisdiction to be unconstitutional, then chapter 342, Laws of 2003 shall be repealed, and RCW 70.157.020(b)(2)(B) be restored as if no amendments had been made. Neither any holding of unconstitutionality nor the repeal of RCW 70.157.020(b)(2)(B) shall affect, impair, or invalidate any other portion of RCW 70.157.020 or the application of that section to any other person or circumstance, and the remaining portions of RCW 70.157.020 shall at all times continue in full force and effect. [2003 c 342 § 2.]

Chapter 70.158 RCW

TOBACCO PRODUCT MANUFACTURERS

Sections

70.158.010 Findings.
70.158.020 Definitions.
70.158.030 Tobacco product manufacturers—Certification—Attorney general to publish directory—Violations.
70.158.040 Nonresident, nonparticipating manufacturers—Agent for service of process.
70.158.050 Reports, records—Confidentiality, disclosures, voluntary waivers—Escrow payments.
70.158.060 Penalties—Application of consumer protection act.
70.158.070 Attorney general's directory decision to be final agency action—Due dates for reports, certifications, directory—Rules—Costs—Penalties.
70.158.900 Conflict of law—Severability—2003 c 25.
70.158.901 Effective date—2003 c 25.

70.158.010 Findings. The legislature finds that violations of RCW 70.157.020 threaten the integrity of the tobacco master settlement agreement, the fiscal soundness of the state, and the public health. The legislature finds the enacting procedural enhancements will help prevent violations and aid the enforcement of RCW 70.157.020 and thereby safeguard the master settlement agreement, the fiscal soundness of the state, and the public health. The provisions of chapter 25, Laws of 2003 are not intended to and shall not be interpreted to amend chapter 70.157 RCW. [2003 c 25 § 1.]

70.158.020 Definitions. The following definitions apply to this chapter unless the context clearly requires otherwise.

(1) "Brand family" means all styles of cigarettes sold under the same trademark and differentiated from one another by means of additional modifiers or descriptors, including, but not limited to, "menthol," "lights," "kings," and "100s," and includes any brand name alone or in conjunction with any other word, trademark, logo, symbol, motto, selling message, recognizable pattern of colors, or any other indicia of product identification identical or similar to, or identifiable with, a previously known brand of cigarettes.

(2) "Board" means the liquor control board.

(3) "Cigarette" has the same meaning as in RCW 70.157.010(d).

(4) "Director" means the director of the department of revenue except as otherwise noted.

(5) "Directory" means the directory to be created and published on a web site by the attorney general pursuant to RCW 70.158.030(2).

(6) "Distributor" has the same meaning as in *RCW 82.26.010(3), except that for purposes of this chapter, no person is a distributor if that person does not deal with cigarettes as defined in this section.

(7) "Master settlement agreement" has the same meaning as in RCW 70.157.010(e).

(8) "Nonparticipating manufacturer" means any tobacco product manufacturer that is not a participating manufacturer.

(9) "Participating manufacturer" has the meaning given that term in section II(jj) of the master settlement agreement.

(10) "Qualified escrow fund" has the same meaning as in RCW 70.157.010(f).

(11) "Stamp" means "stamp" as defined in **RCW 82.24.010(7) or as referred to in RCW 43.06.455(4).

(12) "Tobacco product manufacturer" has the same meaning as in RCW 70.157.010(i).

(13) "Units sold" has the same meaning as in RCW 70.157.010(j).

(14) "Wholesaler" has the same meaning as in RCW 82.24.010. [2003 c 25 § 2.]

Reviser's note: *(1) RCW 82.26.010 was alphabetized pursuant to RCW 1.08.015(2)(k), changing subsection (3) to subsection (8).

**(2) RCW 82.24.010 was amended by 2012 2nd sp.s. c 4 § 1, changing subsection (7) to subsection (11).

70.158.030 Tobacco product manufacturers—Certification—Attorney general to publish directory—Violations. (1) Every tobacco product manufacturer whose cigarettes are sold in this state, whether directly or through a wholesaler, distributor, retailer, or similar intermediary or intermediaries, shall execute and deliver on a form prescribed by the attorney general a certification to the attorney general, no later than the thirtieth day of April each year, certifying under penalty of perjury that, as of the date of such certification, the tobacco product manufacturer is either a participating manufacturer; or is in full compliance with RCW 70.157.020(b)(1), including all payments required by that section or chapter 25, Laws of 2003.

(a) A participating manufacturer shall include in its certification a list of its brand families. The participating manufacturer shall update the list thirty calendar days prior to any addition to or modification of its brand families by executing and delivering a supplemental certification to the attorney general.

(b) A nonparticipating manufacturer shall include in its certification: (i) A list of all of its brand families and the number of units sold for each brand family that were sold in the state during the preceding calendar year; (ii) a list of all of its brand families that have been sold in the state at anytime during the current calendar year; (iii) indicating, by an asterisk, any brand family sold in the state during the preceding calendar year that is no longer being sold in the state as of the date of such certification; and (iv) identifying by name and address any other manufacturer of brand families in the preceding or current calendar year. The nonparticipating manufacturer shall update the list thirty calendar days prior to any addition to or modification of its brand families by executing and delivering a supplemental certification to the attorney general.

(c) In the case of a nonparticipating manufacturer, the certification shall further certify:

(i) That the nonparticipating manufacturer is registered to do business in the state or has appointed a resident agent for service of process and provided notice as required by RCW 70.158.040;

(ii) That the nonparticipating manufacturer: (A) Has established and continues to maintain a qualified escrow fund; and (B) has executed a qualified escrow agreement that has been reviewed and approved by the attorney general and that governs the qualified escrow fund;

(iii) That the nonparticipating manufacturer is in full compliance with RCW 70.157.020(b)(1) and this chapter, and any rules adopted pursuant thereto; and

(iv)(A) The name, address, and telephone number of the financial institution where the nonparticipating manufacturer has established a qualified escrow fund required pursuant to RCW 70.157.020(b)(1) and all rules adopted thereunder; (B) the account number of the qualified escrow fund and any subaccount number for the state of Washington; (C) the amount the nonparticipating manufacturer placed in the fund for cigarettes sold in the state during the preceding calendar year, the date and amount of each deposit, and evidence or verification as may be deemed necessary by the attorney general to confirm the foregoing; and (D) the amount and date of any withdrawal or transfer of funds the nonparticipating manufacturer made at any time from the fund or from any other qualified escrow fund into which it ever made escrow payments pursuant to RCW 70.157.020(b)(1) and all rules adopted thereunder.

(d) A tobacco product manufacturer may not include a brand family in its certification unless: (i) In the case of a participating manufacturer, the participating manufacturer affirms that the brand family is to be deemed to be its cigarettes for purposes of calculating its payments under the master settlement agreement for the relevant year, in the volume and shares determined pursuant to the master settlement agreement; and (ii) in the case of a nonparticipating manufacturer, the nonparticipating manufacturer affirms that the brand family is to be deemed to be its cigarettes for purposes of RCW 70.157.020(b)(1). Nothing in this section limits or otherwise affects the state's right to maintain that a brand family constitutes cigarettes of a different tobacco product manufacturer for purposes of calculating payments under the master settlement agreement or for purposes of RCW 70.157.020.

(e) A tobacco product manufacturer shall maintain all invoices and documentation of sales and other information relied upon for such certification for a period of five years, unless otherwise required by law to maintain them for a greater period of time.

(2) Not later than November 1, 2003, the attorney general shall develop and publish on its web site a directory listing all tobacco product manufacturers that have provided current and accurate certifications conforming to the requirements of this section and all brand families that are listed in these certifications, except as noted below:

(a) The attorney general shall not include or retain in the directory the name or brand families of any nonparticipating manufacturer that has failed to provide the required certification or whose certification the attorney general determines is not in compliance with subsection (1)(b) and (c) of this section, unless the attorney general has determined that the violation has been cured to the satisfaction of the attorney general.

(b) Neither a tobacco product manufacturer nor brand family shall be included or retained in the directory if the attorney general concludes, in the case of a nonparticipating manufacturer, that: (i) Any escrow payment required pursuant to RCW 70.157.020(b)(1) for any period for any brand family, whether or not listed by the nonparticipating manufacturer, has not been fully paid into a qualified escrow fund governed by a qualified escrow agreement that has been approved by the attorney general; or (ii) any outstanding final judgment, including interest, for a violation of RCW 70.157.020(b)(1) that has not been fully satisfied for the brand family or manufacturer.

(c) The attorney general shall update the directory as necessary in order to correct mistakes and to add or remove a tobacco product manufacturer or brand family to keep the directory in conformity with the requirements of this chapter. The attorney general shall transmit, by e-mail or other practicable means to each wholesaler or distributor, notice of any addition to or removal from the directory of any tobacco product manufacturer or brand family. Unless otherwise provided by agreement between the wholesaler or distributor and a tobacco product manufacturer, the wholesaler or distributor shall be entitled to a refund from a tobacco product manufacturer for any money paid by the wholesaler or distributor to the tobacco product manufacturer for any cigarettes of the tobacco product manufacturer still held by the wholesaler or distributor on the date of notice by the attorney general of the removal from the directory of that tobacco product manufacturer or the brand family of the cigarettes. The attorney general shall not restore to the directory the tobacco product manufacturer or the brand family until the tobacco product manufacturer has paid the wholesaler or distributor any refund due.

(d) Every wholesaler and distributor shall provide and update as necessary an electronic mail address to the attorney general for the purpose of receiving any notifications as may be required by this chapter.

(e) A tobacco product manufacturer included in the directory may request that a new brand family be certified and added to the directory. Within forty-five business days of receiving the request, the attorney general will respond by either: (i) Certifying the new brand family; or (ii) denying the request. However, in cases where the attorney general determines that it needs clarification as to whether the requestor is actually the tobacco product manufacturer, the attorney general may take more time as needed to clarify the request, to locate and assemble information or documents needed to process the request, and to notify persons or agencies affected by the request.

(f) The web site will state that chapter 25, Laws of 2003 applies only to cigarettes including, pursuant to the definition of "cigarettes" in chapter 25, Laws of 2003, roll-your-own tobacco.

(3) It is unlawful for any person (a) to affix a stamp to a package or other container of cigarettes of a tobacco product manufacturer or brand family not included in the directory, or to pay or cause to be paid the tobacco products tax on any package or container; or (b) to sell, offer, or possess for sale in this state or import for sale in this state, any cigarettes of a

tobacco product manufacturer or brand family not included in the directory. [2003 c 25 § 3.]

70.158.040 Nonresident, nonparticipating manufacturers—Agent for service of process. (1) Any nonresident or foreign nonparticipating manufacturer that has not registered to do business in the state as a foreign corporation or business entity shall, as a condition precedent to having its brand families included or retained in the directory, appoint and continually engage without interruption the services of an agent in this state to act as agent for the service of process on whom all process, and any action or proceeding against it concerning or arising out of the enforcement of this chapter and RCW 70.157.020(b)(1), may be served in any manner authorized by law. The service shall constitute legal and valid service of process on the nonparticipating manufacturer. The nonparticipating manufacturer shall provide the name, address, phone number, and proof of the appointment and availability of the agent to the satisfaction of the attorney general.

(2) The nonparticipating manufacturer shall provide notice to the attorney general thirty calendar days prior to termination of the authority of an agent and shall further provide proof to the satisfaction of the attorney general of the appointment of a new agent no less than five calendar days prior to the termination of an existing agent appointment. In the event an agent terminates an agency appointment, the nonparticipating manufacturer shall notify the attorney general of the termination within five calendar days and include proof to the satisfaction of the attorney general of the appointment of a new agent.

(3) Any nonparticipating manufacturer whose cigarettes are sold in this state, who has not appointed and engaged an agent as required in this section, shall be deemed to have appointed the secretary of state as the agent and may be proceeded against in courts of this state by service of process upon the secretary of state. However, the appointment of the secretary of state as agent shall not satisfy the condition precedent for having the brand families of the nonparticipating manufacturer included or retained in the directory. [2003 c 25 § 4.]

70.158.050 Reports, records—Confidentiality, disclosures, voluntary waivers—Escrow payments. (1) In addition to the reporting requirements under *RCW 70.157.010(j) and the rules adopted thereunder, not later than twenty-five calendar days after the end of each calendar month, and more frequently if directed by the director, each wholesaler and distributor shall submit information the director requires to facilitate compliance with this chapter, including, but not limited to, a list by brand family of the total number of cigarettes, or, in the case of roll-your-own, the equivalent stick count for which the wholesaler or distributor affixed stamps during the previous calendar month or otherwise paid the tax due for the cigarettes. Each wholesaler and distributor shall maintain and make available to the director, all invoices and documentation of sales of all nonparticipating manufacturer cigarettes and any other information relied upon in reporting to the attorney general or the director for a period of five years.

(2) Information or records required to be furnished to the department, the board, or the attorney general are confidential and shall not be disclosed. However, the director and the board are authorized to disclose to the attorney general any information received under this chapter and requested by the attorney general for purposes of determining compliance with and enforcing the provisions of this chapter. The director, the board, and the attorney general may share with each other the information received under this chapter, and may share information with other federal, state, or local agencies, including without limitation the board, only for purposes of enforcement of this chapter, RCW 70.157.020, or corresponding laws of other states. If a tobacco product manufacturer that is required to establish a qualified escrow fund under RCW 70.157.020 disputes the attorney general's determination of what that manufacturer needs to place into escrow, and the attorney general determines that the dispute can likely be resolved by disclosing reports from the relevant distributors and wholesalers indicating the sales or purchases of the tobacco manufacturer's products, then the attorney general shall request voluntary waivers of confidentiality so that the reports may be disclosed to the tobacco product manufacturer to help resolve the dispute. If the waivers are provided, then the director and the attorney general are authorized to disclose the waived confidential information collected on the sales or purchases of cigarettes to the tobacco product manufacturer. However, before the attorney general or the director discloses the waived confidential information, the tobacco product manufacturer must provide to the attorney general all records relating to its sales or purchases of cigarettes in dispute. The information provided to a tobacco product manufacturer pursuant to this subsection (2) shall be limited to brands or products of that manufacturer only, may be used only for the limited purpose of determining the appropriate escrow deposit, and may not be disclosed by the tobacco product manufacturer.

(3) The attorney general may require at any time from the nonparticipating manufacturer proof, from the financial institution in which the manufacturer has established a qualified escrow fund for the purpose of compliance with RCW 70.157.020(b)(1), of the amount of money in the fund, exclusive of interest, the amount and date of each deposit to the fund, and the amount and date of each withdrawal from the fund.

(4) In addition to the information required to be submitted pursuant to RCW 70.158.030, this section, and chapters 82.24 and 82.26 RCW, the director, the board, or the attorney general may require a wholesaler, distributor, or tobacco product manufacturer to submit any additional information including, but not limited to, samples of the packaging or labeling of each brand family, as is necessary to enable the attorney general to determine whether a tobacco product manufacturer is in compliance with this chapter. If the director, the board, or the attorney general makes a request for information pursuant to this subsection (4), the tobacco product manufacturer, distributor, or wholesaler shall comply promptly.

(5) A nonparticipating manufacturer that either: (a) Has not previously made escrow payments to the state of Washington pursuant to RCW 70.157.020; or (b) has not actually made any escrow payments for more than one year, shall

make the required escrow deposits in quarterly installments during the first year in which the sales covered by the deposits are made or in the first year in which the payments are made. The director or the attorney general may require production of information sufficient to enable the attorney general to determine the adequacy of the amount of the installment deposit. [2003 c 25 § 5.]

***Reviser's note:** For rules and reporting requirements adopted pursuant to RCW 70.157.010, see WAC 458-20-264.

70.158.060 Penalties—Application of consumer protection act. (1) In addition to or in lieu of any other civil or criminal remedy provided by law, upon a determination that a wholesaler has violated RCW 70.158.030(3) or any rule adopted pursuant to this chapter, the director or the board may revoke or suspend the license of the wholesaler in the manner provided by chapter 82.24 or 82.32 RCW. Each stamp affixed and each sale or offer to sell cigarettes in violation of RCW 70.158.030(3) shall constitute a separate violation. For each violation of this chapter, the director or the board may also impose a civil penalty in an amount not to exceed the greater of five hundred percent of the retail value of the cigarettes or five thousand dollars upon a determination of violation of RCW 70.158.030(3) or any rules adopted pursuant thereto. The penalty shall be imposed in the manner provided by chapter 82.24 RCW.

(2) The attorney general may seek an injunction in superior court to restrain a threatened or actual violation of RCW 70.158.030(3) or 70.158.050 (1) or (4) by a person and to compel the person to comply with these sections. In any action brought pursuant to this section, the state shall be entitled to recover the costs of investigation, costs of the action, and reasonable attorney fees.

(3) It is unlawful for a person to: (a) Sell or distribute cigarettes or (b) acquire, hold, own, possess, transport, import, or cause to be imported cigarettes, that the person knows or should know are intended for distribution or sale in the state in violation of RCW 70.158.030(3). A violation of this subsection (3) is a gross misdemeanor.

(4) Any violation of this chapter is not reasonable in relation to the development and preservation of business and is an unfair and deceptive act or practice and an unfair method of competition in the conduct of trade or commerce in violation of RCW 19.86.020. Standing to bring an action to enforce RCW 19.86.020 for violation of this chapter shall lie solely with the attorney general. Remedies provided by chapter 19.86 RCW are cumulative and not exclusive. [2003 c 25 § 6.]

70.158.070 Attorney general's directory decision to be final agency action—Due dates for reports, certifications, directory—Rules—Costs—Penalties. (1) A determination of the attorney general not to include or to remove from the directory a brand family or tobacco product manufacturer shall be final agency action for purposes of review under RCW 34.05.570(4).

(2) No person shall be issued a license or granted a renewal of a license to act as a wholesaler unless the person has certified in writing under penalty of perjury, that the person will comply fully with this section.

(3) The first reports of wholesalers and distributors are due August 25, 2003. The certifications by a tobacco product manufacturer described in RCW 70.158.030(1) are due September 15, 2003. The directory described in RCW 70.158.030(2) shall be published or made available by November 1, 2003.

(4) The attorney general, the board, and the director may adopt rules as necessary to effect the administration of this chapter.

(5) In any action brought by the state to enforce this chapter, the state is entitled to recover the costs of investigation, expert witness fees, costs of the action, and reasonable attorney fees.

(6) If a court determines that a person has violated this chapter, the court shall order any profits, gain, gross receipts, or other benefit from the violation to be disgorged and paid to the general fund. Unless otherwise expressly provided, the remedies or penalties provided by this chapter are cumulative to each other and to the remedies or penalties available under all other laws of this state. [2003 c 25 § 7.]

70.158.900 Conflict of law—Severability—2003 c 25. If a court of competent jurisdiction finds that the provisions of chapter 25, Laws of 2003 and chapter 70.157 RCW conflict and cannot be harmonized, then the provisions of chapter 70.157 RCW shall control. If any section, subsection, subdivision, paragraph, sentence, clause, or phrase of chapter 25, Laws of 2003 causes chapter 70.157 RCW no longer to constitute a qualifying or model statute, as those terms are defined in the master settlement agreement, then that portion of chapter 25, Laws of 2003 shall not be valid. If any section, subsection, subdivision, paragraph, sentence, clause, or phrase of chapter 25, Laws of 2003 is for any reason held to be invalid, unlawful, or unconstitutional, the decision shall not affect the validity of the remaining portions of chapter 25, Laws of 2003 or any part thereof. [2003 c 25 § 8.]

70.158.901 Effective date—2003 c 25. This act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and takes effect July 1, 2003. [2003 c 25 § 13.]

Chapter 74.20A RCW

SUPPORT OF DEPENDENT CHILDREN—ALTERNATIVE METHOD—1971 ACT

*Sections

74.20A.320 License suspension—Notice of noncompliance with a child support order—License renewal and reinstatement.

**Partial listing of sections.*

74.20A.320 License suspension—Notice of noncompliance with a child support order—License renewal and reinstatement. (1) The department may serve upon a responsible parent a notice informing the responsible parent of the department's intent to submit the parent's name to the department of licensing and any appropriate licensing entity as a licensee who is not in compliance with a child support order. The department shall attach a copy of the responsible parent's child support order to the notice. Service of the notice must be by certified mail, return receipt requested. If service by certified mail is not successful, service shall be by personal service.

(2) The notice of noncompliance must include the following information:

(a) The address and telephone number of the department's division of child support office that issued the notice;

(b) That in order to prevent the department from certifying the parent's name to the department of licensing or any other licensing entity, the parent has twenty days from receipt of the notice to contact the department and:

(i) Pay the overdue support amount in full;

(ii) Request an adjudicative proceeding as provided in RCW 74.20A.322;

(iii) Agree to a payment schedule with the department as provided in RCW 74.20A.326; or

(iv) File an action to modify the child support order with the appropriate court or administrative forum, in which case the department will stay the certification process up to six months;

(c) That failure to contact the department within twenty days of receipt of the notice will result in certification of the responsible parent's name to the department of licensing and any other appropriate licensing entity for noncompliance with a child support order. Upon receipt of the notice:

(i) The licensing entity will suspend or not renew the parent's license and the department of licensing will suspend or not renew any driver's license that the parent holds until the parent provides the department of licensing and the licensing entity with a release from the department stating that the responsible parent is in compliance with the child support order;

(ii) The department of fish and wildlife will suspend a fishing license, hunting license, occupational licenses, such as a commercial fishing license, or any other license issued under chapter 77.32 RCW that the responsible parent may possess, and suspension of a license by the department of fish and wildlife may also affect the parent's ability to obtain permits, such as special hunting permits, issued by the department. Notice from the department of licensing that a responsible parent's driver's license has been suspended shall serve as notice of the suspension of a license issued under chapter 77.32 RCW;

(d) That suspension of a license will affect insurability if the responsible parent's insurance policy excludes coverage for acts occurring after the suspension of a license;

(e) If the responsible parent subsequently comes into compliance with the child support order, the department will promptly provide the parent and the appropriate licensing entities with a release stating that the parent is in compliance with the order.

(3) When a responsible parent who is served notice under subsection (1) of this section subsequently complies with the child support order, a copy of a release stating that the responsible parent is in compliance with the order shall be transmitted by the department to the appropriate licensing entities.

(4) The department of licensing and a licensing entity may renew, reinstate, or otherwise extend a license in accordance with the licensing entity's or the department of licensing's rules after the licensing entity or the department of licensing receives a copy of the release specified in subsection (3) of this section. The department of licensing and a licensing entity may waive any applicable requirement for reissuance, renewal, or other extension if it determines that the imposition of that requirement places an undue burden on the person and that waiver of the requirement is consistent with the public interest. [2009 c 408 § 1; 1997 c 58 § 802.]

***Reviser's note:** Subsection (1) of this section was vetoed by the governor. The vetoed language is as follows:

"(1) Sections 1, 2, 101 through 110, 201 through 207, 301 through 329, 401 through 404, 501 through 506, 601, 705, 706, 888, 891 through 943, 945 through 948, and 1002 of this act are necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and take effect immediately."

Intent—1997 c 58: "It is the intent of the legislature to provide a strong incentive for persons owing child support to make timely payments, and to cooperate with the department of social and health services to establish an appropriate schedule for the payment of any arrears. To further ensure that child support obligations are met, sections 801 through 890 of this act establish a program by which certain licenses may be suspended or not renewed if a person is one hundred eighty days or more in arrears on child support payments.

In the implementation and management of this program, it is the legislature's intent that the objective of the department of social and health services be to obtain payment in full of arrears, or where that is not possible, to enter into agreements with delinquent obligors to make timely support payments and make reasonable payments towards the arrears. The legislature intends that if the obligor refuses to cooperate in establishing a fair and reasonable payment schedule for arrears or refuses to make timely support payments, the department shall proceed with certification to a licensing entity or the department of licensing that the person is not in compliance with a child support order." [1997 c 58 § 801.]

Additional notes found at www.leg.wa.gov

Chapter 77.15 RCW

FISH AND WILDLIFE ENFORCEMENT CODE

*Sections

77.15.750 Unlawful use of a department permit—Penalty.

**Partial listing of sections.*

77.15.750 Unlawful use of a department permit—Penalty. (1) A person is guilty of unlawful use of a department permit if the person:

(a) Violates any terms or conditions of the permit issued by the department or the director; or

(b) Violates any rule of the commission or the director applicable to the requirement for, issuance of, or use of the permit.

(2)(a) Permits covered under subsection (1) of this section include, but are not limited to, master hunter permits, crab pot removal permits and shellfish pot removal permits under RCW 77.70.500, depredation permits, landowner hunting permits, commercial carp license permits, permits to possess or dispense beer or malt liquor pursuant to RCW 66.28.210, and permits to hold, sponsor, or attend an event requiring a banquet permit from the liquor control board.

(b) Permits excluded from subsection (1) of this section include the discover pass created in RCW 79A.80.020, the vehicle access pass created in RCW 79A.80.040, the day-use permit created in RCW 79A.80.030, commercial use or activity permits, noncommercial use or activity permits, parking permits, experimental fishery permits, trial commercial fishery permits, and scientific collection permits.

(3) Unlawful use of a department permit is a misdemeanor.

(4) A person is guilty of unlawful use of an experimental fishery permit or a trial commercial fishery permit if the person:

(a) Violates any terms or conditions of the permit issued by the department or the director; or

(b) Violates any rule of the commission or the director applicable to the issuance or use of the permit.

(5) Unlawful use of an experimental fishery permit or a trial commercial fishery permit is a gross misdemeanor.

(6) The definitions in this subsection apply throughout this section unless the context clearly requires otherwise.

(a) "Experimental fishery permit" means a permit issued by the director for either:

(i) An "emerging commercial fishery," defined as a fishery for a newly classified species for which the department has determined that there is a need to limit participation; or

(ii) An "expanding commercial fishery," defined as a fishery for a previously classified species in a new area, by a new method, or at a new effort level, for which the department has determined that there is a need to limit participation.

(b) "Trial commercial fishery permit" means a permit issued by the department for trial harvest of a newly classified species or harvest of a previously classified species in a new area or by a new means. [2011 c 320 § 20; 2010 c 193 § 9; 2009 c 333 § 14.]

Effective date—2011 c 320: See note following RCW 79A.80.005.

Findings—Intent—2011 c 320: See RCW 79A.80.005.

Chapter 82.08 RCW
RETAIL SALES TAX

*Sections

82.08.150 Tax on certain sales of intoxicating liquors—Additional taxes for specific purposes—Collection.
82.08.160 Remittance of tax—Liquor excise tax fund created.
82.08.170 Apportionment and distribution from liquor excise tax fund.
82.08.180 Apportionment and distribution from liquor excise tax fund—Withholding for noncompliance.

**Partial listing of sections.*

82.08.150 Tax on certain sales of intoxicating liquors—Additional taxes for specific purposes—Collection. (1) There is levied and collected a tax upon each retail sale of spirits in the original package at the rate of fifteen percent of the selling price.

(2) There is levied and collected a tax upon each sale of spirits in the original package at the rate of ten percent of the selling price on sales by a spirits distributor licensee or other licensee acting as a spirits distributor pursuant to Title 66 RCW to restaurant spirits retailers.

(3) There is levied and collected an additional tax upon each sale of spirits in the original package by a spirits distributor licensee or other licensee acting as a spirits distributor pursuant to Title 66 RCW to a restaurant spirits retailer and upon each retail sale of spirits in the original package by a licensee of the board at the rate of one dollar and seventy-two cents per liter.

(4) An additional tax is imposed equal to fourteen percent multiplied by the taxes payable under subsections (1), (2), and (3) of this section.

(5) An additional tax is imposed upon each sale of spirits in the original package by a spirits distributor licensee or other licensee acting as a spirits distributor pursuant to Title 66 RCW to a restaurant spirits retailer and upon each retail sale of spirits in the original package by a licensee of the board at the rate of seven cents per liter. All revenues collected during any month from this additional tax must be deposited in the state general fund by the twenty-fifth day of the following month.

(6)(a) An additional tax is imposed upon retail sale of spirits in the original package at the rate of three and four-tenths percent of the selling price.

(b) An additional tax is imposed upon retail sale of spirits in the original package to a restaurant spirits retailer at the rate of two and three-tenths percent of the selling price.

(c) An additional tax is imposed upon each sale of spirits in the original package by a spirits distributor licensee or other licensee acting as a spirits distributor pursuant to Title 66 RCW to a restaurant spirits retailer and upon each retail sale of spirits in the original package by a licensee of the board at the rate of forty-one cents per liter.

(d) All revenues collected during any month from additional taxes under this subsection must be deposited in the state general fund by the twenty-fifth day of the following month.

(7)(a) An additional tax is imposed upon each retail sale of spirits in the original package at the rate of one dollar and thirty-three cents per liter.

(b) All revenues collected during any month from additional taxes under this subsection must be deposited by the twenty-fifth day of the following month into the general fund.

(8) The tax imposed in RCW 82.08.020 does not apply to sales of spirits in the original package.

(9) The taxes imposed in this section must be paid by the buyer to the seller, and each seller must collect from the buyer the full amount of the tax payable in respect to each taxable sale under this section. The taxes required by this section to be collected by the seller must be stated separately from the selling price, and for purposes of determining the tax due from the buyer to the seller, it is conclusively presumed that the selling price quoted in any price list does not include the taxes imposed by this section. Sellers must report and return all taxes imposed in this section in accordance with rules adopted by the department.

(10) As used in this section, the terms, "spirits" and "package" have the same meaning as provided in chapter 66.04 RCW. [2012 c 2 § 106 (Initiative Measure No. 1183, approved November 8, 2011); 2009 c 479 § 65; 2005 c 514 § 201; 2003 c 167 § 11; 1998 c 126 § 16; 1997 c 321 § 55; 1994 sp.s. c 7 § 903 (Referendum Bill No. 43, approved November 8, 1994); 1993 c 492 § 310; 1989 c 271 § 503; 1983 2nd ex.s. c 3 § 12; 1982 1st ex.s. c 35 § 3; 1981 1st ex.s. c 5 § 25; 1973 1st ex.s. c 204 § 1; 1971 ex.s. c 299 § 9; 1969 ex.s. c 21 § 11; 1965 ex.s. c 173 § 16; 1965 c 42 § 1; 1961 ex.s. c 24 § 2; 1961 c 15 § 82.08.150. Prior: 1959 ex.s. c 5 § 9; 1957 c 279 § 4; 1955 c 396 § 1; 1953 c 91 § 5; 1951 2nd ex.s. c 28 § 5.]

Finding—Application—Rules—Effective date—Contingent effective date—2012 c 2 (Initiative Measure No. 1183): See notes following RCW 66.24.620.

Effective date—2009 c 479: See note following RCW 2.56.030.

Effective date—2005 c 514: See note following RCW 83.100.230.

Part headings not law—Severability—2005 c 514: See notes following RCW 82.12.808.

Finding—Intent—Severability—1994 sp.s. c 7: See notes following RCW 43.70.540.

Findings—Intent—1993 c 492: See notes following RCW 43.20.050.

Additional notes found at www.leg.wa.gov

82.08.160 Remittance of tax—Liquor excise tax fund created. (1) On or before the twenty-fifth day of each month, all taxes collected under RCW 82.08.150 during the preceding month must be remitted to the state department of revenue, to be deposited with the state treasurer. Except as provided in subsections (2), (3), and (4) of this section, upon receipt of such moneys the state treasurer must credit sixty-five percent of the sums collected and remitted under RCW 82.08.150 (1) and (2) and one hundred percent of the sums collected and remitted under RCW 82.08.150 (3) and (4) to the state general fund and thirty-five percent of the sums col-

lected and remitted under RCW 82.08.150 (1) and (2) to a fund which is hereby created to be known as the "liquor excise tax fund."

(2) During the 2012 fiscal year, 66.19 percent of the sums collected and remitted under RCW 82.08.150 (1) and (2) must be deposited in the state general fund and the remainder collected and remitted under RCW 82.08.150 (1) and (2) must be deposited in the liquor excise tax fund.

(3) During fiscal year 2013, all funds collected under RCW 82.08.150 (1), (2), (3), and (4) must be deposited into the state general fund.

(4) During the 2013-2015 fiscal biennium, seventy-seven and one-half percent of the sums collected and remitted under RCW 82.08.150 (1) and (2) must be deposited in the state general fund, and the remainder collected and remitted under RCW 82.08.150 (1) and (2) must be deposited in the liquor excise tax fund. The amendments in *this section are curative, clarifying, and remedial and apply retroactively to July 1, 2013. [2014 c 221 § 923; 2013 2nd sp.s. c 4 § 1003; 2012 2nd sp.s. c 5 § 3; 2011 1st sp.s. c 50 § 969; 1982 1st ex.s. c 35 § 4; 1981 1st ex.s. c 5 § 26; 1969 ex.s. c 21 § 12; 1961 c 15 § 82.08.160. Prior: 1955 c 396 § 2.]

***Reviser's note:** "This section" means section 923, chapter 221, Laws of 2014.

Effective date—2014 c 221: See note following RCW 28A.710.260.

Effective dates—2013 2nd sp.s. c 4: See note following RCW 2.68.020.

Effective date—2012 2nd sp.s. c 5: See note following RCW 43.135.045.

Effective dates—2011 1st sp.s. c 50: See note following RCW 15.76.115.

Additional notes found at www.leg.wa.gov

82.08.170 Apportionment and distribution from liquor excise tax fund. (1) Except as provided in subsection (4) of this section, during the months of January, April, July, and October of each year, the state treasurer must make the transfers required under subsections (2) and (3) of this section from the liquor excise tax fund and then the apportionment and distribution of all remaining moneys in the liquor excise tax fund to the counties, cities, and towns in the following proportions: (a) Twenty percent of the moneys in the liquor excise tax fund must be divided among and distributed to the counties of the state in accordance with the provisions of RCW 66.08.200; and (b) eighty percent of the moneys in the liquor excise tax fund must be divided among and distributed to the cities and towns of the state in accordance with the provisions of RCW 66.08.210.

(2) Each fiscal quarter and prior to making the twenty percent distribution to counties under subsection (1)(a) of this section, the treasurer shall transfer to the liquor revolving fund created in RCW 66.08.170 sufficient moneys to fund the allotments from any legislative appropriations for county research and services as provided under chapter 43.110 RCW.

(3) During the months of January, April, July, and October of each year, the state treasurer must transfer two million five hundred thousand dollars from the liquor excise tax fund to the state general fund.

(4) During calendar year 2012, the October distribution under subsection (1) of this section and the July and October transfers under subsections (2) and (3) of this section must not be made. During calendar year 2013, the January, April, and July distributions under subsection (1) of this section and transfers under subsections (2) and (3) of this section must not be made. [2012 2nd sp.s. c 5 § 4; 2002 c 38 § 3; 1997 c 437 § 4; 1983 c 3 § 215; 1961 c 15 § 82.08.170. Prior: 1955 c 396 § 3.]

Effective date—2012 2nd sp.s. c 5: See note following RCW 43.135.045.

Additional notes found at www.leg.wa.gov

82.08.180 Apportionment and distribution from liquor excise tax fund—Withholding for noncompliance. The governor may notify and direct the state treasurer to withhold the revenues to which the counties, cities, and towns are entitled under RCW 82.08.170 if the counties, cities, or towns are found to be in noncompliance pursuant to RCW 36.70A.340. [1991 sp.s. c 32 § 36.]

Additional notes found at www.leg.wa.gov

Chapter 82.24 RCW
TAX ON CIGARETTES

Sections

82.24.010 Definitions.
82.24.020 Tax imposed—Absorption of tax—Possession defined—Exempt tribal members.
82.24.026 Additional tax imposed—Where deposited.
82.24.029 Tax preferences—Expiration dates.
82.24.030 Stamps.
82.24.035 Circumstances when no stamp may be affixed—Violation of consumer protection act.
82.24.040 Duty of wholesaler.
82.24.050 Retailer—Possession of unstamped cigarettes—Access to commercial cigarette-making machines.
82.24.060 Stamps—How affixed.
82.24.080 Legislative intent—Taxable event—Tax liability.
82.24.090 Records—Preservation—Reports.
82.24.100 Forgery or counterfeiting of stamps—Penalty.
82.24.110 Other offenses—Penalties.
82.24.120 Violations—Penalties and interest.
82.24.130 Seizure and forfeiture.
82.24.135 Forfeiture procedure.
82.24.145 Forfeited property—Retention, sale, or destruction—Use of sale proceeds.
82.24.180 Seized property may be returned—Penalty, interest.
82.24.190 Search and seizure.
82.24.210 Redemption of stamps.
82.24.230 Administration.
82.24.235 Rules.
82.24.250 Transportation of unstamped cigarettes—Invoices and delivery tickets required—Stop and inspect.
82.24.260 Selling or disposal of unstamped cigarettes—Person to pay and remit tax or affix stamps—Liability.
82.24.280 Liability from tax increase—Interest and penalties on unpaid tax—Administration.
82.24.290 Exceptions—Federal instrumentalities and purchasers from federal instrumentalities.
82.24.295 Exceptions—Sales by Indian retailer under cigarette tax contract.
82.24.300 Exceptions—Puyallup Tribe of Indians.
82.24.302 Exceptions—Sales by tribal retailers—Yakama Nation.
82.24.500 Business of cigarette purchase, sale, consignment, distribution, or providing access to cigarette-making machines—License required—Penalty.
82.24.510 Wholesaler's and retailer's licenses—Application and issuance—Criminal background check.
82.24.520 Wholesaler's license—Fee—Display of license—Bond.
82.24.530 Retailer's license—Vending machines—Cigarette-making machines.
82.24.540 Licensee to operate within scope of license—Penalty.
82.24.550 Enforcement—Rules—Notice—Hearing—Reinstatement of license—Appeal.
82.24.551 Enforcement—Appointment of officers of liquor control board.
82.24.552 Enforcement—Administration—Inspection of books and records.
82.24.560 Fees and penalties credited to general fund.
82.24.570 Counterfeit cigarette offenses—Penalties.
82.24.900 Construction—1961 c 15.

Minors: Chapter 70.155 RCW.

82.24.010 Definitions. Unless the context clearly requires otherwise, the definitions in this section apply throughout this chapter:

(1) "Board" means the liquor control board.

(2) "Cigarette" means any roll for smoking made wholly or in part of tobacco, irrespective of size or shape and irrespective of the tobacco being flavored, adulterated, or mixed with any other ingredient, where such roll has a wrapper or cover made of paper or any material, except where such wrapper is wholly or in the greater part made of natural leaf tobacco in its natural state. "Cigarette" includes a roll-your-own cigarette.

(3) "Cigarette paper" means any paper or any other material except tobacco, prepared for use as a cigarette wrapper.

(4) "Cigarette tube" means cigarette paper made into a hollow cylinder for use in making cigarettes.

(5) "Commercial cigarette-making machine" means a machine that is operated in a retail establishment and that is capable of being loaded with loose tobacco, cigarette paper or tubes, and any other components related to the production of roll-your-own cigarettes, including filters.

(6) "Indian tribal organization" means a federally recognized Indian tribe, or tribal entity, and includes an Indian wholesaler or retailer that is owned by an Indian who is an enrolled tribal member conducting business under tribal license or similar tribal approval within Indian country. For purposes of this chapter "Indian country" is defined in the manner set forth in 18 U.S.C. Sec. 1151.

(7) "Precollection obligation" means the obligation of a seller otherwise exempt from the tax imposed by this chapter to collect the tax from that seller's buyer.

(8) "Retailer" means every person, other than a wholesaler, who purchases, sells, offers for sale or distributes any one or more of the articles taxed herein, irrespective of quantity or amount, or the number of sales, and all persons operating under a retailer's registration certificate.

(9) "Retail selling price" means the ordinary, customary or usual price paid by the consumer for each package of cigarettes, less the tax levied by this chapter and less any similar tax levied by this state.

(10) "Roll-your-own cigarettes" means cigarettes produced by a commercial cigarette-making machine.

(11) "Stamp" means the stamp or stamps by use of which the tax levy under this chapter is paid or identification is made of those cigarettes with respect to which no tax is imposed.

(12) "Wholesaler" means every person who purchases, sells, or distributes any one or more of the articles taxed herein to retailers for the purpose of resale only.

(13) The meaning attributed, in chapter 82.04 RCW, to the words "person," "sale," "business" and "successor" applies equally in this chapter. [2012 2nd sp.s. c 4 § 1; 1997 c 420 § 3; 1995 c 278 § 1; 1961 c 15 § 82.24.010. Prior: 1959 c 270 § 9; 1949 c 228 § 14; 1935 c 180 § 83; Rem. Supp. 1949 § 8370-83.]

Effective date—2012 2nd sp.s. c 4: See note following RCW 82.24.030.

Additional notes found at www.leg.wa.gov

82.24.020 Tax imposed—Absorption of tax—Possession defined—Exempt tribal members. (1) There is levied and collected as provided in this chapter, a tax upon the sale,

use, consumption, handling, possession, or distribution of all cigarettes, in an amount equal to 12.125 cents per cigarette.

(2) Wholesalers subject to the payment of this tax may, if they wish, absorb five one-hundredths cents per cigarette of the tax and not pass it on to purchasers without being in violation of this section or any other act relating to the sale or taxation of cigarettes.

(3) For purposes of this chapter, "possession" means both (a) physical possession by the purchaser and, (b) when cigarettes are being transported to or held for the purchaser or his or her designee by a person other than the purchaser, constructive possession by the purchaser or his or her designee, which constructive possession is deemed to occur at the location of the cigarettes being so transported or held.

(4) In accordance with federal law and rules prescribed by the department, an enrolled member of a federally recognized Indian tribe may purchase cigarettes from an Indian tribal organization under the jurisdiction of the member's tribe for the member's own use exempt from the applicable taxes imposed by this chapter. Except as provided in subsection (5) of this section, any person, who purchases cigarettes from an Indian tribal organization and who is not an enrolled member of the federally recognized Indian tribe within whose jurisdiction the sale takes place, is not exempt from the applicable taxes imposed by this chapter.

(5) If the state enters into a cigarette tax contract or agreement with a federally recognized Indian tribe under chapter 43.06 RCW, the terms of the contract or agreement take precedence over any conflicting provisions of this chapter while the contract or agreement is in effect. [2010 1st sp.s. c 22 § 2; 2009 c 479 § 66. Prior: 2008 c 226 § 3; 2008 c 86 § 301; 2003 c 114 § 1; 1994 sp.s. c 7 § 904 (Referendum Bill No. 43, approved November 8, 1994); 1993 c 492 § 307; 1989 c 271 § 504; 1987 c 80 § 1; 1983 2nd ex.s. c 3 § 15; 1982 1st ex.s. c 35 § 8; 1981 c 172 § 6; 1972 ex.s. c 157 § 3; 1971 ex.s. c 299 § 13; 1965 ex.s. c 173 § 23; 1961 ex.s. c 24 § 3; 1961 c 15 § 82.24.020; prior: 1959 c 270 § 2; prior: 1949 c 228 § 13, part; 1943 c 156 § 11, part; 1941 c 178 § 13, part; 1939 c 225 § 23, part; 1935 c 180 § 82, part; Rem. Supp. 1949 § 8370-82, part.]

Application—2010 1st sp.s. c 22 § 2: "Section 2 of this act applies only with respect to tax liability incurred under chapter 82.24 RCW on or after May 1, 2010, for the sale, use, consumption, handling, possession, or distribution of cigarettes." [2010 1st sp.s. c 22 § 9.]

Intent—2010 1st sp.s. c 22: "It is the intent of the legislature to use revenue raised from taxes levied on the sales of cigarettes and other tobacco products to fund basic health care services." [2010 1st sp.s. c 22 § 1.]

Effective date—2010 1st sp.s. c 22: "This act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and takes effect May 1, 2010." [2010 1st sp.s. c 22 § 12.]

Effective date—2009 c 479: See note following RCW 2.56.030.

Finding—Intent—2008 c 226: See note following RCW 82.24.080.

Severability—Savings—Part headings not law—2008 c 86: See notes following RCW 82.14.030.

Finding—Intent—Severability—Effective dates—Contingent expiration date—1994 sp.s. c 7: See notes following RCW 43.70.540.

Findings—Intent—1993 c 492: See notes following RCW 43.20.050.

Additional notes found at www.leg.wa.gov

82.24.026 Additional tax imposed—Where deposited. In addition to the tax imposed upon the sale, use, consumption, handling, possession, or distribution of cigarettes set forth in RCW 82.24.020, there is imposed a tax in an amount equal to three cents per cigarette.

Beginning July 1, 2010, the revenue collected under this section must be deposited into the general fund. [2011 c 334 § 1; 2010 1st sp.s. c 22 § 3; 2009 c 479 § 67; 2008 c 86 § 302; 2005 c 514 § 1102.]

Effective date—2011 c 334: "This act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and takes effect immediately [May 12, 2011]." [2011 c 334 § 2.]

Intent—Effective date—2010 1st sp.s. c 22: See notes following RCW 82.24.020.

Effective date—2009 c 479: See note following RCW 2.56.030.

Severability—Savings—Part headings not law—2008 c 86: See notes following RCW 82.14.030.

Effective date—2005 c 514: See note following RCW 83.100.230.

Part headings not law—Severability—2005 c 514: See notes following RCW 82.12.808.

82.24.029 Tax preferences—Expiration dates. See RCW 82.32.805 for the expiration date of new tax preferences for the tax imposed under this chapter. [2013 2nd sp.s. c 13 § 1714.]

Effective date—2013 2nd sp.s. c 13: See note following RCW 82.04.43393.

82.24.030 Stamps. (1) In order to enforce collection of the tax hereby levied, the department of revenue must design and have printed stamps of such size and denominations as may be determined by the department. The stamps must be affixed on the smallest container or package that will be handled, sold, used, consumed, or distributed, to permit the department to readily ascertain by inspection, whether or not such tax has been paid or whether an exemption from the tax applies.

(2) Except as otherwise provided in this chapter, only a wholesaler may cause to be affixed on every package of cigarettes, stamps of an amount equaling the tax due thereon or stamps identifying the cigarettes as exempt before he or she sells, offers for sale, uses, consumes, handles, removes, or otherwise disturbs and distributes the same. However, where it is established to the satisfaction of the department that it is impractical to affix such stamps to the smallest container or package, the department may authorize the affixing of stamps of appropriate denomination to a large container or package.

(3) Except as otherwise provided in this chapter, only wholesalers may purchase or obtain cigarette stamps. Wholesalers may not sell or provide stamps to any other wholesaler or person.

(4) Each roll of stamps, or group of sheets, must have a separate serial number, which is legible at the point of sale. The department of revenue must keep records of which wholesaler purchases each roll or group of sheets. If the department of revenue permits wholesalers to purchase partial rolls or sheets, in no case may stamps bearing the same serial number be sold to more than one wholesaler. The remainder of the roll or sheet, if any, must either be retained for later purchases by the same wholesaler or destroyed.

(5) Nothing in this section may be construed as limiting any otherwise lawful activity under a cigarette tax compact pursuant to chapter 43.06 RCW.

(6) In order to enforce collection of the tax in the case of roll-your-own cigarettes, a retailer must affix a stamp or stamps to each box or similar container provided by the retailer to the consumer. The box or similar container must be used by a consumer to transport roll-your-own cigarettes from the retailer's place of business. A retailer must provide cigarette tubes to a consumer in one or more twenty unit denominations. Stamps must be for an amount equaling the tax due under this chapter. Each cigarette tube or paper provided to the consumer is deemed a cigarette for purposes of imposing and collecting taxes under this chapter. Stamps for roll-your-own cigarettes must be issued and affixed in a manner determined by the department but as consistent as practicable with the stamping requirements for wholesalers. [2012 2nd sp.s. c 4 § 2; 2003 c 114 § 2; 1995 c 278 § 2; 1990 c 216 § 1; 1975 1st ex.s. c 278 § 61; 1961 c 15 § 82.24.030. Prior: 1959 c 270 § 3; prior: 1949 c 228 § 13, part; 1943 c 156 § 11, part; 1941 c 178 § 13, part; 1939 c 225 § 23, part; 1935 c 180 § 82, part; Rem. Supp. 1949 § 8370-82, part.]

Effective date—2012 2nd sp.s. c 4: "This act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and takes effect July 1, 2012." [2012 2nd sp.s. c 4 § 13.]

Additional notes found at www.leg.wa.gov

82.24.035 Circumstances when no stamp may be affixed—Violation of consumer protection act. (1) No stamp may be affixed to, or made upon, any container or package of cigarettes if:

(a) The container or package differs in any respect with the requirements of the federal cigarette labeling and advertising act (15 U.S.C. Sec. 1331 et seq.) for the placement of labels, warnings, or any other information upon a package of cigarettes that is to be sold within the United States;

(b) The container or package has been imported into the United States after January 1, 2000, in violation of 26 U.S.C. Sec. 5754;

(c) The container or package, including a container of individually stamped containers or packages, is labeled "For Export Only," "U.S. Tax Exempt," "For Use Outside U.S.," or similar wording indicating that the manufacturer did not intend that the product be sold in the United States; or

(d) The container or package has been altered by adding or deleting the wording, labels, or warnings described in (a) or (c) of this subsection.

(2) In addition to the penalty and forfeiture provisions otherwise provided for in this chapter, a violation of this section is a deceptive act or practice under the consumer protection act, chapter 19.86 RCW.

(3) Subsection (1)(a) of this section does not apply to boxes or similar containers used by a consumer to transport roll-your-own cigarettes. [2012 2nd sp.s. c 4 § 3; 1999 c 193 § 5.]

Effective date—2012 2nd sp.s. c 4: See note following RCW 82.24.030.

Intent—Finding—1999 c 193: "(1) Cigarette smoking presents serious public health concerns to the state and to the citizens of the state. The surgeon general has determined that smoking causes lung cancer, heart disease, and other serious diseases and that there are hundreds of thousands of tobacco-related deaths in the United States each year. These diseases most often do not appear until many years after the person in question begins smoking.

(2) It is the policy of the state that consumers be adequately informed about the adverse health effects of cigarette smoking by including warning notices on each package of cigarettes.

(3) It is the policy of the state that manufacturers and importers of cigarettes not make any material misrepresentation of fact regarding the health consequences of using cigarettes, including compliance with applicable federal laws, regulations, and policies.

(4) It is the intent of the legislature to align state law with federal laws, regulations, and policies relating to the manufacture, importation, and marketing of cigarettes, and in particular, the federal cigarette labeling and advertising act (15 U.S.C. Sec. 1331 et seq.) and 26 U.S.C. Sec. 5754.

(5) The legislature finds that consumers and retailers purchasing cigarettes are entitled to be fully informed about any adverse health effects of cigarette smoking by inclusion of warning notices on each package of cigarettes and to be assured through appropriate enforcement measures that cigarettes they purchase were manufactured for consumption within the United States." [1999 c 193 § 1.]

Additional notes found at www.leg.wa.gov

82.24.040 Duty of wholesaler. (1) Except as authorized by this chapter, no person other than a licensed wholesaler shall possess in this state unstamped cigarettes.

(2) No wholesaler in this state may possess within this state unstamped cigarettes except that:

(a) Every wholesaler in the state who is licensed under Washington state law may possess within this state unstamped cigarettes for such period of time after receipt as is reasonably necessary to affix the stamps as required; and

(b) Any wholesaler in the state who is licensed under Washington state law and who furnishes a surety bond in a sum satisfactory to the department, shall be permitted to set aside, without affixing the stamps required by this chapter, such part of the wholesaler's stock as may be necessary for the conduct of the wholesaler's business in making sales to persons in another state or foreign country or to instrumentalities of the federal government. Such unstamped stock shall be kept separate and apart from stamped stock.

(3) Every wholesaler licensed under Washington state law shall, at the time of shipping or delivering any of the articles taxed herein to a point outside of this state or to a federal instrumentality, make a true duplicate invoice of the same which shall show full and complete details of the sale or delivery, whether or not stamps were affixed thereto, and shall transmit such true duplicate invoice to the department, at Olympia, not later than the fifteenth day of the following calendar month. For failure to comply with the requirements of this section, the department may revoke the permission granted to the taxpayer to maintain a stock of goods to which the stamps required by this chapter have not been affixed.

(4) Unstamped cigarettes possessed by a wholesaler under subsection (2) of this section that are transferred by the wholesaler to another facility of the wholesaler within the borders of Washington shall be transferred in compliance with RCW 82.24.250.

(5) Every wholesaler who is licensed by Washington state law shall sell cigarettes to retailers located in Washington only if the retailer has a current cigarette retailer's license or is an Indian tribal organization authorized to possess untaxed cigarettes under this chapter and the rules adopted by the department.

(6) Nothing in this section shall be construed as limiting any otherwise lawful activity under a cigarette tax compact pursuant to chapter 43.06 RCW. [2003 c 114 § 3; 1995 c 278 § 3; 1990 c 216 § 2; 1969 ex.s. c 214 § 1; 1961 c 15 § 82.24.040. Prior: 1959 c 270 § 4; prior: 1949 c 228 § 13, part;

1943 c 156 § 11, part; 1941 c 178 § 13, part; 1939 c 225 § 23, part; 1935 c 180 § 82, part; Rem. Supp. 1949 § 8370-82, part.]

Additional notes found at www.leg.wa.gov

82.24.050 Retailer—Possession of unstamped cigarettes—Access to commercial cigarette-making machines. (1) No retailer in this state may possess unstamped cigarettes within this state unless the person is also a wholesaler in possession of the cigarettes in accordance with RCW 82.24.040.

(2) A retailer may obtain cigarettes only from a wholesaler subject to the provisions of this chapter.

(3) Only a retailer licensed under this chapter may provide consumers with access to a commercial cigarette-making machine to make roll-your-own cigarettes. A retailer is prohibited from allowing the use of a commercial cigarette-making machine by a person unless, contemporaneously to the person's use of the machine, the retailer provides the consumer with a box or similar container to transport roll-your-own cigarettes and such box is affixed with the appropriate stamp or stamps as required under RCW 82.24.030(6). A consumer must transport roll-your-own cigarettes from a retailer's place of business only in such box or similar container.

(4) A commercial cigarette-making machine must have a secure meter that counts the number of cigarettes made, manufactured, or fabricated by the machine and that cannot be accessed, except for the sole purpose of taking meter readings, altered or reset by the machine operator. [2012 2nd sp.s. c 4 § 4; 2003 c 114 § 4; 1995 c 278 § 4; 1990 c 216 § 3; 1969 ex.s. c 214 § 2; 1961 c 15 § 82.24.050. Prior: 1959 c 270 § 5; prior: 1949 c 228 § 13, part; 1943 c 156 § 11, part; 1941 c 178 § 13, part; 1939 c 225 § 23, part; 1935 c 180 § 82, part; Rem. Supp. 1949 § 8370-82, part.]

Effective date—2012 2nd sp.s. c 4: See note following RCW 82.24.030.

Additional notes found at www.leg.wa.gov

82.24.060 Stamps—How affixed. (1) Except as otherwise provided in this chapter, stamps must be affixed in such manner that they cannot be removed from the package or container without being mutilated or destroyed, which stamps so affixed are evidence of the tax imposed.

(2) In the case of cigarettes contained in individual packages, as distinguished from cartons or larger units, the stamps must be affixed securely on each individual package.

(3) With respect to roll-your-own cigarettes, stamps must be affixed securely on each individual box or similar container provided by the retailer to the consumer. [2012 2nd sp.s. c 4 § 5; 1961 c 15 § 82.24.060. Prior: 1959 c 270 § 6; prior: 1949 c 228 § 13, part; 1943 c 156 § 11, part; 1941 c 178 § 13, part; 1939 c 225 § 23, part; 1935 c 180 § 82, part; Rem. Supp. 1949 § 8370-82, part.]

Effective date—2012 2nd sp.s. c 4: See note following RCW 82.24.030.

82.24.080 Legislative intent—Taxable event—Tax liability. (1) It is the intent and purpose of this chapter to levy a tax on all of the articles taxed under this chapter, sold, used, consumed, handled, possessed, or distributed within this state and to collect the tax from the person who first sells, uses, consumes, handles, possesses (either physically or constructively, in accordance with RCW 82.24.020) or distributes them in the state. It is further the intent and purpose of this chapter that whenever any of the articles taxed under this chapter is given away for advertising or any other purpose, it shall be taxed in the same manner as if it were sold, used, consumed, handled, possessed, or distributed in this state.

(2) It is also the intent and purpose of this chapter that the tax shall be imposed at the time and place of the first taxable event and upon the first taxable person within this state. Any person whose activities would otherwise require payment of the tax imposed by subsection (1) of this section but who is exempt from the tax nevertheless has a precollection obligation for the tax that must be imposed on the first taxable event within this state. A precollection obligation may not be imposed upon a person exempt from the tax who sells, distributes, or transfers possession of cigarettes to another person who, by law, is exempt from the tax imposed by this chapter or upon whom the obligation for collection of the tax may not be imposed. Failure to pay the tax with respect to a taxable event shall not prevent tax liability from arising by reason of a subsequent taxable event.

(3) In the event of an increase in the rate of the tax imposed under this chapter, it is the intent of the legislature that the first person who sells, uses, consumes, handles, possesses, or distributes previously taxed articles after the effective date of the rate increase shall be liable for the additional tax, or its precollection obligation as required by this chapter, represented by the rate increase. The failure to pay the additional tax with respect to the first taxable event after the effective date of a rate increase shall not prevent tax liability for the additional tax from arising from a subsequent taxable event.

(4) It is the intent of the legislature that, in the absence of a cigarette tax contract or agreement under chapter 43.06 RCW, applicable taxes imposed by this chapter be collected on cigarettes sold by an Indian tribal organization to any person who is not an enrolled member of the federally recognized Indian tribe within whose jurisdiction the sale takes place consistent with collection of these taxes generally within the state. The legislature finds that applicable collection and enforcement measures under this chapter are reasonably necessary to prevent fraudulent transactions and place a minimal burden on the Indian tribal organization, pursuant to the United States supreme court's decision in *Washington v. Confederated Tribes of the Colville Indian Reservation*, 447 U.S. 134 (1980). [2008 c 226 § 2; 1995 c 278 § 5; 1993 c 492 § 308; 1972 ex.s. c 157 § 4; 1961 c 15 § 82.24.080. Prior: 1959 c 270 § 8; prior: 1949 c 228 § 13, part; 1943 c 156 § 11, part; 1941 c 178 § 13, part; 1939 c 225 § 23, part; 1935 c 180 § 82, part; Rem. Supp. 1949 § 8370-82, part.]

Finding—Intent—2008 c 226: "The legislature finds that under Article III of the treaty with the Yakamas of 1855, members of the Yakama Nation have the right to travel upon all public highways. It is the legislature's intent to honor the treaty rights of the Yakama Nation, while protecting the state's interest in collecting and enforcing its cigarette taxes." [2008 c 226 § 1.]

Findings—Intent—1993 c 492: See notes following RCW 43.20.050.

Additional notes found at www.leg.wa.gov

82.24.090 Records—Preservation—Reports. (1) Every wholesaler or retailer subject to the provisions of this chapter shall keep and preserve for a period of five years an accurate set of records. These records must show all transactions relating to the purchase and sale of any of the articles taxed under this chapter and show all physical inventories performed on those articles, all invoices, and a record of all stamps purchased. All such records and all stock of taxable articles on hand shall be open to inspection at all reasonable times by the department of revenue or its duly authorized agent.

(2) All wholesalers shall within fifteen days after the first day of each month file with the department of revenue a report of all drop shipment sales made by them to retailers within this state during the preceding month. The report shall show the name and address of the retailer to whom the cigarettes were sold, the kind and quantity, and the date of delivery thereof. [1995 c 278 § 6; 1975 1st ex.s. c 278 § 62; 1961 c 15 § 82.24.090. Prior: 1941 c 178 § 14; 1939 c 225 § 24; 1935 c 180 § 84; Rem. Supp. 1941 § 8370-84.]

Additional notes found at www.leg.wa.gov

82.24.100 Forgery or counterfeiting of stamps—Penalty. To forge or counterfeit any stamp of the kind herein provided is a felony. [1961 c 15 § 82.24.100. Prior: 1935 c 180 § 85; RRS § 8370-85.]

82.24.110 Other offenses—Penalties. (1) Each of the following acts is a gross misdemeanor and punishable as such:

(a) To sell, except as a licensed wholesaler engaged in interstate commerce as to the article being taxed herein, without the stamp first being affixed;

(b) To sell in Washington as a wholesaler to a retailer who does not possess and is required to possess a current cigarette retailer's license;

(c) To use or have in possession knowingly or intentionally any forged or counterfeit stamps;

(d) For any person other than the department of revenue or its duly authorized agent to sell any stamps not affixed to any of the articles taxed herein whether such stamps are genuine or counterfeit;

(e) For any person other than the department of revenue, its duly authorized agent, or a licensed wholesaler who has lawfully purchased or obtained them to possess any stamps not affixed to any of the articles taxed herein whether such stamps are genuine or counterfeit;

(f) To violate any of the provisions of this chapter;

(g) To violate any lawful rule made and published by the department of revenue or the board;

(h) To use any stamps more than once or any individual stamped box or similar container used to transport roll-your-own cigarettes more than once;

(i) To refuse to allow the department of revenue or its duly authorized agent, on demand, to make full inspection of any place of business where any of the articles herein taxed are sold or otherwise hinder or prevent such inspection;

(j) Except as otherwise provided in this chapter, for any retailer to have in possession in any place of business any of the articles herein taxed, unless the same have the proper stamps attached;

(k) For any person to make, use, or present or exhibit to the department of revenue or its duly authorized agent, any invoice for any of the articles herein taxed which bears an untrue date or falsely states the nature or quantity of the goods therein invoiced;

(l) For any wholesaler or retailer or his or her agents or employees to fail to produce on demand of the department of revenue all invoices of all the articles herein taxed or stamps bought by him or her or received in his or her place of business within five years prior to such demand unless he or she can show by satisfactory proof that the nonproduction of the invoices was due to causes beyond his or her control;

(m) For any person to receive in this state any shipment of any of the articles taxed herein, when the same are not stamped, for the purpose of avoiding payment of tax. It is presumed that persons other than dealers who purchase or receive shipments of unstamped cigarettes do so to avoid payment of the tax imposed herein;

(n) For any person to possess or transport in this state a quantity of ten thousand cigarettes or less unless the proper stamps required by this chapter have been affixed or unless: (i) Notice of the possession or transportation has been given as required by RCW 82.24.250; (ii) the person transporting the cigarettes has in actual possession invoices or delivery tickets which show the true name and address of the consignor or seller, the true name and address of the consignee or purchaser, and the quantity and brands of the cigarettes so transported; and (iii) the cigarettes are consigned to or purchased by any person in this state who is authorized by this chapter to possess unstamped cigarettes in this state;

(o) For any person to possess or receive in this state a quantity of ten thousand cigarettes or less unless the proper stamps required by this chapter have been affixed or unless the person is authorized by this chapter to possess unstamped cigarettes in this state and is in compliance with the requirements of this chapter;

(p) To possess, sell, distribute, purchase, receive, ship, or transport within this state any container or package of cigarettes that does not comply with this chapter; and

(q) For a retailer to provide consumers with access to a commercial cigarette-making machine without providing a box or similar container that has a properly affixed stamp or stamps.

(2) It is unlawful for any person knowingly or intentionally to possess or to:

(a) Transport in this state a quantity in excess of ten thousand cigarettes unless the proper stamps required by this chapter are affixed thereto or unless: (i) Proper notice as required by RCW 82.24.250 has been given; (ii) the person transporting the cigarettes actually possesses invoices or delivery tickets showing the true name and address of the consignor or seller, the true name and address of the consignee or purchaser, and the quantity and brands of the cigarettes so transported; and (iii) the cigarettes are consigned to or purchased by a person in this state who is authorized by this chapter to possess unstamped cigarettes in this state; or

(b) Receive in this state a quantity in excess of ten thousand cigarettes unless the proper stamps required by this chapter are affixed thereto or unless the person is authorized by this chapter to possess unstamped cigarettes in this state and is in compliance with this chapter.

(3) Violation of subsection (2) of this section is punished as a class C felony under Title 9A RCW.

(4) All agents, employees, and others who aid, abet, or otherwise participate in any way in the violation of the provisions of this chapter or in any of the offenses described in this chapter are guilty and punishable as principals, to the same extent as any wholesaler or retailer or any other person violating this chapter.

(5) For purposes of this section, "person authorized by this chapter to possess unstamped cigarettes in this state" has the same meaning as in RCW 82.24.250. [2012 2nd sp.s. c 4 § 6; 2008 c 226 § 4; 2003 c 114 § 5; 1999 c 193 § 2; 1997 c 420 § 4; 1995 c 278 § 7; 1990 c 216 § 4; 1987 c 496 § 1; 1975 1st ex.s. c 278 § 63; 1961 c 15 § 82.24.110. Prior: 1941 c 178 § 15; 1935 c 180 § 86; Rem. Supp. 1941 § 8370-86.]

Effective date—2012 2nd sp.s. c 4: See note following RCW 82.24.030.

Finding—Intent—2008 c 226: See note following RCW 82.24.080.

Intent—Finding—Severability—Effective date—1999 c 193: See notes following RCW 82.24.035.

Additional notes found at www.leg.wa.gov

82.24.120 Violations—Penalties and interest. (1) If any person, subject to the provisions of this chapter or any rules adopted by the department of revenue under authority of this section, is found to have failed to affix the stamps required, or to have them affixed as provided in this section, or to pay any tax due under this section, or to have violated any of the provisions of this chapter or rules adopted by the department of revenue in the administration of this chapter, there must be assessed and collected from such person, in addition to any tax that may be found due, a remedial penalty equal to the greater of ten dollars per package of unstamped cigarettes or ten dollars per twenty roll-your-own cigarettes, or two hundred fifty dollars, plus interest on the amount of the tax at the rate as computed under RCW 82.32.050(2) from the date the tax became due until the date of payment, and upon notice mailed to the last known address of the person or provided electronically as provided in RCW 82.32.135. The amount is due and payable in thirty days from the date of the notice. If the amount remains unpaid, the department or its duly authorized agent may make immediate demand upon such person for the payment of all such taxes, penalties, and interest.

(2) The department, for good reason shown, may waive or cancel all or any part of penalties imposed, but the taxpayer must pay all taxes due and interest thereon, at the rate as computed under RCW 82.32.050(2) from the date the tax became due until the date of payment.

(3) The keeping of any unstamped articles coming within the provisions of this chapter is prima facie evidence of intent to violate the provisions of this chapter.

(4) This section does not apply to taxes or tax increases due under RCW 82.24.280. [2012 2nd sp.s. c 4 § 7; 2007 c 111 § 102; 2006 c 14 § 6; 1996 c 149 § 7; 1995 c 278 § 8; 1990 c 267 § 1; 1975 1st ex.s. c 278 § 64; 1961 c 15 § 82.24.120. Prior: 1949 c 228 § 15; 1939 c 225 § 25; 1935 c 180 § 87; Rem. Supp. 1949 § 8370-87.]

Reviser's note: In an order on motion for reconsideration and request for stay pending appeal dated September 25, 2006, the United States District Court for the Western District ruled that chapter 14, Laws of 2006 is preempted by the Federal Cigarette Labeling and Advertising Act, 15 U.S.C. Sec. 1334(b) only in application of the law to cigarette sampling. (Case No. C06-5223, W.D. Wash. 2006.)

Effective date—2012 2nd sp.s. c 4: See note following RCW 82.24.030.

Part headings not law—2007 c 111: See note following RCW 82.16.120.

Finding—Intent—2006 c 14: See note following RCW 70.155.050.

Findings—Intent—Effective date—1996 c 149: See notes following RCW 82.32.050.

Additional notes found at www.leg.wa.gov

82.24.130 Seizure and forfeiture. (1) The following are subject to seizure and forfeiture:

(a) Subject to RCW 82.24.250, any articles taxed in this chapter that are found at any point within this state, which articles are held, owned, or possessed by any person, and that do not have the stamps affixed to the packages or containers; any container or package of cigarettes possessed or held for sale that does not comply with this chapter; and any container or package of cigarettes that is manufactured, sold, or possessed in violation of RCW 82.24.570.

(b) All conveyances, including aircraft, vehicles, or vessels, which are used, or intended for use, to transport, or in any manner to facilitate the transportation, for the purpose of sale or receipt of property described in (a) of this subsection, except:

(i) A conveyance used by any person as a common or contract carrier having in actual possession invoices or delivery tickets showing the true name and address of the consignor or seller, the true name of the consignee or purchaser, and the quantity and brands of the cigarettes transported, unless it appears that the owner or other person in charge of the conveyance is a consenting party or privy to a violation of this chapter;

(ii) A conveyance subject to forfeiture under this section by reason of any act or omission of which the owner thereof establishes to have been committed or omitted without his or her knowledge or consent;

(iii) A conveyance encumbered by a bona fide security interest if the secured party neither had knowledge of nor consented to the act or omission.

(c) Any vending machine or commercial cigarette-making machine used for the purpose of violating the provisions of this chapter.

(d) Any cigarettes that are stamped, sold, imported, or offered or possessed for sale in this state in violation of RCW 70.158.030(3). For the purposes of this subsection (1)(d), "cigarettes" has the meaning as provided in RCW 70.158.020(3).

(2) Property subject to forfeiture under this chapter may be seized by any agent of the department authorized to collect taxes, any enforcement officer of the board, or law enforcement officer of this state upon process issued by any superior court or district court having jurisdiction over the property. Seizure without process may be made if:

(a) The seizure is incident to an arrest or a search under a search warrant or an inspection under an administrative inspection warrant; or

(b) The department, the board, or the law enforcement officer has probable cause to believe that the property was used or is intended to be used in violation of this chapter and

exigent circumstances exist making procurement of a search warrant impracticable.

(3) Notwithstanding the foregoing provisions of this section, articles taxed in this chapter which are in the possession of a wholesaler, licensed under Washington state law, for a period of time necessary to affix the stamps after receipt of the articles, are not considered contraband unless they are manufactured, sold, or possessed in violation of RCW 82.24.570. [2012 2nd sp.s. c 4 § 8. Prior: 2003 c 114 § 7; 2003 c 113 § 4; 2003 c 25 § 9; 1999 c 193 § 3; 1997 c 420 § 5; 1990 c 216 § 5; 1987 c 496 § 2; 1972 ex.s. c 157 § 5; 1961 c 15 § 82.24.130; prior: 1941 c 178 § 16; 1935 c 180 § 88; Rem. Supp. 1941 § 8370-88.]

Effective date—2012 2nd sp.s. c 4: See note following RCW 82.24.030.

Intent—Finding—Severability—Effective date—1999 c 193: See notes following RCW 82.24.035.

Additional notes found at www.leg.wa.gov

82.24.135 Forfeiture procedure. In all cases of seizure of any property made subject to forfeiture under this chapter the department or the board shall proceed as follows:

(1) Forfeiture shall be deemed to have commenced by the seizure. Notice of seizure shall be given to the department or the board immediately if the seizure is made by someone other than an agent of the department or the board authorized to collect taxes.

(2) Upon notification or seizure by the department or the board or upon receipt of property subject to forfeiture under this chapter from any other person, the department or the board shall list and particularly describe the property seized in duplicate and have the property appraised by a qualified person not employed by the department or the board or acting as its agent. Listing and appraisement of the property shall be properly attested by the department or the board and the appraiser, who shall be allowed a reasonable appraisal fee. No appraisal is required if the property seized is judged by the department or the board to be less than one hundred dollars in value.

(3) The department or the board shall cause notice to be served within five days following the seizure or notification to the department or the board of the seizure on the owner of the property seized, if known, on the person in charge thereof, and on any other person having any known right or interest therein, of the seizure and intended forfeiture of the seized property. The notice may be served by any method authorized by law or court rule including but not limited to service by mail. The department may also furnish notice electronically as provided in RCW 82.32.135. If service is by mail or notice is provided electronically as provided in RCW 82.32.135, the notice shall also be served by certified mail with return receipt requested. Electronic notification or service by mail shall be deemed complete upon mailing the notice, electronically sending the notice, or electronically notifying the person or persons entitled to the notice that the notice is available to be accessed by the person or persons, within the five-day period following the seizure or notification of the seizure to the department or the board.

(4) If no person notifies the department or the board in writing of the person's claim of ownership or right to possession of the items seized within fifteen days of the date of the notice of seizure, the item seized shall be considered forfeited.

(5) If any person notifies the department or the board, in writing, of the person's claim of ownership or right to possession of the items seized within fifteen days of the date of the notice of seizure, the person or persons shall be afforded a reasonable opportunity to be heard as to the claim or right. The hearing shall be before the director or the director's designee or the board or the board's designee, except that any person asserting a claim or right may bring an action for return of the seized items in the superior court of the county in which such property was seized, if the aggregate value of the article or articles involved is more than five hundred dollars. A hearing and any appeal therefrom shall be in accordance with chapter 34.05 RCW. The burden of proof by a preponderance of the evidence shall be upon the person claiming to be the lawful owner or the person claiming to have the lawful right to possession of the items seized. The department or the board shall promptly return the article or articles to the claimant upon a determination that the claimant is the present lawful owner or is lawfully entitled to possession thereof of the items seized. [2007 c 111 § 103; 1998 c 53 § 1; 1987 c 496 § 3.]

Part headings not law—2007 c 111: See note following RCW 82.16.120.

Additional notes found at www.leg.wa.gov

82.24.145 Forfeited property—Retention, sale, or destruction—Use of sale proceeds. When property is forfeited under this chapter the department may:

(1) Retain the property or any part thereof for official use or upon application by any law enforcement agency of this state, another state, or the District of Columbia, or of the United States for the exclusive use of enforcing the provisions of this chapter or the laws of any other state or the District of Columbia or of the United States.

(2) Sell the property at public auction to the highest bidder after due advertisement, but the department before delivering any of the goods so seized shall require the person to whom the property is sold to affix the proper amount of stamps. The proceeds of the sale and all moneys forfeited under this chapter shall be first applied to the payment of all proper expenses of any investigation leading to the seizure and of the proceedings for forfeiture and sale, including expenses of seizure, maintenance of custody, advertising, and court costs. The balance of the proceeds and all moneys shall be deposited in the general fund of the state. Proper expenses of investigation includes costs incurred by any law enforcement agency or any federal, state, or local agency.

(3) Notwithstanding the provisions of subsections (1) and (2) of this section, cigarettes seized for a violation of RCW 82.24.035 or 70.158.030(3) shall be destroyed. For the purposes of this subsection (3) "cigarettes" has the same meaning as provided in RCW 70.158.020(3). [2003 c 25 § 10; 1999 c 193 § 4; 1987 c 496 § 4.]

Intent—Finding—Severability—Effective date—1999 c 193: See notes following RCW 82.24.035.

Additional notes found at www.leg.wa.gov

82.24.180 Seized property may be returned—Penalty, interest. (1) The department of revenue may return any

property seized under the provisions of this chapter when it is shown that there was no intention to violate the provisions thereof.

(2) When any property is returned under this section, the department may return such goods to the parties from whom they were seized if and when such parties affix the proper amount of stamps thereto, and pay to the department as penalty an amount equal to the greater of ten dollars per package of unstamped cigarettes or ten dollars per twenty roll-your-own cigarettes, or two hundred fifty dollars, and interest on the amount of the tax at the rate as computed under RCW 82.32.050(2) from the date the tax became due until the date of payment, and in such cases, no advertisement shall be made or notices posted in connection with said seizure. [2012 2nd sp.s. c 4 § 9; 1996 c 149 § 8; 1990 c 267 § 2; 1975 1st ex.s. c 278 § 66; 1961 c 15 § 82.24.180. Prior: 1935 c 180 § 90; RRS § 8370-90.]

Effective date—2012 2nd sp.s. c 4: See note following RCW 82.24.030.

Findings—Intent—Effective date—1996 c 149: See notes following RCW 82.32.050.

Additional notes found at www.leg.wa.gov

82.24.190 Search and seizure. When the department of revenue or the board has good reason to believe that any of the articles taxed herein are being kept, sold, offered for sale, or given away in violation of the provisions of this chapter or regulations issued under authority hereof, it may make affidavit of such fact, describing the place or thing to be searched, before any judge of any court in this state, and such judge shall issue a search warrant directed to the sheriff, any deputy, police officer, or duly authorized agent of the department of revenue commanding him or her diligently to search any building, room in a building, place or vehicle as may be designated in the affidavit and search warrant, and to seize such tobacco so possessed and to hold the same until disposed of by law, and to arrest the person in possession or control thereof. If upon the return of such warrant, it shall appear that any of the articles taxed herein, unlawfully possessed, were seized, the same shall be sold as provided in this chapter. [1997 c 420 § 6; 1987 c 202 § 244; 1975 1st ex.s. c 278 § 67; 1961 c 15 § 82.24.190. Prior: 1949 c 228 § 16; 1935 c 180 § 91; Rem. Supp. 1949 § 8370-91.]

Intent—1987 c 202: See note following RCW 2.04.190.

Additional notes found at www.leg.wa.gov

82.24.210 Redemption of stamps. The department of revenue may promulgate rules and regulations providing for the refund to dealers for the cost of stamps affixed to articles taxed herein, which by reason of damage become unfit for sale and are destroyed by the dealer or returned to the manufacturer or jobber. In the case of any articles to which stamps have been affixed, and which articles have been sold and shipped to a regular dealer in such articles in another state, the seller in this state shall be entitled to a refund of the actual amount of the stamps so affixed, less the affixing discount, upon condition that the seller in this state makes affidavit that the articles were sold and shipped outside of the state and that he or she has received from the purchaser outside the state a written acknowledgment that he or she has received such articles with the amount of stamps affixed thereto, together with the name and address of such purchaser. The department of revenue may redeem any unused stamps purchased from it at the face value thereof less the affixing discount. A distributor or wholesaler that has lawfully affixed stamps to cigarettes, and subsequently is unable to sell those cigarettes lawfully because the cigarettes are removed from the directory created pursuant to RCW 70.158.030(2), may apply to the department for a refund of the cost of the stamps. [2013 c 23 § 320; 2003 c 25 § 11; 1975 1st ex.s. c 278 § 68; 1961 c 15 § 82.24.210. Prior: 1949 c 228 § 17; 1941 c 178 § 17; 1935 c 180 § 92; Rem. Supp. 1949 § 8370-92.]

Additional notes found at www.leg.wa.gov

82.24.230 Administration. All of the provisions contained in chapter 82.32 RCW shall have full force and application with respect to taxes imposed under the provisions of this chapter, except the following sections: RCW 82.32.050, 82.32.060, 82.32.070, 82.32.100, and 82.32.270, except as noted otherwise in RCW 82.24.280. [2006 c 14 § 7; 1995 c 278 § 9; 1961 c 15 § 82.24.230. Prior: 1935 c 180 § 95; RRS § 8370-95.]

Reviser's note: In an order on motion for reconsideration and request for stay pending appeal dated September 25, 2006, the United States District Court for the Western District ruled that chapter 14, Laws of 2006 is preempted by the Federal Cigarette Labeling and Advertising Act, 15 U.S.C. Sec. 1334(b) only in application of the law to cigarette sampling. (Case No. C06-5223, W.D. Wash. 2006.)

Finding—Intent—2006 c 14: See note following RCW 70.155.050.

Additional notes found at www.leg.wa.gov

82.24.235 Rules. The department may adopt such rules as are necessary to enforce and administer this chapter. [1995 c 278 § 15.]

Additional notes found at www.leg.wa.gov

82.24.250 Transportation of unstamped cigarettes—Invoices and delivery tickets required—Stop and inspect. (1) No person other than: (a) A licensed wholesaler in the wholesaler's own vehicle; or (b) a person who has given notice to the board in advance of the commencement of transportation shall transport or cause to be transported in this state cigarettes not having the stamps affixed to the packages or containers.

(2) When transporting unstamped cigarettes, such persons shall have in their actual possession or cause to have in the actual possession of those persons transporting such cigarettes on their behalf invoices or delivery tickets for such cigarettes, which shall show the true name and address of the consignor or seller, the true name and address of the consignee or purchaser, and the quantity and brands of the cigarettes so transported.

(3) If unstamped cigarettes are consigned to or purchased by any person in this state, such purchaser or consignee must be a person who is authorized by this chapter to possess unstamped cigarettes in this state.

(4) In the absence of the notice of transportation required by this section or in the absence of such invoices or delivery tickets, or, if the name or address of the consignee or purchaser is falsified or if the purchaser or consignee is not a person authorized by this chapter to possess unstamped cigarettes, the cigarettes so transported shall be deemed contra-

band subject to seizure and sale under the provisions of RCW 82.24.130.

(5) Transportation of cigarettes from a point outside this state to a point in some other state will not be considered a violation of this section provided that the person so transporting such cigarettes has in his or her possession adequate invoices or delivery tickets which give the true name and address of such out-of-state seller or consignor and such out-of-state purchaser or consignee.

(6) In any case where the department or its duly authorized agent, or any peace officer of the state, has knowledge or reasonable grounds to believe that any vehicle is transporting cigarettes in violation of this section, the department, such agent, or such police officer, is authorized to stop such vehicle and to inspect the same for contraband cigarettes.

(7) For purposes of this section, the term "person authorized by this chapter to possess unstamped cigarettes in this state" means:

(a) A wholesaler, licensed under Washington state law;

(b) The United States or an agency thereof;

(c) Any person, including an Indian tribal organization, who, after notice has been given to the board as provided in this section, brings or causes to be brought into the state unstamped cigarettes, if within a period of time after receipt of the cigarettes as the department determines by rule to be reasonably necessary for the purpose the person has caused stamps to be affixed in accordance with RCW 82.24.030 or otherwise made payment of the tax required by this chapter in the manner set forth in rules adopted by the department; and

(d) Any purchaser or consignee of unstamped cigarettes, including an Indian tribal organization, who has given notice to the board in advance of receiving unstamped cigarettes and who within a period of time after receipt of the cigarettes as the department determines by rule to be reasonably necessary for the purpose the person has caused stamps to be affixed in accordance with RCW 82.24.030 or otherwise made payment of the tax required by this chapter in the manner set forth in rules adopted by the department.

Nothing in this subsection (7) shall be construed as modifying RCW 82.24.050 or 82.24.110.

(8) Nothing in this section shall be construed as limiting any otherwise lawful activity under a cigarette tax compact pursuant to chapter 43.06 RCW.

(9) Nothing in this section shall be construed as limiting the right to travel upon all public highways under Article III of the treaty with the Yakamas of 1855. [2013 c 23 § 321; 2008 c 226 § 5; 2003 c 114 § 8; 1997 c 420 § 7; 1995 c 278 § 10; 1990 c 216 § 6; 1972 ex.s. c 157 § 6.]

Finding—Intent—2008 c 226: See note following RCW 82.24.080.

Additional notes found at www.leg.wa.gov

82.24.260 Selling or disposal of unstamped cigarettes—Person to pay and remit tax or affix stamps—Liability. (1) Other than:

(a) A wholesaler required to be licensed under this chapter;

(b) A federal instrumentality with respect to sales to authorized military personnel; or

(c) An Indian tribal organization with respect to sales to enrolled members of the tribe,

a person who is in lawful possession of unstamped cigarettes and who intends to sell or otherwise dispose of the cigarettes shall pay, or satisfy its precollection obligation that is imposed by this chapter, the tax required by this chapter by remitting the tax or causing stamps to be affixed in the manner provided in rules adopted by the department.

(2) When stamps are required to be affixed, the person may deduct from the tax collected the compensation allowable under this chapter. The remittance or the affixing of stamps shall, in the case of cigarettes obtained in the manner set forth in RCW 82.24.250(7)(c), be made at the same time and manner as required in RCW 82.24.250(7)(c).

(3) This section shall not relieve the buyer or possessor of unstamped cigarettes from personal liability for the tax imposed by this chapter.

(4) Nothing in this section shall relieve a wholesaler from the requirements of affixing stamps pursuant to RCW 82.24.040 and 82.24.050. [2003 c 114 § 9; 1995 c 278 § 11; 1987 c 80 § 3; 1986 c 3 § 13. Prior: 1983 c 189 § 3; 1983 c 3 § 217; 1975 1st ex.s. c 22 § 1; 1972 ex.s. c 157 § 7.]

Additional notes found at www.leg.wa.gov

82.24.280 Liability from tax increase—Interest and penalties on unpaid tax—Administration. (1) Any additional tax liability arising from a tax rate increase under this chapter shall be paid, along with reports and returns prescribed by the department, on or before the last day of the month in which the increase becomes effective.

(2) If not paid by the due date, interest shall apply to any unpaid tax. Interest shall be calculated at the rate as computed under RCW 82.32.050(2) from the date the tax became due until the date of payment.

(3) If upon examination of any returns or from other information obtained by the department it appears that a tax or penalty has been paid less than that properly due, the department shall assess against the taxpayer such additional amount found to be due. The department shall notify the taxpayer by mail, or electronically as provided in RCW 82.32.135, of the additional amount due, including any applicable penalties and interest. The taxpayer shall pay the additional amount within thirty days from the date of the notice, or within such further time as the department may provide.

(4) All of chapter 82.32 RCW applies to tax rate increases except: RCW 82.32.050(1) and 82.32.270. [2007 c 111 § 104; 1996 c 149 § 10; 1995 c 278 § 13.]

Part headings not law—2007 c 111: See note following RCW 82.16.120.

Findings—Intent—Effective date—1996 c 149: See notes following RCW 82.32.050.

Additional notes found at www.leg.wa.gov

82.24.290 Exceptions—Federal instrumentalities and purchasers from federal instrumentalities. The taxes imposed by this chapter do not apply to the sale of cigarettes to:

(1) United States army, navy, air force, marine corps, or coast guard exchanges and commissaries and navy or coast guard ships' stores;

(2) The United States veterans' administration; or

(3) Any authorized purchaser from the federal instrumentalities named in subsection (1) or (2) of this section. [1995 c 278 § 14.]

Additional notes found at www.leg.wa.gov

82.24.295 Exceptions—Sales by Indian retailer under cigarette tax contract. (1) The taxes imposed by this chapter do not apply to the sale, use, consumption, handling, possession, or distribution of cigarettes by an Indian retailer during the effective period of a cigarette tax contract subject to RCW 43.06.455.

(2) Effective July 1, 2002, wholesalers and retailers subject to the provisions of this chapter are allowed compensation for their services in affixing the stamps required under this chapter a sum computed at the rate of six dollars per one thousand stamps purchased or affixed by them.

(3) In addition to the compensation allowed under subsection (2) of this section, retailers purchasing stamps for roll-your-own cigarettes are allowed additional compensation to offset the cost of the tax under chapter 82.26 RCW. The amount equals five cents per cigarette. [2012 2nd sp.s. c 4 § 10; 2001 c 235 § 6.]

Effective date—2012 2nd sp.s. c 4: See note following RCW 82.24.030.

Intent—Finding—2001 c 235: See RCW 43.06.450.

82.24.300 Exceptions—Puyallup Tribe of Indians. The taxes imposed by this chapter do not apply to the sale, use, consumption, handling, possession, or distribution of cigarettes by an Indian retailer during the effective period of a cigarette tax agreement under RCW 43.06.465. [2005 c 11 § 5.]

Findings—Intent—Explanatory statement—Effective date—2005 c 11: See notes following RCW 43.06.465.

82.24.302 Exceptions—Sales by tribal retailers—Yakama Nation. The taxes imposed by this chapter do not apply to the sale, use, consumption, handling, possession, or distribution of cigarettes by a tribal retailer during the effective period of a cigarette tax agreement under RCW 43.06.466. [2008 c 228 § 2.]

Authorization for agreement—Effective date—2008 c 228: See notes following RCW 43.06.466.

82.24.500 Business of cigarette purchase, sale, consignment, distribution, or providing access to cigarette-making machines—License required—Penalty. No person may engage in or conduct the business of purchasing, selling, consigning, or distributing cigarettes in this state without a license under this chapter, or providing consumers with access to a commercial cigarette-making machine without a license under this chapter. A violation of this section is a class C felony. [2012 2nd sp.s. c 4 § 11; 2003 c 114 § 10; 1986 c 321 § 4.]

Effective date—2012 2nd sp.s. c 4: See note following RCW 82.24.030.

Policy—Intent—1986 c 321: "It is the policy of the legislature to encourage competition by reducing the government's role in price setting. It is the legislature's intent to leave price setting mainly to the forces of the marketplace. In the field of cigarette sales, the legislature finds that the goal of open competition should be balanced against the public policy disallowing use of cigarette sales as loss leaders. To balance these public policies, it is the intent of the legislature to repeal the unfair cigarette sales below cost act and to declare the use of cigarettes as loss leaders as an unfair practice under the consumer protection act." [1986 c 321 § 1.]

Additional notes found at www.leg.wa.gov

82.24.510 Wholesaler's and retailer's licenses—Application and issuance—Criminal background check. (1) The licenses issuable under this chapter are as follows:

(a) A wholesaler's license.

(b) A retailer's license.

(2) Application for the licenses must be made through the business licensing system under chapter 19.02 RCW. The board must adopt rules regarding the regulation of the licenses. The board may refrain from the issuance of any license under this chapter if the board has reasonable cause to believe that the applicant has willfully withheld information requested for the purpose of determining the eligibility of the applicant to receive a license, or if the board has reasonable cause to believe that information submitted in the application is false or misleading or is not made in good faith. In addition, for the purpose of reviewing an application for a wholesaler's license or retailer's license and for considering the denial, suspension, or revocation of any such license, the board may consider any prior criminal conduct of the applicant, including an administrative violation history record with the board and a criminal history record information check within the previous five years, in any state, tribal, or federal jurisdiction in the United States, its territories, or possessions, and the provisions of RCW 9.95.240 and chapter 9.96A RCW do not apply to such cases. The board may, in its discretion, grant or refuse the wholesaler's license or retailer's license, subject to the provisions of RCW 82.24.550.

(3) No person may qualify for a wholesaler's license or a retailer's license under this section without first undergoing a criminal background check. The background check must be performed by the board and must disclose any criminal conduct within the previous five years in any state, tribal, or federal jurisdiction in the United States, its territories, or possessions. A person who possesses a valid license on July 22, 2001, is subject to this subsection and subsection (2) of this section beginning on the date of the person's business license expiration under chapter 19.02 RCW, and thereafter. If the applicant or licensee also has a license issued under chapter 66.24 or 82.26 RCW, the background check done under the authority of chapter 66.24 or 82.26 RCW satisfies the requirements of this section.

(4) Each such license expires on the business license expiration date, and each such license must be continued annually if the licensee has paid the required fee and complied with all the provisions of this chapter and the rules of the board made pursuant thereto.

(5) Each license and any other evidence of the license that the board requires must be exhibited in each place of business for which it is issued and in the manner required for the display of a business license. [2013 c 144 § 50; 2009 c 154 § 1; 2001 c 235 § 8; 1986 c 321 § 5.]

Intent—Finding—2001 c 235: See RCW 43.06.450.

Policy—Intent—Savings—Effective date—1986 c 321: See notes following RCW 82.24.500.

82.24.520 Wholesaler's license—Fee—Display of license—Bond. A fee of six hundred fifty dollars must accompany each wholesaler's license application or license renewal application. If a wholesaler sells or intends to sell cigarettes at two or more places of business, whether established or temporary, a separate license with a license fee of one hundred fifteen dollars is required for each additional place of business. Each license, or certificate thereof, and such other evidence of license as the department of revenue requires, must be exhibited in the place of business for which it is issued and in such manner as is prescribed for the display of a business license issued under chapter 19.02 RCW. The board must require each licensed wholesaler to file with the department of revenue a bond in an amount not less than one thousand dollars to guarantee the proper performance of the duties and the discharge of the liabilities under this chapter. The bond must be executed by such licensed wholesaler as principal, and by a corporation approved by the department of revenue and authorized to engage in business as a surety company in this state, as surety. The bond must run concurrently with the wholesaler's license. [2013 c 144 § 51; 1986 c 321 § 6.]

Policy—Intent—Savings—Effective date—1986 c 321: See notes following RCW 82.24.500.

82.24.530 Retailer's license—Vending machines—Cigarette-making machines. A fee of ninety-three dollars must accompany each retailer's license application or license renewal application. A separate license is required for each separate location at which the retailer operates. A fee of thirty additional dollars for each vending machine must accompany each application or renewal for a license issued to a retail dealer operating a cigarette vending machine. An additional fee of ninety-three dollars shall accompany each application or renewal for a license issued to a retail dealer operating a cigarette-making machine. [2012 2nd sp.s. c 4 § 12; 1993 c 507 § 15; 1986 c 321 § 7.]

Effective date—2012 2nd sp.s. c 4: See note following RCW 82.24.030.

Finding—Severability—1993 c 507: See RCW 70.155.005 and 70.155.900.

Policy—Intent—Savings—Effective date—1986 c 321: See notes following RCW 82.24.500.

Minors, access to tobacco, role of liquor control board: Chapter 70.155 RCW.

82.24.540 Licensee to operate within scope of license—Penalty. Any person licensed only as a wholesaler, or as a retail dealer, shall not operate in any other capacity unless the additional appropriate license or licenses are first secured. A violation of this section is a misdemeanor. [1986 c 321 § 8.]

Policy—Intent—Savings—Effective date—1986 c 321: See notes following RCW 82.24.500.

82.24.550 Enforcement—Rules—Notice—Hearing—Reinstatement of license—Appeal. (1) The board shall enforce the provisions of this chapter. The board may adopt, amend, and repeal rules necessary to enforce and administer the provisions of this chapter.

(2) The department may adopt, amend, and repeal rules necessary to administer the provisions of this chapter. The board may revoke or suspend the license or permit of any wholesale or retail cigarette dealer in the state upon sufficient cause appearing of the violation of this chapter or upon the failure of such licensee to comply with any of the provisions of this chapter.

(3) A license shall not be suspended or revoked except upon notice to the licensee and after a hearing as prescribed by the board. The board, upon finding that the licensee has failed to comply with any provision of this chapter or any rule adopted under this chapter, shall, in the case of the first offense, suspend the license or licenses of the licensee for a period of not less than thirty consecutive business days, and, in the case of a second or further offense, shall suspend the license or licenses for a period of not less than ninety consecutive business days nor more than twelve months, and, in the event the board finds the licensee has been guilty of willful and persistent violations, it may revoke the license or licenses.

(4) Any licenses issued under chapter 82.26 RCW to a person whose license or licenses have been suspended or revoked under this section shall also be suspended or revoked during the period of suspension or revocation under this section.

(5) Any person whose license or licenses have been revoked under this section may reapply to the board at the expiration of one year from the date of revocation of the license or licenses. The license or licenses may be approved by the board if it appears to the satisfaction of the board that the licensee will comply with the provisions of this chapter and the rules adopted under this chapter.

(6) A person whose license has been suspended or revoked shall not sell cigarettes or tobacco products or permit cigarettes or tobacco products to be sold during the period of such suspension or revocation on the premises occupied by the person or upon other premises controlled by the person or others or in any other manner or form whatever.

(7) Any determination and order by the board, and any order of suspension or revocation by the board of the license or licenses issued under this chapter, or refusal to reinstate a license or licenses after revocation shall be reviewable by an appeal to the superior court of Thurston county. The superior court shall review the order or ruling of the board and may hear the matter de novo, having due regard to the provisions of this chapter and the duties imposed upon the board.

(8) If the board makes an initial decision to deny a license or renewal, or suspend or revoke a license, the applicant may request a hearing subject to the applicable provisions under Title 34 RCW.

(9) For purposes of this section, "tobacco products" has the same meaning as in RCW 82.26.010. [2009 c 154 § 2; 2005 c 180 § 19; 1997 c 420 § 8; 1993 c 507 § 17; 1986 c 321 § 9.]

Effective date—2005 c 180: See note following RCW 82.26.105.

Finding—Severability—1993 c 507: See RCW 70.155.005 and 70.155.900.

Policy—Intent—Savings—Effective date—1986 c 321: See notes following RCW 82.24.500.

82.24.551 Enforcement—Appointment of officers of liquor control board. The department shall appoint, as duly authorized agents, enforcement officers of the liquor control

board to enforce provisions of this chapter. These officers shall not be considered employees of the department. [1997 c 420 § 10.]

82.24.552 Enforcement—Administration—Inspection of books and records. (1) For the purposes of obtaining information concerning any matter relating to the administration or enforcement of this chapter, the department, the board, or any of its agents may inspect the books, documents, or records of any person transporting cigarettes for sale to any person or entity in the state, and books, documents, or records containing any information relating to the transportation or possession of cigarettes for sale in the possession of a specific common carrier as defined in RCW 81.80.010 doing business in this state, or books, documents, and records of vehicle rental agencies whose vehicles are being rented for the purpose of transporting contraband cigarettes.

(2) If a person neglects or refuses to produce and submit for inspection any book, record, or document as required by this section when requested to do so by the department, the board, or its agent, then the department or the board may seek an order in superior court compelling production of the books, records, or documents. [2007 c 221 § 2.]

82.24.560 Fees and penalties credited to general fund. Except as specified in RCW 70.155.120, all fees and penalties received or collected by the department of revenue pursuant to this chapter shall be paid to the state treasurer, to be credited to the general fund. [1993 c 507 § 18; 1986 c 321 § 10.]

Finding—Severability—1993 c 507: See RCW 70.155.005 and 70.155.900.

Policy—Intent—Savings—Effective date—1986 c 321: See notes following RCW 82.24.500.

82.24.570 Counterfeit cigarette offenses—Penalties. (1) It is unlawful for any person to knowingly manufacture, sell, or possess counterfeit cigarettes. A cigarette is "counterfeit" if:

(a) The cigarette or its packaging bears any reproduction or copy of a trademark, service mark, trade name, label, term, design, or work adopted or used by a manufacturer to identify its own cigarettes; and

(b) The cigarette is not manufactured by the owner or holder of that trademark, service mark, trade name, label, term, design, or work, or by any authorized licensee of that person.

(2) Any person who violates the provisions of this section is guilty of a class C felony which is punishable by up to five years in prison and a fine of up to ten thousand dollars.

(3) Any person who is convicted of a second or subsequent violation of the provisions of this section is guilty of a class B felony which is punishable by up to ten years in prison and a fine of up to twenty thousand dollars. [2003 c 114 § 6.]

82.24.900 Construction—1961 c 15. The provisions of this chapter shall not apply in any case in which the state of Washington is prohibited from taxing under the Constitution of this state or the Constitution or the laws of the United States. [1961 c 15 § 82.24.900. Prior: 1935 c 180 § 94; RRS § 8370-94.]

Chapter 82.26 RCW
TAX ON TOBACCO PRODUCTS

Sections

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Minors: Chapter 70.155 RCW.

82.26.010 Definitions. The definitions in this section apply throughout this chapter unless the context clearly requires otherwise.

(1) "Actual price" means the total amount of consideration for which tobacco products are sold, valued in money, whether received in money or otherwise, including any charges by the seller necessary to complete the sale such as charges for delivery, freight, transportation, or handling.

(2) "Affiliated" means related in any way by virtue of any form or amount of common ownership, control, operation, or management.

(3) "Board" means the liquor control board.

(4) "Business" means any trade, occupation, activity, or enterprise engaged in for the purpose of selling or distributing tobacco products in this state.

(5) "Cigar" means a roll for smoking that is of any size or shape and that is made wholly or in part of tobacco, irrespective of whether the tobacco is pure or flavored, adulterated or mixed with any other ingredient, if the roll has a wrapper made wholly or in greater part of tobacco. "Cigar" does not include a cigarette.

(6) "Cigarette" has the same meaning as in RCW 82.24.010.

(7) "Department" means the department of revenue.

(8) "Distributor" means (a) any person engaged in the business of selling tobacco products in this state who brings, or causes to be brought, into this state from without the state any tobacco products for sale, (b) any person who makes, manufactures, fabricates, or stores tobacco products in this state for sale in this state, (c) any person engaged in the business of selling tobacco products without this state who ships or transports tobacco products to retailers in this state, to be sold by those retailers, (d) any person engaged in the business of selling tobacco products in this state who handles for sale any tobacco products that are within this state but upon which tax has not been imposed.

(9) "Indian country" means the same as defined in chapter 82.24 RCW.

(10) "Little cigar" means a cigar that has a cellulose acetate integrated filter.

(11) "Manufacturer" means a person who manufactures and sells tobacco products.

(12) "Manufacturer's representative" means a person hired by a manufacturer to sell or distribute the manufacturer's tobacco products, and includes employees and independent contractors.

(13) "Moist snuff" means tobacco that is finely cut, ground, or powdered; is not for smoking; and is intended to be placed in the oral, but not the nasal, cavity.

(14) "Person" means any individual, receiver, administrator, executor, assignee, trustee in bankruptcy, trust, estate, firm, copartnership, joint venture, club, company, joint stock company, business trust, municipal corporation, the state and its departments and institutions, political subdivision of the state of Washington, corporation, limited liability company, association, society, any group of individuals acting as a unit, whether mutual, cooperative, fraternal, nonprofit, or otherwise. The term excludes any person immune from state taxation, including the United States or its instrumentalities, and federally recognized Indian tribes and enrolled tribal members, conducting business within Indian country.

(15) "Place of business" means any place where tobacco products are sold or where tobacco products are manufactured, stored, or kept for the purpose of sale, including any vessel, vehicle, airplane, train, or vending machine.

(16) "Retail outlet" means each place of business from which tobacco products are sold to consumers.

(17) "Retailer" means any person engaged in the business of selling tobacco products to ultimate consumers.

(18)(a) "Sale" means any transfer, exchange, or barter, in any manner or by any means whatsoever, for a consideration, and includes and means all sales made by any person.

(b) The term "sale" includes a gift by a person engaged in the business of selling tobacco products, for advertising, pro-

moting, or as a means of evading the provisions of this chapter.

(19)(a) "Taxable sales price" means:

(i) In the case of a taxpayer that is not affiliated with the manufacturer, distributor, or other person from whom the taxpayer purchased tobacco products, the actual price for which the taxpayer purchased the tobacco products;

(ii) In the case of a taxpayer that purchases tobacco products from an affiliated manufacturer, affiliated distributor, or other affiliated person, and that sells those tobacco products to unaffiliated distributors, unaffiliated retailers, or ultimate consumers, the actual price for which that taxpayer sells those tobacco products to unaffiliated distributors, unaffiliated retailers, or ultimate consumers;

(iii) In the case of a taxpayer that sells tobacco products only to affiliated distributors or affiliated retailers, the price, determined as nearly as possible according to the actual price, that other distributors sell similar tobacco products of like quality and character to unaffiliated distributors, unaffiliated retailers, or ultimate consumers;

(iv) In the case of a taxpayer that is a manufacturer selling tobacco products directly to ultimate consumers, the actual price for which the taxpayer sells those tobacco products to ultimate consumers;

(v) In the case of a taxpayer that has acquired tobacco products under a sale as defined in subsection (18)(b) of this section, the price, determined as nearly as possible according to the actual price, that the taxpayer or other distributors sell the same tobacco products or similar tobacco products of like quality and character to unaffiliated distributors, unaffiliated retailers, or ultimate consumers; or

(vi) In any case where (a)(i) through (v) of this subsection do not apply, the price, determined as nearly as possible according to the actual price, that the taxpayer or other distributors sell the same tobacco products or similar tobacco products of like quality and character to unaffiliated distributors, unaffiliated retailers, or ultimate consumers.

(b) For purposes of (a)(i) and (ii) of this subsection only, "person" includes both persons as defined in subsection (14) of this section and any person immune from state taxation, including the United States or its instrumentalities, and federally recognized Indian tribes and enrolled tribal members, conducting business within Indian country.

(c) The department may adopt rules regarding the determination of taxable sales price under this subsection.

(20) "Taxpayer" means a person liable for the tax imposed by this chapter.

(21) "Tobacco products" means cigars, cheroots, stogies, periques, granulated, plug cut, crimp cut, ready rubbed, and other smoking tobacco, snuff, snuff flour, cavendish, plug and twist tobacco, fine-cut and other chewing tobaccos, shorts, refuse scraps, clippings, cuttings and sweepings of tobacco, and other kinds and forms of tobacco, prepared in such manner as to be suitable for chewing or smoking in a pipe or otherwise, or both for chewing and smoking, and any other product, regardless of form, that contains tobacco and is intended for human consumption or placement in the oral or nasal cavity or absorption into the human body by any other means, but does not include cigarettes as defined in RCW 82.24.010.

(22) "Unaffiliated distributor" means a distributor that is not affiliated with the manufacturer, distributor, or other person from whom the distributor has purchased tobacco products.

(23) "Unaffiliated retailer" means a retailer that is not affiliated with the manufacturer, distributor, or other person from whom the retailer has purchased tobacco products. [2010 1st sp.s. c 22 § 4; 2005 c 180 § 2; 2002 c 325 § 1; 1995 c 278 § 16; 1975 1st ex.s. c 278 § 70; 1961 c 15 § 82.26.010. Prior: 1959 ex.s. c 5 § 11.]

Reviser's note: The definitions in this section have been alphabetized pursuant to RCW 1.08.015(2)(k).

Intent—Effective date—2010 1st sp.s. c 22: See notes following RCW 82.24.020.

Effective date—2005 c 180: See note following RCW 82.26.105.

Additional notes found at www.leg.wa.gov

82.26.020 Tax imposed—Deposited into the general fund. (1) There is levied and collected a tax upon the sale, handling, or distribution of all tobacco products in this state at the following rate:

(a) For cigars except little cigars, ninety-five percent of the taxable sales price of cigars, not to exceed sixty-five cents per cigar;

(b) For all tobacco products except those covered under separate provisions of this subsection, ninety-five percent of the taxable sales price;

(c) For moist snuff, as established in this subsection (1)(c) and computed on the net weight listed by the manufacturer:

(i) On each single unit consumer-sized can or package whose net weight is one and two-tenths ounces or less, a rate per single unit that is equal to the greater of 2.526 dollars or eighty-three and one-half percent of the cigarette tax under chapter 82.24 RCW multiplied by twenty; or

(ii) On each single unit consumer-sized can or package whose net weight is more than one and two-tenths ounces, a proportionate tax at the rate established in (c)(i) of this subsection (1) on each ounce or fractional part of an ounce; and

(d) For little cigars, an amount per cigar equal to the cigarette tax under chapter 82.24 RCW.

(2) Taxes under this section must be imposed at the time the distributor (a) brings, or causes to be brought, into this state from without the state tobacco products for sale, (b) makes, manufactures, fabricates, or stores tobacco products in this state for sale in this state, (c) ships or transports tobacco products to retailers in this state, to be sold by those retailers, or (d) handles for sale any tobacco products that are within this state but upon which tax has not been imposed.

(3) The moneys collected under this section must be deposited into the state general fund. [2010 1st sp.s. c 22 § 5; 2009 c 479 § 70; 2005 c 180 § 3; 2002 c 325 § 2; 1993 c 492 § 309; 1983 2nd ex.s. c 3 § 16; 1982 1st ex.s. c 35 § 9; 1975 1st ex.s. c 278 § 71; 1971 ex.s. c 299 § 77; 1965 ex.s. c 173 § 25; 1961 c 15 § 82.26.020. Prior: 1959 ex.s. c 5 § 12.]

Application—2010 1st sp.s. c 22 § 5: "Section 5(1) (a), (b), and (d) of this act applies only with respect to tax liability incurred under chapter 82.26 RCW on or after May 1, 2010, for the sale, handling, or distribution of cigars, little cigars, and other tobacco products." [2010 1st sp.s. c 22 § 10.]

Application—2010 1st sp.s. c 22 § 5: "Section 5(1)(c), chapter 22, Laws of 2010 1st sp. sess. applies only with respect to tax liability incurred

under chapter 82.26 RCW on or after October 1, 2010, for the sale, handling, or distribution of moist snuff." [2010 1st sp.s. c 22 § 11.]

Intent—Effective date—2010 1st sp.s. c 22: See notes following RCW 82.24.020.

Effective date—2009 c 479: See note following RCW 2.56.030.

Effective date—2005 c 180: See note following RCW 82.26.105.

Finding—Intent—1993 c 492: See notes following RCW 43.20.050.

Additional notes found at www.leg.wa.gov

82.26.027 Tax preferences--Expiration dates. See RCW 82.32.805 for the expiration date of new tax preferences for the tax imposed under this chapter. [2013 2nd sp.s. c 13 § 1715.]

Effective date—2013 2nd sp.s. c 13: See note following RCW 82.04.43393.

82.26.030 Legislative intent—Purpose. It is the intent and purpose of this chapter to levy a tax on all tobacco products sold, used, consumed, handled, or distributed within this state and to collect the tax from the distributor as defined in RCW 82.26.010. It is the further intent and purpose of this chapter to impose the tax once, and only once, on all tobacco products for sale in this state, but nothing in this chapter may be construed to exempt any person taxable under any other law or under any other tax imposed under Title 82 RCW. It is the further intent and purpose of this chapter that the distributor who first possesses the tobacco product in this state is the distributor liable for the tax and that (1) for moist snuff the tax will be based on the net weight listed by the manufacturer and (2) in most other instances the tax will be based on the actual price that the distributor paid for the tobacco product, unless the distributor is affiliated with the seller. [2010 1st sp.s. c 22 § 7; 2005 c 180 § 1; 2002 c 325 § 4; 1961 c 15 § 82.26.030. Prior: 1959 ex.s. c 5 § 13.]

Intent—Effective date—2010 1st sp.s. c 22: See notes following RCW 82.24.020.

Effective date—2005 c 180: See note following RCW 82.26.105.

Additional notes found at www.leg.wa.gov

82.26.040 When tax not applicable under laws of United States. The tax imposed by RCW 82.26.020 shall not apply with respect to any tobacco products which under the Constitution and laws of the United States may not be made the subject of taxation by this state. [1961 c 15 § 82.26.040. Prior: 1959 ex.s. c 5 § 14.]

82.26.060 Books and records to be preserved—Entry and inspection by department or board. (1) Every distributor shall keep at each place of business complete and accurate records for that place of business, including itemized invoices, of tobacco products held, purchased, manufactured, brought in or caused to be brought in from without the state, or shipped or transported to retailers in this state, and of all sales of tobacco products made.

(2) These records shall show the names and addresses of purchasers, the inventory of all tobacco products, and other pertinent papers and documents relating to the purchase, sale, or disposition of tobacco products. All invoices and other records required by this section to be kept shall be preserved for a period of five years from the date of the invoices or other documents or the date of the entries appearing in the records.

(3) At any time during usual business hours the department, board, or its duly authorized agents or employees, may enter any place of business of a distributor, without a search warrant, and inspect the premises, the records required to be kept under this chapter, and the tobacco products contained therein, to determine whether or not all the provisions of this chapter are being fully complied with. If the department, board, or any of its agents or employees, are denied free access or are hindered or interfered with in making such examination, the registration certificate issued under RCW 82.32.030 of the distributor at such premises shall be subject to revocation, and any licenses issued under this chapter or chapter 82.24 RCW are subject to suspension or revocation, by the department or board. [2009 c 154 § 3; 2005 c 180 § 4; 1975 1st ex.s. c 278 § 73; 1961 c 15 § 82.26.060. Prior: 1959 ex.s. c 5 § 16.]

Effective date—2005 c 180: See note following RCW 82.26.105.

Additional notes found at www.leg.wa.gov

82.26.070 Preservation of invoices of sales to other than ultimate consumer. Every person required to be licensed under this chapter who sells tobacco products to persons other than the ultimate consumer shall render with each sale itemized invoices showing the seller's name and address, the purchaser's name and address, the date of sale, and all prices. The person shall preserve legible copies of all such invoices for five years from the date of sale. [2005 c 180 § 7; 1961 c 15 § 82.26.070. Prior: 1959 ex.s. c 5 § 17.]

Effective date—2005 c 180: See note following RCW 82.26.105.

82.26.080 Retailer invoices—Requirements—Inspection. (1) Every retailer shall procure itemized invoices of all tobacco products purchased. The invoices shall show the seller's name and address, the date of purchase, and all prices and discounts.

(2) The retailer shall keep at each retail outlet copies of complete, accurate, and legible invoices for that retail outlet or place of business. All invoices required to be kept under this section shall be preserved for five years from the date of purchase.

(3) At any time during usual business hours the department, board, or its duly authorized agents or employees may enter any retail outlet without a search warrant, and inspect the premises for invoices required to be kept under this section and the tobacco products contained in the retail outlet, to determine whether or not all the provisions of this chapter are being fully complied with. If the department, board, or any of its agents or employees, are denied free access or are hindered or interfered with in making the inspection, the registration certificate issued under RCW 82.32.030 of the retailer at the premises is subject to revocation, and any licenses issued under this chapter or chapter 82.24 RCW are subject to suspension or revocation by the department. [2005 c 180 § 5; 1975 1st ex.s. c 278 § 74; 1961 c 15 § 82.26.080. Prior: 1959 ex.s. c 5 § 18.]

Effective date—2005 c 180: See note following RCW 82.26.105.

Additional notes found at www.leg.wa.gov

82.26.090 Records of shipments, deliveries from public warehouse of first destination—Preservation—Inspection. Records of all deliveries or shipments of tobacco products from any public warehouse of first destination in this state shall be kept by the warehouse and be available to the department of revenue for inspection. They shall show the name and address of the consignee, the date, the quantity of tobacco products delivered, and such other information as the department may require. These records shall be preserved for five years from the date of delivery of the tobacco products. [1975 1st ex.s. c 278 § 75; 1961 c 15 § 82.26.090. Prior: 1959 ex.s. c 5 § 19.]

Additional notes found at www.leg.wa.gov

82.26.100 Reports and returns. Every taxpayer shall report and make returns as provided in RCW 82.32.045. [2005 c 180 § 8; 1983 c 3 § 218; 1961 c 15 § 82.26.100. Prior: 1959 ex.s. c 5 § 20.]

Effective date—2005 c 180: See note following RCW 82.26.105.

82.26.105 Inspection of books, documents, or records of carriers. (1) For the purposes of obtaining information concerning any matter relating to the administration or enforcement of this chapter, the department, the board, or any of its agents may inspect the books, documents, or records of any person transporting tobacco products for sale to any person or entity in the state, and books, documents, or records containing any information relating to the transportation or possession of tobacco products for sale in the possession of a specific common carrier as defined in RCW 81.80.010 doing business in this state, or books, documents, and records of vehicle rental agencies whose vehicles are being rented for the purpose of transporting contraband tobacco products.

(2) If a person neglects or refuses to produce and submit for inspection any book, record, or document as required by this section when requested to do so by the department, the board, or its agent, then the department or the board may seek an order in superior court compelling production of the books, records, or documents. [2007 c 221 § 3; 2005 c 180 § 6.]

Effective date—2005 c 180: "This act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and takes effect July 1, 2005." [2005 c 180 § 25.]

82.26.110 When credit may be obtained for tax paid. (1)(a) Where tobacco products upon which the tax imposed by this chapter has been reported and paid are shipped or transported outside this state by the distributor to a person engaged in the business of selling tobacco products, to be sold by that person, or are returned to the manufacturer by the distributor or destroyed by the distributor, or are sold by the distributor to the United States or any of its agencies or instrumentalities, or are sold by the distributor to any Indian tribal organization, credit of such tax may be made to the distributor in accordance with rules prescribed by the department.

(b) For purposes of this subsection, the following definitions apply:

(i) "Indian distributor" means a federally recognized Indian tribe or tribal entity that would otherwise meet the definition of distributor under RCW 82.26.010, if federally recognized Indian tribes and tribal entities were not excluded from the definition of person in RCW 82.26.010.

(ii) "Indian retailer" means a federally recognized Indian tribe or tribal entity that would otherwise meet the definition of retailer under RCW 82.26.010, if federally recognized Indian tribes and tribal entities were not excluded from the definition of person in RCW 82.26.010.

(iii) "Indian tribal organization" means a federally recognized Indian tribe, or tribal entity, and includes an Indian distributor or retailer that is owned by an Indian who is an enrolled tribal member conducting business under tribal license or similar tribal approval within Indian country.

(2) Credit allowed under this section shall be determined based on the tax rate in effect for the period for which the tax imposed by this chapter, for which a credit is sought, was paid. [2007 c 221 § 4; 2005 c 180 § 9; 1975 1st ex.s. c 278 § 76; 1961 c 15 § 82.26.110. Prior: 1959 ex.s. c 5 § 21.]

Effective date—2005 c 180: See note following RCW 82.26.105.

Additional notes found at www.leg.wa.gov

82.26.120 Administration. All of the provisions contained in chapter 82.32 RCW shall have full force and application with respect to taxes imposed under the provisions of this chapter. [1963 ex.s. c 28 § 5.]

Additional notes found at www.leg.wa.gov

82.26.121 Enforcement—Appointment of officers of liquor control board. The department shall appoint, as duly authorized agents, enforcement officers of the liquor control board to enforce provisions of this chapter. These officers shall not be considered employees of the department. [1997 c 420 § 11.]

82.26.130 Invoices—Nonpayment—Penalties and interest. (1) The department shall by rule establish the invoice detail required under RCW 82.26.060 for a distributor under *RCW 82.26.010(3)(d) and for those invoices required to be provided to retailers under RCW 82.26.070.

(2) If a retailer fails to keep invoices as required under chapter 82.32 RCW, the retailer is liable for the tax owed on any uninvoiced tobacco products but not penalties and interest, except as provided in subsection (3) of this section.

(3) If the department finds that the nonpayment of tax by the retailer was willful or if in the case of a second or plural nonpayment of tax by the retailer, penalties and interest shall be assessed in accordance with chapter 82.32 RCW. [2002 c 325 § 5.]

***Reviser's note:** RCW 82.26.010 was alphabetized pursuant to RCW 1.08.015(2)(k), changing subsection (3)(d) to subsection (8)(d).

Additional notes found at www.leg.wa.gov

82.26.140 Transport of tobacco products—Requirements—Vehicle inspection. (1) No person other than (a) a licensed distributor in the distributor's own vehicle, a manufacturer's representative authorized to sell or distribute tobacco products in this state under RCW 82.26.210, or a licensed retailer in the retailer's own vehicle, or (b) a person who has given notice to the board in advance of the commencement of transportation shall transport or cause to be transported in this state tobacco products for sale.

(2) When transporting tobacco products for sale, the person shall have in his or her actual possession, or cause to have in the actual possession of those persons transporting such tobacco products on his or her behalf, invoices or delivery tickets for the tobacco products, which shall show the true name and address of the consignor or seller, the true name and address of the consignee or purchaser, and the quantity and brands of the tobacco products being transported.

(3) In any case where the department or the board, or any peace officer of the state, has knowledge or reasonable grounds to believe that any vehicle is transporting tobacco products in violation of this section, the department, the board, or peace officer, is authorized to stop the vehicle and to inspect it for contraband tobacco products. [2005 c 180 § 10.]

Effective date—2005 c 180: See note following RCW 82.26.105.

82.26.150 Distributor's license, retailer's license—Application—Approval—Display. (1) The licenses issuable by the board under this chapter are as follows:

(a) A distributor's license; and

(b) A retailer's license.

(2) Application for the licenses must be made through the business licensing system under chapter 19.02 RCW. The board may adopt rules regarding the regulation of the licenses. The board may refuse to issue any license under this chapter if the board has reasonable cause to believe that the applicant has willfully withheld information requested for the purpose of determining the eligibility of the applicant to receive a license, or if the board has reasonable cause to believe that information submitted in the application is false or misleading or is not made in good faith. In addition, for the purpose of reviewing an application for a distributor's license or retailer's license and for considering the denial, suspension, or revocation of any such license, the board may consider criminal conduct of the applicant, including an administrative violation history record with the board and a criminal history record information check within the previous five years, in any state, tribal, or federal jurisdiction in the United States, its territories, or possessions, and the provisions of RCW 9.95.240 and chapter 9.96A RCW do not apply to such cases. The board may, in its discretion, issue or refuse to issue the distributor's license or retailer's license, subject to the provisions of RCW 82.26.220.

(3) No person may qualify for a distributor's license or a retailer's license under this section without first undergoing a criminal background check. The background check must be performed by the board and must disclose any criminal conduct within the previous five years in any state, tribal, or federal jurisdiction in the United States, its territories, or possessions. If the applicant or licensee also has a license issued under chapter 66.24 or 82.24 RCW, the background check done under the authority of chapter 66.24 or 82.24 RCW satisfies the requirements of this section.

(4) Each license issued under this chapter expires on the business license expiration date. The license must be continued annually if the licensee has paid the required fee and complied with all the provisions of this chapter and the rules of the board adopted pursuant to this chapter.

(5) Each license and any other evidence of the license required under this chapter must be exhibited in each place of business for which it is issued and in the manner required for the display of a business license. [2013 c 144 § 52; 2009 c 154 § 4; 2005 c 180 § 11.]

Effective date—2005 c 180: See note following RCW 82.26.105.

82.26.160 Distributor's license—Application fees. (1) A fee of six hundred fifty dollars shall accompany each distributor's license application or license renewal application. If a distributor sells or intends to sell tobacco products at two or more places of business, whether established or temporary, a separate license with a license fee of one hundred fifteen dollars shall be required for each additional place of business.

(2) The fees imposed under subsection (1) of this section do not apply to any person applying for a distributor's license or for renewal of a distributor's license if the person has a valid wholesaler's license under RCW 82.24.510 for the place of business associated with the distributor's license application or license renewal application. [2005 c 180 § 12.]

Effective date—2005 c 180: See note following RCW 82.26.105.

82.26.170 Retailer's license—Application fee. (1) A fee of ninety-three dollars shall accompany each retailer's license application or license renewal application. A separate license is required for each separate location at which the retailer operates.

(2) The fee imposed under subsection (1) of this section does not apply to any person applying for a retailer's license or for renewal of a retailer's license if the person has a valid retailer's license under RCW 82.24.510 for the place of business associated with the retailer's license application or renewal application. [2005 c 180 § 13.]

Effective date—2005 c 180: See note following RCW 82.26.105.

82.26.180 Board web site listing distributors and retailers. The board shall compile and maintain a current record of the names of all distributors and retailers licensed under this chapter and the status of their license or licenses. The information must be updated on a monthly basis and published on the board's official internet web site. This information is not subject to the confidentiality provisions of RCW 82.32.330 and shall be disclosed to manufacturers, distributors, retailers, and the general public upon request. [2009 c 154 § 5; 2005 c 180 § 15.]

Effective date—2005 c 180: See note following RCW 82.26.105.

82.26.190 Distributors and retailers—Valid license required—Violations—Penalties. (1)(a) No person may engage in or conduct business as a distributor or retailer in this state after September 30, 2005, without a valid license issued under this chapter. Any person who sells tobacco products to persons other than ultimate consumers or who meets the definition of distributor under *RCW 82.26.010(3)(d) must obtain a distributor's license under this chapter. Any person who sells tobacco products to ultimate consumers must obtain a retailer's license under this chapter.

(b) A violation of this subsection (1) is punishable as a class C felony according to chapter 9A.20 RCW.

(2)(a) No person engaged in or conducting business as a distributor or retailer in this state may:

(i) Refuse to allow the department or the board, on demand, to make a full inspection of any place of business where any of the tobacco products taxed under this chapter are sold, stored, or handled, or otherwise hinder or prevent such inspection;

(ii) Make, use, or present or exhibit to the department or the board any invoice for any of the tobacco products taxed under this chapter that bears an untrue date or falsely states the nature or quantity of the goods invoiced; or

(iii) Fail to produce on demand of the department or the board all invoices of all the tobacco products taxed under this chapter within five years prior to such demand unless the person can show by satisfactory proof that the nonproduction of the invoices was due to causes beyond the person's control.

(b) No person, other than a licensed distributor or retailer, may transport tobacco products for sale in this state for which the taxes imposed under this chapter have not been paid unless:

(i) Notice of the transportation has been given as required under RCW 82.26.140;

(ii) The person transporting the tobacco products actually possesses invoices or delivery tickets showing the true name and address of the consignor or seller, the true name and address of the consignee or purchaser, and the quantity and brands of tobacco products being transported; and

(iii) The tobacco products are consigned to or purchased by a person in this state who is licensed under this chapter.

(c) A violation of this subsection (2) is a gross misdemeanor.

(3) Any person licensed under this chapter as a distributor, and any person licensed under this chapter as a retailer, shall not operate in any other capacity unless the additional appropriate license is first secured. A violation of this subsection (3) is a misdemeanor.

(4) The penalties provided in this section are in addition to any other penalties provided by law for violating the provisions of this chapter or the rules adopted under this chapter. [2009 c 154 § 6; 2005 c 180 § 16.]

***Reviser's note:** RCW 82.26.010 was alphabetized pursuant to RCW 1.08.015(2)(k), changing subsection (3)(d) to subsection (8)(d).

Effective date—2005 c 180: See note following RCW 82.26.105.

82.26.200 Sales from distributors to retailers—Requirements. (1) A retailer that obtains tobacco products from an unlicensed distributor or any other person that is not licensed under this chapter must be licensed both as a retailer and a distributor under this chapter and is liable for the tax imposed under RCW 82.26.020 with respect to the tobacco products acquired from the unlicensed person that are held for sale, handling, or distribution in this state. For the purposes of this subsection, "person" includes both persons defined in *RCW 82.26.010(10) and any person immune from state taxation, such as the United States or its instrumentalities, and federally recognized Indian tribes and enrolled tribal members, conducting business within Indian country.

(2) Every distributor licensed under this chapter shall sell tobacco products to retailers located in Washington only if the retailer has a current retailer's license under this chapter. [2005 c 180 § 17.]

***Reviser's note:** RCW 82.26.010 was alphabetized pursuant to RCW 1.08.015(2)(k), changing subsection (10) to subsection (14).

Effective date—2005 c 180: See note following RCW 82.26.105.

82.26.210 Manufacturer's representatives—Requirements. A manufacturer that has manufacturer's representatives who sell or distribute the manufacturer's tobacco products in this state must provide the board a list of the names and addresses of all such representatives and must ensure that the list provided to the board is kept current. A manufacturer's representative is not authorized to distribute or sell tobacco products in this state unless the manufacturer that hired the representative has a valid distributor's license under this chapter and that manufacturer provides the board a current list of all of its manufacturer's representatives as required by this section. A manufacturer's representative must carry a copy of the distributor's license of the manufacturer that hired the representative at all times when selling or distributing the manufacturer's tobacco products. [2009 c 154 § 7; 2005 c 180 § 14.]

Effective date—2005 c 180: See note following RCW 82.26.105.

82.26.220 Enforcement, administration of chapter—License suspension, revocation. (1) The board shall enforce this chapter. The board may adopt, amend, and repeal rules necessary to enforce and administer this chapter.

(2) The department may adopt, amend, and repeal rules necessary to administer this chapter. The board may revoke or suspend the distributor's or retailer's license of any distributor or retailer of tobacco products in the state upon sufficient cause showing a violation of this chapter or upon the failure of the licensee to comply with any of the rules adopted under it.

(3) A license shall not be suspended or revoked except upon notice to the licensee and after a hearing as prescribed by the board. The board, upon finding that the licensee has failed to comply with any provision of this chapter or of any rule adopted under it, shall, in the case of the first offense, suspend the license or licenses of the licensee for a period of not less than thirty consecutive business days, and in the case of a second or further offense, suspend the license or licenses for a period of not less than ninety consecutive business days but not more than twelve months, and in the event the board finds the licensee has been guilty of willful and persistent violations, it may revoke the license or licenses.

(4) Any licenses issued under chapter 82.24 RCW to a person whose license or licenses have been suspended or revoked under this section shall also be suspended or revoked during the period of suspension or revocation under this section.

(5) Any person whose license or licenses have been revoked under this section may reapply to the board at the expiration of one year of the license or licenses. The license or licenses may be approved by the board if it appears to the satisfaction of the board that the licensee will comply with the provisions of this chapter and the rules adopted under it.

(6) A person whose license has been suspended or revoked shall not sell tobacco products or cigarettes or permit tobacco products or cigarettes to be sold during the period of suspension or revocation on the premises occupied by the

person or upon other premises controlled by the person or others or in any other manner or form.

(7) Any determination and order by the board, and any order of suspension or revocation by the board of the license or licenses issued under this chapter, or refusal to reinstate a license or licenses after revocation is reviewable by an appeal to the superior court of Thurston county. The superior court shall review the order or ruling of the board and may hear the matter de novo, having due regard to the provisions of this chapter and the duties imposed upon the board.

(8) If the board makes an initial decision to deny a license or renewal, or suspend or revoke a license, the applicant may request a hearing subject to the applicable provisions under Title 34 RCW. [2009 c 154 § 8; 2005 c 180 § 18.]

Effective date—2005 c 180: See note following RCW 82.26.105.

82.26.230 Enforcement—Unlicensed distributors or retailers—Seizure and forfeiture of property. (1) Any tobacco products in the possession of a person selling tobacco products in this state acting as a distributor or retailer and who is not licensed as required under RCW 82.26.190, or a person who is selling tobacco products in violation of RCW 82.26.220(6), may be seized without a warrant by any agent of the department, agent of the board, or law enforcement officer of this state. Any tobacco products seized under this subsection shall be deemed forfeited.

(2) Any tobacco products in the possession of a person who is not a licensed distributor or retailer and who transports tobacco products for sale without having provided notice to the board required under RCW 82.26.140, or without invoices or delivery tickets showing the true name and address of the consignor or seller, the true name and address of the consignee or purchaser, and the quantity and brands of tobacco products being transported may be seized and are subject to forfeiture.

(3) All conveyances, including aircraft, vehicles, or vessels that are used, or intended for use to transport, or in any manner to facilitate the transportation, for the purpose of sale or receipt of tobacco products under subsection (2) of this section, may be seized and are subject to forfeiture except:

(a) A conveyance used by any person as a common or contract carrier having in actual possession invoices or delivery tickets showing the true name and address of the consignor or seller, the true name of the consignee or purchaser, and the quantity and brands of the tobacco products transported, unless it appears that the owner or other person in charge of the conveyance is a consenting party or privy to a violation of this chapter;

(b) A conveyance subject to forfeiture under this section by reason of any act or omission of which the owner establishes to have been committed or omitted without his or her knowledge or consent; or

(c) A conveyance encumbered by a bona fide security interest if the secured party neither had knowledge of nor consented to the act or omission.

(4) Property subject to forfeiture under subsections (2) and (3) of this section may be seized by any agent of the department, the board, or law enforcement officer of this state upon process issued by any superior court or district court having jurisdiction over the property. Seizure without process may be made if:

(a) The seizure is incident to an arrest or a search warrant or an inspection under an administrative inspection warrant; or

(b) The department, board, or law enforcement officer has probable cause to believe that the property was used or is intended to be used in violation of this chapter and exigent circumstances exist making procurement of a search warrant impracticable.

(5) This section shall not be construed to require the seizure of tobacco products if the department's agent, board's agent, or law enforcement officer reasonably believes that the tobacco products are possessed for personal consumption by the person in possession of the tobacco products.

(6) Any tobacco products seized by a law enforcement officer shall be turned over to the board as soon as practicable. [2005 c 180 § 20.]

Effective date—2005 c 180: See note following RCW 82.26.105.

82.26.240 Seizure and forfeiture of property—Department and board requirements. (1) In all cases of seizure of any tobacco products made subject to forfeiture under this chapter, the department or board shall proceed as provided in RCW 82.24.135.

(2) When tobacco products are forfeited under this chapter, the department or board may:

(a) Retain the property for official use or upon application by any law enforcement agency of this state, another state, or the District of Columbia, or of the United States for the exclusive use of enforcing this chapter or the laws of any other state or the District of Columbia or of the United States; or

(b) Sell the tobacco products at public auction to the highest bidder after due advertisement. Before delivering any of the goods to the successful bidder, the department or board shall require the purchaser to pay the proper amount of any tax due. The proceeds of the sale shall be first applied to the payment of all proper expenses of any investigation leading to the seizure and of the proceedings for forfeiture and sale, including expenses of seizure, maintenance of custody, advertising, and court costs. The balance of the proceeds and all money shall be deposited in the general fund of the state. Proper expenses of investigation include costs incurred by any law enforcement agency or any federal, state, or local agency.

(3) The department or the board may return any property seized under the provisions of this chapter when it is shown that there was no intention to violate the provisions of this chapter. When any property is returned under this section, the department or the board may return the property to the parties from whom they were seized if and when such parties have paid the proper amount of tax due under this chapter. [2005 c 180 § 21.]

Effective date—2005 c 180: See note following RCW 82.26.105.

82.26.250 Enforcement—Search warrants. When the department or the board has good reason to believe that any of the tobacco products taxed under this chapter are being kept, sold, offered for sale, or given away in violation of the provisions of this chapter, it may make affidavit of facts describing the place or thing to be searched, before any judge of any court in this state, and the judge shall issue a search

warrant directed to the sheriff, any deputy, police officer, or duly authorized agent of the department or the board commanding him or her diligently to search any building, room in a building, place, or vehicle as may be designated in the affidavit and search warrant, and to seize the tobacco products and hold them until disposed of by law. [2005 c 180 § 22.]

Effective date—2005 c 180: See note following RCW 82.26.105.

82.26.260 Tobacco product code—Tax payment and exemption verification. (1)(a) Within one year following the date on which the requirement for a tobacco product code is effective, payment of, or exemption from, the tax imposed in RCW 82.26.020 must be verifiable on each single-unit consumer-sized can or package of moist snuff, as provided in (b) of this subsection.

(b) Within thirty days following the date on which notice of proposed rule making to require a tobacco product code is published in the federal register, the department must commence to develop a method for using a tobacco product code to verify payment of, or exemption from, the tax imposed in RCW 82.26.020; to develop and implement a pilot project to test the method; and to develop a plan for adoption of rules to implement the method. The department must report to the legislature on its progress annually by December 1st through the year following the year in which the method is implemented.

(2) If notice of proposed rule making to require a tobacco product code is not published in the federal register by July 1, 2011, the department must determine and recommend to the legislature by November 1, 2014, a method to verify payment of, or exemption from, the tax imposed in RCW 82.26.020, by means of stamping, use of manufacturers' digitally readable product identifiers, or any other method, and must complete and present to the legislature a study of compliance with the tax imposed in RCW 82.26.020, the effect of noncompliance on state revenue, and the effect of adopting a method to verify payment of, or exemption from, the tax.

(3) For purposes of this section, "tobacco product code" means a code that is required on the label of a tobacco product for purposes of tracking or tracing the product through the distribution system under final regulations adopted by the secretary of the United States department of health and human services. [2010 1st sp.s. c 22 § 6.]

Intent—Effective date—2010 1st sp.s. c 22: See notes following RCW 82.24.020.

Chapter 82.32 RCW
GENERAL ADMINISTRATIVE PROVISIONS

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Debts owed state: RCW 43.17.240.

Refunds of erroneous or excessive payments: RCW 43.88.170.

Tax returns, remittances, etc., filing and receipt when transmitted by mail: RCW 1.12.070.

82.32.010 Application of chapter stated. The provisions of this chapter apply with respect to the taxes imposed under chapters 82.04 through 82.14 RCW, under chapter 82.14B RCW, under chapters 82.16 through 82.29A RCW of this title, under chapter 84.33 RCW, and under other titles, chapters, and sections in such manner and to such extent as indicated in each such title, chapter, or section. [2010 1st sp.s. c 19 § 13; 1998 c 304 § 12; 1984 c 204 § 26; 1983 c 3 § 219; 1981 c 148 § 12; 1961 c 15 § 82.32.010. Prior: 1935 c 180 § 185; RRS § 8370-185.]

Effective dates—2010 1st sp.s. c 19: See note following RCW 82.14B.010.

Findings—Effective dates—1998 c 304: See notes following RCW 82.14B.020.

Purpose—Severability—Effective dates—1981 c 148: See notes following RCW 84.33.130.

Additional notes found at www.leg.wa.gov

82.32.020 Definitions. For the purposes of this chapter:

(1) The meaning attributed in chapters 82.01 through 82.27 RCW to the words and phrases "tax year," "taxable year," "person," "company," "gross proceeds of sales," "gross income of the business," "business," "engaging in business," "successor," "gross operating revenue," "gross income," "taxpayer," "retail sale," "seller," "buyer," "purchaser," "extended warranty," and "value of products" shall apply equally to the provisions of this chapter.

(2) Whenever "property" or "personal property" is used, those terms must be construed to include digital goods and digital codes unless: (a) It is clear from the context that the term "personal property" is intended only to refer to tangible personal property; (b) it is clear from the context that the term "property" is intended only to refer to tangible personal property, real property, or both; or (c) to construe the term "property" or "personal property" as including digital goods and digital codes would yield unlikely, absurd, or strained consequences.

(3) The definitions in this subsection apply throughout this chapter, unless the context clearly requires otherwise.

(a) "Agreement" means the streamlined sales and use tax agreement.

(b) "Associate member" means a petitioning state that is found to be in compliance with the agreement and changes to its laws, rules, or other authorities necessary to bring it into compliance are not in effect, but are scheduled to take effect on or before January 1, 2008. The petitioning states, by majority vote, may also grant associate member status to a petitioning state that does not receive an affirmative vote of three-fourths of the petitioning states upon a finding that the state has achieved substantial compliance with the terms of the agreement as a whole, but not necessarily each required provision, measured qualitatively, and there is a reasonable expectation that the state will achieve compliance by January 1, 2008.

(c) "Certified automated system" means software certified under the agreement to calculate the tax imposed by each jurisdiction on a transaction, determine the amount of tax to remit to the appropriate state, and maintain a record of the transaction.

(d) "Certified service provider" means an agent certified under the agreement to perform all of the seller's sales and use tax functions, other than the seller's obligation to remit tax on its own purchases.

(e)(i) "Member state" means a state that:

(A) Has petitioned for membership in the agreement and submitted a certificate of compliance; and

(B) Before the effective date of the agreement, has been found to be in compliance with the requirements of the agreement by an affirmative vote of three-fourths of the other petitioning states; or

(C) After the effective date of the agreement, has been found to be in compliance with the agreement by a three-fourths vote of the entire governing board of the agreement.

(ii) Membership by reason of (e)(i)(A) and (B) of this subsection is effective on the first day of a calendar quarter at least sixty days after at least ten states comprising at least twenty percent of the total population, as determined by the 2000 federal census, of all states imposing a state sales tax have petitioned for membership and have either been found in compliance with the agreement or have been found to be an associate member under section 704 of the agreement.

(iii) Membership by reason of (e)(i)(A) and (C) of this subsection is effective on the state's proposed date of entry or the first day of the calendar quarter after its petition is approved by the governing board, whichever is later, and is at least sixty days after its petition is approved.

(f) "Model 1 seller" means a seller that has selected a certified service provider as its agent to perform all the seller's sales and use tax functions, other than the seller's obligation to remit tax on its own purchases.

(g) "Model 2 seller" means a seller that has selected a certified automated system to perform part of its sales and use tax functions, but retains responsibility for remitting the tax.

(h) "Model 3 seller" means a seller that has sales in at least five member states, has total annual sales revenue of at least five hundred million dollars, has a proprietary system

that calculates the amount of tax due each jurisdiction, and has entered into a performance agreement with the member states that establishes a tax performance standard for the seller. As used in this subsection (3)(h), a seller includes an affiliated group of sellers using the same proprietary system.

(i) "Source" means the location in which the sale or use of tangible personal property, a digital good or digital code, an extended warranty, or a digital automated service or other service, subject to tax under chapter 82.08, 82.12, 82.14, or 82.14B RCW, is deemed to occur. [2009 c 535 § 1111; 2007 c 6 § 101; 2003 1st sp.s. c 13 § 16; 1983 c 3 § 220; 1961 c 15 § 82.32.020. Prior: 1935 c 180 § 186; RRS § 8370-186.]

Intent—Construction—2009 c 535: See notes following RCW 82.04.192.

Part headings not law—2007 c 6: "Part headings used in this act are not any part of the law." [2007 c 6 § 1702.]

Savings—2007 c 6: "This act does not affect any existing right acquired or liability or obligation incurred under the sections amended or repealed in this act or under any rule or order adopted under those sections, nor does it affect any proceeding instituted under those sections." [2007 c 6 § 1703.]

Effective date—2007 c 6: "Sections 101 through 105, 201, 202, 401, 501 through 503, 601, 701 through 703, 801, 802, 901 through 905, 1001, 1002, 1004, 1005, 1007 through 1013, 1015 through 1017, 1019 through 1024, 1101 through 1104, 1201 through 1203, 1302, 1401 through 1403, 1501, 1502, and 1601 of this act take effect July 1, 2008." [2007 c 6 § 1704.]

Severability—2007 c 6: "If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected." [2007 c 6 § 1708.]

Findings—Intent—2007 c 6: See note following RCW 82.14.495.

Additional notes found at www.leg.wa.gov

82.32.023 Definition of product for agreement purposes. For purposes of construing those provisions of the streamlined sales and use tax agreement that have been incorporated into this title, and unless the context requires otherwise, the terms "product" and "products" refer to tangible personal property, digital goods, digital codes, digital automated services, other services, extended warranties, and anything else that can be sold or used. [2009 c 535 § 1112; 2007 c 6 § 104.]

Intent—Construction—2009 c 535: See notes following RCW 82.04.192.

Part headings not law—Savings—Effective date—Severability—2007 c 6: See notes following RCW 82.32.020.

Findings—Intent—2007 c 6: See note following RCW 82.14.495.

82.32.026 Registration—Seller's agent—Streamlined sales and use tax agreement. (1) A seller, by written agreement, may appoint a person to represent the seller as its agent. The seller's agent has authority to register the seller with the department under RCW 82.32.030. An agent may also be a certified service provider, with authority to perform all the seller's sales and use tax functions, except that the seller remains responsible for remitting the tax on its own purchases.

(2) The seller or its agent must provide the department with a copy of the written agreement upon request. [2007 c 6 § 201.]

Part headings not law—Savings—Effective date—Severability—2007 c 6: See notes following RCW 82.32.020.

Findings—Intent—2007 c 6: See note following RCW 82.14.495.

82.32.030 Registration certificates—Threshold levels—Central registration system. (1) Except as provided in subsections (2) and (3) of this section, if any person engages in any business or performs any act upon which a tax is imposed by the preceding chapters, he or she must, under such rules as the department prescribes, apply for and obtain from the department a registration certificate. Such registration certificate is personal and nontransferable and is valid as long as the taxpayer continues in business and pays the tax accrued to the state. In case business is transacted at two or more separate places by one taxpayer, a separate registration certificate for each place at which business is transacted with the public is required. Each certificate must be numbered and must show the name, residence, and place and character of business of the taxpayer and such other information as the department of revenue deems necessary and must be posted in a conspicuous place at the place of business for which it is issued. Where a place of business of the taxpayer is changed, the taxpayer must return to the department the existing certificate, and a new certificate will be issued for the new place of business. No person required to be registered under this section may engage in any business taxable hereunder without first being so registered. The department, by rule, may provide for the issuance of certificates of registration to temporary places of business.

(2) Unless the person is a dealer as defined in RCW 9.41.010, registration under this section is not required if the following conditions are met:

(a) A person's value of products, gross proceeds of sales, or gross income of the business, from all business activities taxable under chapter 82.04 RCW, is less than twelve thousand dollars per year;

(b) The person's gross income of the business from all activities taxable under chapter 82.16 RCW is less than twelve thousand dollars per year;

(c) The person is not required to collect or pay to the department of revenue any other tax or fee which the department is authorized to collect; and

(d) The person is not otherwise required to obtain a license subject to the master application procedure provided in chapter 19.02 RCW.

(3) All persons who agree to collect and remit sales and use tax to the department under the agreement must register through the central registration system authorized under the agreement. Persons required to register under subsection (1) of this section are not relieved of that requirement because of registration under this subsection (3).

(4) Persons registered under subsection (3) of this section who are not required to register under subsection (1) of this section and who are not otherwise subject to the requirements of chapter 19.02 RCW are not subject to the fees imposed by the department under the authority of RCW 19.02.075. [2011 c 298 § 38; 2007 c 6 § 202; 1996 c 111 § 2. Prior: 1994 sp.s. c 7 § 446; 1994 sp.s. c 2 § 2; 1992 c 206 § 8; 1982 1st ex.s. c 4 § 1; 1979 ex.s. c 95 § 1; 1975 1st ex.s. c 278 § 77; 1961 c 15 § 82.32.030; prior: 1941 c 178 § 19, part; 1937 c 227 § 16, part; 1935 c 180 § 187, part; Rem. Supp. 1941 § 8370-187, part.]

Purpose—Intent—Agency transfer—Contracting—Effective date—2011 c 289: See notes following RCW 19.02.020.

Part headings not law—Savings—Effective date—Severability—2007 c 6: See notes following RCW 82.32.020.

Findings—Intent—2007 c 6: See note following RCW 82.14.495.

Findings—Purpose—1996 c 111: "The legislature finds that small businesses play a vital role in the state's current and future economic health. The legislature also finds that the state's excise tax reporting and registration requirements are unduly burdensome for small businesses incurring little or no tax liability. The legislature recognizes the costs associated in complying with the reporting and registration requirements that are hindering the further development of those businesses. For these reasons the legislature with this act simplifies the tax reporting and registration requirements for certain small businesses." [1996 c 111 § 1.]

Finding—Intent—Severability—1994 sp.s. c 7: See notes following RCW 43.70.540.

Additional notes found at www.leg.wa.gov

82.32.033 Registration certificates—Special events—Promoter's duties—Penalties—Definitions. (1) A promoter of a special event within the state of Washington shall not permit a vendor to make or solicit retail sales of tangible personal property or services at the special event unless the promoter makes a good faith effort to obtain verification that the vendor has obtained a certificate of registration from the department.

(2) A promoter of a special event shall:

(a) Keep, in addition to the records required under RCW 82.32.070, a record of the dates and place of each special event, and the name, address, and registration certificate number of each vendor permitted to make or solicit retail sales of tangible personal property or services at the special event. The record of the date and place of a special event, and the name, address, and registration certificate number of each vendor at the event shall be preserved for a period of one year from the date of a special event; and

(b) Provide to the department, within twenty days of receipt of a written request from the department, a list of vendors permitted to make or solicit retail sales of tangible personal property or services. The list shall be in a form and contain such information as the department may require, and shall include the date and place of the event, and the name, address, and registration certificate number of each vendor.

(3) If a promoter fails to make a good faith effort to comply with the provisions of this section, the promoter is liable for the penalties provided in this subsection (3).

(a) If a promoter fails to make a good faith effort to comply with the provisions of subsection (1) of this section, the department shall impose a penalty of one hundred dollars for each vendor permitted to make or solicit retail sales of tangible personal property or services at the special event.

(b) If a promoter fails to make a good faith effort to comply with the provisions of subsection (2)(b) of this section, the department shall impose a penalty of:

(i) Two hundred fifty dollars if the information requested is not received by the department within twenty days of the department's written request; and

(ii) One hundred dollars for each vendor for whom the information as required by subsection (2)(b) of this section is not provided to the department.

(4) The aggregate of penalties imposed under subsection (3) of this section may not exceed two thousand five hundred dollars for a special event if the promoter has not previously been penalized under this section. Under no circumstances is a promoter liable for sales tax or business and occupation tax not remitted to the department by a vendor at a special event.

(5) The department shall notify a promoter by mail, or electronically as provided in RCW 82.32.135, of any penalty imposed under this section, and the penalty shall be due within thirty days from the date of the notice. If any penalty imposed under this section is not received by the department by the due date, there shall be assessed interest on the unpaid amount beginning the day following the due date until the penalty is paid in full. The rate of interest shall be computed on a daily basis on the amount of outstanding penalty at the rate as computed under RCW 82.32.050(2). The rate computed shall be adjusted annually in the same manner as provided in RCW 82.32.050(1)(c).

(6) For purposes of this section:

(a) "Promoter" means a person who organizes, operates, or sponsors a special event and who contracts with vendors for participation in the special event.

(b) "Special event" means an entertainment, amusement, recreational, educational, or marketing event, whether held on a regular or irregular basis, at which more than one vendor makes or solicits retail sales of tangible personal property or services. The term includes, but is not limited to: Auto shows, recreational vehicle shows, boat shows, home shows, garden shows, hunting and fishing shows, stamp shows, comic book shows, sports memorabilia shows, craft shows, art shows, antique shows, flea markets, exhibitions, festivals, concerts, swap meets, bazaars, carnivals, athletic contests, circuses, fairs, or other similar activities. "Special event" does not include an event that is organized for the exclusive benefit of any nonprofit organization as defined in RCW 82.04.3651. An event is organized for the exclusive benefit of a nonprofit organization if all of the gross proceeds of retail sales of all vendors at the event inure to the benefit of the nonprofit organization on whose behalf the event is being held. "Special event" does not include athletic contests that involve competition between teams, when such competition consists of more than five contests in a calendar year by at least one team at the same facility or site.

(c) "Vendor" means a person who, at a special event, makes or solicits retail sales of tangible personal property or services.

(7) "Good faith effort to comply" and "good faith effort to obtain" may be shown by, but is not limited to, circumstances where a promoter:

(a) Includes a statement on all written contracts with its vendors that a valid registration certificate number issued by the department of revenue is required for participation in the special event and requires vendors to indicate their registration certificate number on these contracts; and

(b) Provides the department with a list of vendors and their associated registration certificate numbers as provided in subsection (2)(b) of this section.

(8) This section does not apply to:

(a) A special event whose promoter does not charge more than two hundred dollars for a vendor to participate in a special event;

(b) A special event whose promoter charges a percentage of sales instead of, or in addition to, a flat charge for a vendor to participate in a special event if the promoter, in good faith,

believes that no vendor will pay more than two hundred dollars to participate in the special event; or

(c) A person who does not organize, operate, or sponsor a special event, but only provides a venue, supplies, furnishings, fixtures, equipment, or services to a promoter of a special event. [2007 c 111 § 105; 2004 c 253 § 1; 2003 1st sp.s. c 13 § 15.]

Part headings not law—2007 c 111: See note following RCW 82.16.120.

Additional notes found at www.leg.wa.gov

82.32.045 Taxes—When due and payable—Reporting periods—Verified annual returns—Relief from filing requirements. (1) Except as otherwise provided in this chapter, payments of the taxes imposed under chapters 82.04, 82.08, 82.12, 82.14, and 82.16 RCW, along with reports and returns on forms prescribed by the department, are due monthly within twenty-five days after the end of the month in which the taxable activities occur.

(2) The department of revenue may relieve any taxpayer or class of taxpayers from the obligation of remitting monthly and may require the return to cover other longer reporting periods, but in no event may returns be filed for a period greater than one year. For these taxpayers, tax payments are due on or before the last day of the month next succeeding the end of the period covered by the return.

(3) The department of revenue may also require verified annual returns from any taxpayer, setting forth such additional information as it may deem necessary to correctly determine tax liability.

(4) Notwithstanding subsections (1) and (2) of this section, the department may relieve any person of the requirement to file returns if the following conditions are met:

(a) The person's value of products, gross proceeds of sales, or gross income of the business, from all business activities taxable under chapter 82.04 RCW, is less than:

(i) Twenty-eight thousand dollars per year; or

(ii) Forty-six thousand six hundred sixty-seven dollars per year for persons generating at least fifty percent of their taxable amount from activities taxable under RCW 82.04.255, 82.04.290(2)(a), and 82.04.285;

(b) The person's gross income of the business from all activities taxable under chapter 82.16 RCW is less than twenty-four thousand dollars per year; and

(c) The person is not required to collect or pay to the department of revenue any other tax or fee which the department is authorized to collect. [2010 1st sp.s. c 23 § 1103; 2006 c 256 § 1; 2003 1st sp.s. c 13 § 8; 1999 c 357 § 1; 1996 c 111 § 3; 1983 2nd ex.s. c 3 § 63; 1982 1st ex.s. c 35 § 27; 1981 c 172 § 7; 1981 c 7 § 1.]

Effective date—2010 1st sp.s. c 23: See note following RCW 82.32.655.

Findings—Intent—2010 1st sp.s. c 23: See notes following RCW 82.04.220.

Effective dates—2006 c 256: "(1) Sections 1 through 4 of this act take effect August 1, 2006.

(2) Sections 6 and 7 of this act take effect July 1, 2006." [2006 c 256 § 9.]

Application—2006 c 256: "(1) Sections 1 through 3 of this act apply to returns due after July 31, 2006.

(2) Section 4 of this act applies to payments due after July 31, 2006.

(3) Section 6 of this act only applies to assessments originally issued after June 30, 2006." [2006 c 256 § 7.]

Savings—2006 c 256: "This act does not affect any existing right acquired or liability or obligation incurred under the sections amended in this act or under any rule or order adopted under those sections, nor does it affect any proceeding instituted under those sections." [2006 c 256 § 8.]

Intent—1999 c 357: "It is the intent of the legislature to allow the department of revenue to increase its ability to provide timely and cost-effective service to taxpayers." [1999 c 357 § 2.]

Findings—Purpose—Effective date—1996 c 111: See notes following RCW 82.32.030.

Additional notes found at www.leg.wa.gov

82.32.050 Deficient tax or penalty payments—Notice—Interest—Limitations—Time extension or correction of an assessment during state of emergency. (1) If upon examination of any returns or from other information obtained by the department it appears that a tax or penalty has been paid less than that properly due, the department shall assess against the taxpayer such additional amount found to be due and shall add thereto interest on the tax only. The department shall notify the taxpayer by mail, or electronically as provided in RCW 82.32.135, of the additional amount and the additional amount shall become due and shall be paid within thirty days from the date of the notice, or within such further time as the department may provide.

(a) For tax liabilities arising before January 1, 1992, interest shall be computed at the rate of nine percent per annum from the last day of the year in which the deficiency is incurred until the earlier of December 31, 1998, or the date of payment. After December 31, 1998, the rate of interest shall be variable and computed as provided in subsection (2) of this section. The rate so computed shall be adjusted on the first day of January of each year for use in computing interest for that calendar year.

(b) For tax liabilities arising after December 31, 1991, the rate of interest shall be variable and computed as provided in subsection (2) of this section from the last day of the year in which the deficiency is incurred until the date of payment. The rate so computed shall be adjusted on the first day of January of each year for use in computing interest for that calendar year.

(c) Interest imposed after December 31, 1998, shall be computed from the last day of the month following each calendar year included in a notice, and the last day of the month following the final month included in a notice if not the end of a calendar year, until the due date of the notice. If payment in full is not made by the due date of the notice, additional interest shall be computed until the date of payment. The rate of interest shall be variable and computed as provided in subsection (2) of this section. The rate so computed shall be adjusted on the first day of January of each year for use in computing interest for that calendar year.

(2) For the purposes of this section, the rate of interest to be charged to the taxpayer shall be an average of the federal short-term rate as defined in 26 U.S.C. Sec. 1274(d) plus two percentage points. The rate set for each new year shall be computed by taking an arithmetical average to the nearest percentage point of the federal short-term rate, compounded annually. That average shall be calculated using the rates from four months: January, April, and July of the calendar

year immediately preceding the new year, and October of the previous preceding year.

(3) During a state of emergency declared under RCW 43.06.010(12), the department, on its own motion or at the request of any taxpayer affected by the emergency, may extend the due date of any assessment or correction of an assessment for additional taxes, penalties, or interest as the department deems proper.

(4) No assessment or correction of an assessment for additional taxes, penalties, or interest due may be made by the department more than four years after the close of the tax year, except (a) against a taxpayer who has not registered as required by this chapter, (b) upon a showing of fraud or of misrepresentation of a material fact by the taxpayer, or (c) where a taxpayer has executed a written waiver of such limitation. The execution of a written waiver shall also extend the period for making a refund or credit as provided in RCW 82.32.060(2).

(5) For the purposes of this section, "return" means any document a person is required by the state of Washington to file to satisfy or establish a tax or fee obligation that is administered or collected by the department of revenue and that has a statutorily defined due date. [2008 c 181 § 501; 2007 c 111 § 106; 2003 c 73 § 1; 1997 c 157 § 1; 1996 c 149 § 2; 1992 c 169 § 1; 1991 c 142 § 9; 1989 c 378 § 19; 1971 ex.s. c 299 § 16; 1965 ex.s. c 141 § 1; 1961 c 15 § 82.32.050. Prior: 1951 1st ex.s. c 9 § 5; 1949 c 228 § 20; 1945 c 249 § 9; 1939 c 225 § 27; 1937 c 227 § 17; 1935 c 180 § 188; Rem. Supp. 1949 § 8370-188.]

Part headings not law—2008 c 181: See note following RCW 43.06.220.

Part headings not law—2007 c 111: See note following RCW 82.16.120.

Findings—Intent—1996 c 149: "The legislature finds that a consistent application of interest and penalties is in the best interest of the residents of the state of Washington. The legislature also finds that the goal of the department of revenue's interest and penalty system should be to encourage taxpayers to voluntarily comply with Washington's tax code in a timely manner. The administration of tax programs requires that there be consequences for those taxpayers who do not timely satisfy their reporting and tax obligations, but these consequences should not be so severe as to discourage taxpayers from voluntarily satisfying their tax obligations.

It is the intent of the legislature that, to the extent possible, a single interest and penalty system apply to all tax programs administered by the department of revenue." [1996 c 149 § 1.]

Additional notes found at www.leg.wa.gov

82.32.052 Interest and penalties—Waiver for amounts unpaid as of February 1, 2011. (1) Except as otherwise provided in subsections (4) and (5) of this section, the department must waive all penalties and interest otherwise due under this chapter and that are unpaid as of February 1, 2011, if all of the following circumstances are met:

(a) The penalties and interest are imposed with respect to: (i) State business and occupation tax, state public utility tax, state or local sales tax, or state or local use tax; and (ii) tax liability that first became due to the department before February 1, 2011, which includes taxes billed to the taxpayer, or disclosed by the taxpayer to the department, on or after February 1, 2011, but that were required by this chapter to have been reported and paid by the taxpayer before February 1, 2011;

(b) The taxpayer must file with the department no later than April 18, 2011: (i) All outstanding tax returns for the taxes specified in (a)(i) of this subsection (1); and (ii) any amended returns covering tax liabilities with respect to which a penalty and interest waiver under this section is requested;

(c) Before May 1, 2011, the taxpayer must remit full payment to the department of the balance due on all tax liabilities for which a penalty and interest waiver under this section is requested. If a waiver is requested for penalties or interest associated with an invoice that has been billed to the taxpayer, the taxpayer must remit full payment to the department of the entire balance due on that invoice other than any penalty and interest eligible for waiver under this section, even if the invoice includes taxes not specified in (a)(i) of this subsection (1). If the invoice is a tax warrant, the taxpayer must also remit full payment to the department of any filing or other fees added to the tax warrant, including the filing fees provided in RCW 36.18.012 (2) and (10), the fee imposed in RCW 36.18.016(4), and the surcharge imposed in RCW 40.14.027;

(d) The taxpayer must file and pay in full by the due date all tax returns that become due after January 31, 2011, and before May 1, 2011, for all taxes administered by the department under this chapter;

(e) No later than April 18, 2011, the department must receive a completed application for penalty and interest waiver under this section in a form and manner prescribed by the department;

(f) The taxpayer must never have had an evasion penalty assessed against the taxpayer by the department under RCW 82.32.090 or a penalty assessed against the taxpayer by the department under RCW 82.32.291 for misusing a reseller permit or resale certificate; and

(g) The taxpayer must never have been a defendant in a criminal prosecution related to an offense involving the failure to collect or pay the proper amount of any tax administered by the department under this chapter.

(2) Taxpayers receiving penalty or interest relief under this section may not seek a refund, or otherwise challenge the amount, of any tax liability paid as required by subsection (1)(c) of this section. This subsection (2) applies to refund requests or appeals filed directly with the department and to proceedings brought in any court or administrative tribunal.

(3) All tax liability reported and paid as required in subsection (1)(b), (c), and (d) of this section is subject to verification by the department as provided in RCW 82.32.050. This section does not preclude the assessment of taxes, penalties, and interest with respect to any amounts determined by the department to have been underpaid for any tax period for which the taxpayer previously received penalty or interest relief under this section.

(4) This section does not authorize the department to waive the evasion penalty currently authorized by RCW 82.32.090(7) or the penalty currently authorized by RCW 82.32.291 for misusing a reseller permit or resale certificate.

(5) If taxpayers are current for tax returns due as of November 25, 2010, tax liability that accrues after that date would not qualify under this section.

(6) Nothing in this section may be construed as requiring a taxpayer to have first paid any penalty or interest for which a waiver is sought under this section.

(7) Solely for purposes of determining whether a taxpayer qualifies for a waiver of penalties or interest under this section with respect to a balance owing as of February 1, 2011, on any invoice issued by the department, any payments made to the department on that taxpayer's account before May 1, 2011, are deemed to have been applied first to any of the taxes specified in subsection (1)(a)(i) of this section, then to any other taxes, and then to penalties or interest, if such payments were applied either:

(a) To that invoice; or

(b) Against any liability reflected in that invoice before that invoice was issued by the department.

(8) A taxpayer in a bankruptcy proceeding is ineligible for relief under this section to the extent that the payment of any tax debt by the taxpayer to the department as required under this section violates the federal bankruptcy code. [2010 2nd sp.s. c 2 § 1.]

Effective date—2010 2nd sp.s. c 2: "This act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and takes effect February 1, 2011." [2010 2nd sp.s. c 2 § 3.]

82.32.055 Interest and penalties—Waiver for military personnel. (1) Subject to the requirements in subsections (2) through (4) of this section, the department shall waive or cancel interest and penalties imposed under this chapter if the interest and penalties are:

(a) Imposed during any period of armed conflict; and

(b) Imposed on a taxpayer where a majority owner of the taxpayer is an individual who is on active duty in the military, and the individual is participating in a conflict and assigned to a duty station outside the territorial boundaries of the United States.

(2) To receive a waiver or cancellation of interest and penalties under this section, the taxpayer must submit to the department a copy of the individual's deployment orders for deployment outside the territorial boundaries of the United States.

(3) The department may not waive or cancel interest and penalties under this section if the gross income of the business exceeded one million dollars in the calendar year prior to the individual's initial deployment outside the United States for the armed conflict. The department may not waive or cancel interest and penalties under this section for a taxpayer for more than twenty-four months.

(4) During any period of armed conflict, for any notice sent to a taxpayer that requires a payment of interest, penalties, or both, the notice must clearly indicate on or in the notice that interest and penalties may be waived under this section for qualifying taxpayers. [2008 c 184 § 1.]

82.32.060 Excess payment of tax, penalty, or interest—Credit or refund—Payment of judgments for refund. (1) If, upon receipt of an application by a taxpayer for a refund or for an audit of the taxpayer's records, or upon an examination of the returns or records of any taxpayer, it is determined by the department that within the statutory period for assessment of taxes, penalties, or interest prescribed by RCW 82.32.050 any amount of tax, penalty, or interest has been paid in excess of that properly due, the excess amount paid within, or attributable to, such period must be credited to the taxpayer's account or must be refunded to the taxpayer, at the taxpayer's option. Except as provided in subsection (2) of this section, no refund or credit may be made for taxes, penalties, or interest paid more than four years prior to the beginning of the calendar year in which the refund application is made or examination of records is completed.

(2)(a) The execution of a written waiver under RCW 82.32.050 or 82.32.100 will extend the time for making a refund or credit of any taxes paid during, or attributable to, the years covered by the waiver if, prior to the expiration of the waiver period, an application for refund of such taxes is made by the taxpayer or the department discovers a refund or credit is due.

(b) A refund or credit must be allowed for an excess payment resulting from the failure to claim a bad debt deduction, credit, or refund under RCW 82.04.4284, 82.08.037, 82.12.037, 82.14B.150, or 82.16.050(5) for debts that became bad debts under 26 U.S.C. Sec. 166, as amended or renumbered as of January 1, 2003, less than four years prior to the beginning of the calendar year in which the refund application is made or examination of records is completed.

(3) Any such refunds must be made by means of vouchers approved by the department and by the issuance of state warrants drawn upon and payable from such funds as the legislature may provide. However, taxpayers who are required to pay taxes by electronic funds transfer under RCW 82.32.080 must have any refunds paid by electronic funds transfer if the department has the necessary account information to facilitate a refund by electronic funds transfer.

(4) Any judgment for which a recovery is granted by any court of competent jurisdiction, not appealed from, for tax, penalties, and interest which were paid by the taxpayer, and costs, in a suit by any taxpayer must be paid in the same manner, as provided in subsection (3) of this section, upon the filing with the department of a certified copy of the order or judgment of the court.

(a) Interest at the rate of three percent per annum must be allowed by the department and by any court on the amount of any refund, credit, or other recovery allowed to a taxpayer for taxes, penalties, or interest paid by the taxpayer before January 1, 1992. This rate of interest applies for all interest allowed through December 31, 1998. Interest allowed after December 31, 1998, must be computed at the rate as computed under RCW 82.32.050(2). The rate so computed must be adjusted on the first day of January of each year for use in computing interest for that calendar year.

(b) For refunds or credits of amounts paid or other recovery allowed to a taxpayer after December 31, 1991, the rate of interest must be the rate as computed for assessments under RCW 82.32.050(2) less one percent. This rate of interest applies for all interest allowed through December 31, 1998. Interest allowed after December 31, 1998, must be computed at the rate as computed under RCW 82.32.050(2). The rate so computed must be adjusted on the first day of January of each year for use in computing interest for that calendar year.

(5) Interest allowed on a credit notice or refund issued after December 31, 2003, must be computed as follows:

(a) If all overpayments for each calendar year and all reporting periods ending with the final month included in a notice or refund were made on or before the due date of the

final return for each calendar year or the final reporting period included in the notice or refund:

(i) Interest must be computed from January 31st following each calendar year included in a notice or refund; or

(ii) Interest must be computed from the last day of the month following the final month included in a notice or refund.

(b) If the taxpayer has not made all overpayments for each calendar year and all reporting periods ending with the final month included in a notice or refund on or before the dates specified by RCW 82.32.045 for the final return for each calendar year or the final month included in the notice or refund, interest must be computed from the last day of the month following the date on which payment in full of the liabilities was made for each calendar year included in a notice or refund, and the last day of the month following the date on which payment in full of the liabilities was made if the final month included in a notice or refund is not the end of a calendar year.

(c) Interest included in a credit notice must accrue up to the date the taxpayer could reasonably be expected to use the credit notice, as defined by the department's rules. If a credit notice is converted to a refund, interest must be recomputed to the date the refund is issued, but not to exceed the amount of interest that would have been allowed with the credit notice. [2009 c 176 § 4; 2004 c 153 § 306; 2003 c 73 § 2; 1999 c 358 § 13; 1997 c 157 § 2; 1992 c 169 § 2; 1991 c 142 § 10; 1990 c 69 § 1; 1989 c 378 § 20; 1979 ex.s. c 95 § 4; 1971 ex.s. c 299 § 17; 1965 ex.s. c 173 § 27; 1963 c 22 § 1; 1961 c 15 § 82.32.060. Prior: 1951 1st ex.s. c 9 § 6; 1949 c 228 § 21; 1935 c 180 § 189; Rem. Supp. 1949 § 8370-189.]

Additional notes found at www.leg.wa.gov

82.32.062 Additional offset for excess payment of sales tax. In addition to the procedure set forth in RCW 82.32.060 and as an exception to the four-year period explicitly set forth in RCW 82.32.060, an offset for a tax that has been paid in excess of that properly due may be taken under the following conditions: (1) The tax paid in excess of that properly due was sales tax paid on the purchase of property acquired for leasing; (2) the taxpayer was at the time of purchase entitled to purchase the property at wholesale under RCW 82.04.060; and (3) the taxpayer substantiates that sales tax was paid at the time of purchase and that there was no intervening use of the equipment by the taxpayer. The offset is applied to and reduced by the amount of retail sales tax otherwise due from the beginning of lease of the property until the offset is extinguished. [2002 c 57 § 1.]

82.32.065 Tax refund to consumer under new motor vehicle warranty laws—Credit or refund to new motor vehicle manufacturer. If a manufacturer makes a refund of sales tax to a consumer upon return of a new motor vehicle under chapter 19.118 RCW, the department shall credit or refund to the manufacturer the amount of the tax refunded, upon receipt of documentation as required by the department. [1987 c 344 § 16.]

Additional notes found at www.leg.wa.gov

82.32.070 Records to be preserved—Examination—Estoppel to question assessment—Unified business identifier account number records. (1) Every person liable for any fee or tax imposed by chapters 82.04 through 82.27 RCW shall keep and preserve, for a period of five years, suitable records as may be necessary to determine the amount of any tax for which he or she may be liable, which records shall include copies of all federal income tax and state tax returns and reports made by him or her. All his or her books, records, and invoices shall be open for examination at any time by the department of revenue. In the case of an out-of-state person or concern which does not keep the necessary books and records within this state, it shall be sufficient if it produces within the state such books and records as shall be required by the department of revenue, or permits the examination by an agent authorized or designated by the department of revenue at the place where such books and records are kept. Any person who fails to comply with the requirements of this section shall be forever barred from questioning, in any court action or proceedings, the correctness of any assessment of taxes made by the department of revenue based upon any period for which such books, records, and invoices have not been so kept and preserved.

(2) A person liable for any fee or tax imposed by chapters 82.04 through 82.27 RCW who contracts with another person or entity for work subject to chapter 18.27 or 19.28 RCW shall obtain and preserve a record of the unified business identifier account number for the person or entity performing the work. Failure to obtain or maintain the record is subject to RCW 39.06.010 and to a penalty determined by the director, but not to exceed two hundred fifty dollars. The department shall notify the taxpayer and collect the penalty in the same manner as penalties under RCW 82.32.100. [2013 c 23 § 322; 1999 c 358 § 14; 1997 c 54 § 4; 1983 c 3 § 221; 1967 ex.s. c 89 § 2; 1961 c 15 § 82.32.070. Prior: 1951 1st ex.s. c 9 § 7; 1935 c 180 § 190; RRS § 8370-190.]

Additional notes found at www.leg.wa.gov

82.32.080 Payment by check—Electronic funds transfer—Rules—Mailing returns or remittances—Time extension—Deposits—Time extension during state of emergency—Records—Payment must accompany return. (1) When authorized by the department, payment of the tax may be made by uncertified check under such rules as the department prescribes, but, if a check so received is not paid by the bank on which it is drawn, the taxpayer, by whom such check is tendered, will remain liable for payment of the tax and for all legal penalties and interest, the same as if such check had not been tendered.

(2)(a) Except as otherwise provided in this subsection, payment of the tax must be made by electronic funds transfer, as defined in RCW 82.32.085. As an alternative to electronic funds transfer, the department may authorize other forms of electronic payment, such as payment by credit card. All taxes administered by this chapter are subject to this requirement, except that the department may exclude any taxes not reported on the combined excise tax return or any successor return from the electronic payment requirement in this subsection.

(b) The department may waive the electronic payment requirement in this subsection for any taxpayer or class of taxpayers, for good cause or for whom the department has assigned a reporting frequency that is less than quarterly. In

the discretion of the department, a waiver under this subsection may be made temporary or permanent, and may be made on the department's own motion.

(c) The department is authorized to accept payment of taxes by electronic funds transfer or other acceptable forms of electronic payment from taxpayers that are not subject to the mandatory electronic payment requirements in this subsection.

(3)(a) Except as otherwise provided in this subsection, returns must be filed electronically using the department's online tax filing service or other method of electronic reporting as the department may authorize.

(b) The department may waive the electronic filing requirement in this subsection for any taxpayer or class of taxpayers, for good cause or for whom the department has assigned a reporting frequency that is less than quarterly. In the discretion of the department, a waiver under this subsection may be made temporary or permanent, and may be made on the department's own motion.

(c) The department is authorized to allow electronic filing of returns from taxpayers that are not subject to the mandatory electronic filing requirements in this subsection.

(4)(a)(i) The department, for good cause shown, may extend the time for making and filing any return, and may grant such reasonable additional time within which to make and file returns as it may deem proper, but any permanent extension granting the taxpayer a reporting date without penalty more than ten days beyond the due date, and any extension in excess of thirty days must be conditional on deposit with the department of an amount to be determined by the department which is approximately equal to the estimated tax liability for the reporting period or periods for which the extension is granted. In the case of a permanent extension or a temporary extension of more than thirty days the deposit must be deposited within the state treasury with other tax funds and a credit recorded to the taxpayer's account which may be applied to taxpayer's liability upon cancellation of the permanent extension or upon reporting of the tax liability where an extension of more than thirty days has been granted.

(ii) The department must review the requirement for deposit at least annually and may require a change in the amount of the deposit required when it believes that such amount does not approximate the tax liability for the reporting period or periods for which the extension is granted.

(b) During a state of emergency declared under RCW 43.06.010(12), the department, on its own motion or at the request of any taxpayer affected by the emergency, may extend the time for making or filing any return as the department deems proper. The department may not require any deposit as a condition for granting an extension under this subsection (4)(b).

(5)(a) The department must keep full and accurate records of all funds received and disbursed by it. Subject to the provisions of RCW 82.32.105, 82.32.052, and 82.32.350, the department must apply the payment of the taxpayer in the following order, without regard to any direction of the taxpayer: (i) Interest; (ii) penalties; (iii) fees; (iv) other nontax amounts; (v) taxes, except spirits taxes; and (vi) spirits taxes.

(b) For purposes of this subsection, "spirits taxes" has the same meaning as in RCW 82.08.155.

(6) The department may refuse to accept any return that is not accompanied by a remittance of the tax shown to be due thereon or that is not filed electronically as required in this section. When such return is not accepted, the taxpayer is deemed to have failed or refused to file a return and is subject to the procedures provided in RCW 82.32.100 and to the penalties provided in RCW 82.32.090. The above authority to refuse to accept a return may not apply when a return is timely filed electronically and a timely payment has been made by electronic funds transfer or other form of electronic payment as authorized by the department.

(7) Except for returns and remittances required to be transmitted to the department electronically under this section and except as otherwise provided in this chapter, a return or remittance that is transmitted to the department by United States mail is deemed filed or received on the date shown by the post office cancellation mark stamped upon the envelope containing it. A return or remittance that is transmitted to the department electronically is deemed filed or received according to procedures set forth by the department.

(8)(a) For purposes of subsections (2) and (3) of this section, "good cause" means the inability of a taxpayer to comply with the requirements of subsection (2) or (3) of this section because:

(i) The taxpayer does not have the equipment or software necessary to enable the taxpayer to comply with subsection (2) or (3) of this section;

(ii) The equipment or software necessary to enable the taxpayer to comply with subsection (2) or (3) of this section is not functioning properly;

(iii) The taxpayer does not have access to the internet using the taxpayer's own equipment;

(iv) The taxpayer does not have a bank account or a credit card;

(v) The taxpayer's bank is unable to send or receive electronic funds transfer transactions; or

(vi) Some other circumstance or condition exists that, in the department's judgment, prevents the taxpayer from complying with the requirements of subsection (2) or (3) of this section.

(b) "Good cause" also includes any circumstance that, in the department's judgment, supports the efficient or effective administration of the tax laws of this state, including providing relief from the requirements of subsection (2) or (3) of this section to any taxpayer that is voluntarily collecting and remitting this state's sales or use taxes on sales to Washington customers but has no legal requirement to be registered with the department. [2012 c 39 § 2. Prior: 2011 c 24 § 1; 2010 2nd sp.s. c 2 § 2; prior: 2010 c 111 § 304; 2010 c 106 § 226; 2009 c 176 § 2; 2008 c 181 § 502; 1999 c 357 § 3; 1997 c 156 § 3; 1990 c 69 § 2; 1971 ex.s. c 299 § 18; 1965 ex.s. c 141 § 2; 1963 ex.s. c 28 § 6; 1961 c 15 § 82.32.080; prior: 1951 1st ex.s. c 9 § 8; 1949 c 228 § 22; 1935 c 180 § 191; Rem. Supp. 1949 § 8370-191.]

Construction—Effective date—2012 c 39: See notes following RCW 82.08.155.

Application—2011 c 24: "This act applies only to tax returns and payments originally due after July 22, 2011, including tax returns and payments for tax liabilities incurred before July 22, 2011, and originally due after July 22, 2011." [2011 c 24 § 4.]

Effective date—2010 2nd sp.s. c 2: See note following RCW 82.32.052.

Purpose—Retroactive application—Effective date—2010 c 111: See notes following RCW 82.04.050.

Effective date—2010 c 106: See note following RCW 35.102.145.

Part headings not law—2008 c 181: See note following RCW 43.06.220.

Intent—Effective date—1999 c 357: See notes following RCW 82.32.045.

Findings—Payment of excise taxes by electronic funds transfer—2006 c 256: See note following RCW 82.32.045.

Tax returns, remittances, etc., filing and receipt when transmitted by mail: RCW 1.12.070.

Additional notes found at www.leg.wa.gov

82.32.085 Electronic funds transfer—Generally. (1) "Electronic funds transfer" means any transfer of funds, other than a transaction originated or accomplished by conventional check, drafts, or similar paper instrument, which is initiated through an electronic terminal, telephonic instrument, or computer or magnetic tape so as to order, instruct, or authorize a financial institution to debit or credit a checking or other deposit account. "Electronic funds transfer" includes payments made by electronic check (e-check).

(2)(a) An electronic funds transfer using the automated clearinghouse credit method must be completed so that the state receives collectible funds on or before the next banking day following the due date.

(b) A remittance made using the automated clearinghouse debit method or any other method of electronic payment authorized by the department will be deemed to be received on the due date if the electronic funds transfer or other electronic payment is initiated on or before 11:59 p.m. pacific time on the due date with an effective payment date on or before the next banking day following the due date.

(3) The department must adopt rules necessary to implement the provisions of RCW 82.32.080 and this section. The rules must include but are not limited to: (a) Coordinating the filing of tax returns with payment by electronic funds transfer or other form of electronic payment as authorized by the department; (b) form and content of electronic funds transfer; (c) voluntary use of electronic funds transfer with permission of the department for those taxpayers that are not subject to the mandatory electronic payment requirement in RCW 82.32.080; (d) use of commonly accepted means of electronic funds transfer; (e) means of crediting and recording proof of payment; and (f) means of correcting errors in transmission. [2011 c 24 § 2; 2009 c 176 § 3; 2006 c 256 § 4; 1990 c 69 § 3.]

Application—2011 c 24: See note following RCW 82.32.080.

Findings—Payment of excise taxes by electronic funds transfer—2006 c 256: "(1) The legislature recognizes the following with respect to the payment of excise taxes to the department of revenue by electronic funds transfer:

(a) Taxpayers required to pay their taxes by electronic funds transfer must do so through the use of either the automated clearinghouse debit method or automated clearinghouse credit method;

(b) For a remittance by electronic funds transfer to be considered timely, the transfer must be completed so that the state receives collectible funds on or before the next banking day following the due date;

(c) For the state to receive collectible funds on or before the next banking day following the due date, taxpayers using the automated clearinghouse debit method must initiate the transfer before 5:00 p.m. pacific time on the due date;

(d) The department of revenue receives information identifying the precise date and time the electronic funds transfer is initiated when a taxpayer uses the debit method; and

(e) The department receives information identifying only the date that the state receives collectible funds when a taxpayer uses the automated clearinghouse credit method.

(2) The legislature therefore finds that a remittance made using the automated clearinghouse debit method should be deemed to be received on the due date if the transfer is initiated on or before 11:59 p.m. pacific time on the due date with an effective payment date on or before the next banking day following the due date. The legislature further finds that because the department does not receive information about when an electronic funds transfer is initiated when a taxpayer uses the automated clearinghouse credit method, such transfers must be completed so that the state receives collectible funds on or before the next banking day following the due date." [2006 c 256 § 5.]

Effective dates—Application—Savings—2006 c 256: See notes following RCW 82.32.045.

Additional notes found at www.leg.wa.gov

82.32.087 Direct pay permits. (1) The director may grant a direct pay permit to a taxpayer who demonstrates, to the satisfaction of the director, that the taxpayer meets the requirements of this section. The direct pay permit allows the taxpayer to accrue and remit directly to the department use tax on the acquisition of tangible personal property or sales tax on the sale of or charges made for labor and/or services, in accordance with all of the applicable provisions of this title. Any taxpayer that uses a direct pay permit shall remit state and local sales or use tax directly to the department. The agreement by the purchaser to remit tax directly to the department, rather than pay sales or use tax to the seller, relieves the seller of the obligation to collect sales or use tax and requires the buyer to pay use tax on the tangible personal property and sales tax on the sale of or charges made for labor and/or services.

(2)(a) A taxpayer may apply for a permit under this section if: (i) The taxpayer's cumulative tax liability is reasonably expected to be two hundred forty thousand dollars or more in the current calendar year; or (ii) the taxpayer makes purchases subject to the taxes imposed under chapter 82.08 or 82.12 RCW in excess of ten million dollars per calendar year. For the purposes of this section, "tax liability" means the amount required to be remitted to the department for taxes administered under this chapter, except for the taxes imposed or authorized by chapters 82.14A, 82.14B, 82.24, 82.27, 82.29A, and 84.33 RCW.

(b) Application for a permit must be made in writing to the director in a form and manner prescribed by the department. A taxpayer who transacts business in two or more locations may submit one application to cover the multiple locations.

(c) The director must review a direct pay permit application in a timely manner and shall notify the applicant, in writing, of the approval or denial of the application. The department must approve or deny an application based on the applicant's ability to comply with local government use tax coding capabilities and responsibilities; requirements for vendor notification; recordkeeping obligations; electronic data capabilities; and tax reporting procedures. Additionally, an application may be denied if the director determines that denial would be in the best interest of collecting taxes due under this title. The department must provide a direct pay permit to an approved applicant with the notice of approval. The direct pay permit shall clearly state that the holder is solely respon-

sible for the accrual and payment of the tax imposed under chapters 82.08 and 82.12 RCW and that the seller is relieved of liability to collect tax imposed under chapters 82.08 and 82.12 RCW on all sales to the direct pay permit holder. The taxpayer may petition the director for reconsideration of a denial.

(d) A taxpayer who uses a direct pay permit must continue to maintain records that are necessary to a determination of the tax liability in accordance with this title. A direct pay permit is not transferable and the use of a direct pay permit may not be assigned to a third party.

(3) Taxes for which the direct pay permit is used are due and payable on the tax return for the reporting period in which the taxpayer (a) receives the tangible personal property purchased or in which the labor and/or services are performed or (b) receives an invoice for such property or such labor and/or services, whichever period is earlier.

(4) The holder of a direct pay permit must furnish a copy of the direct pay permit to each vendor with whom the taxpayer has opted to use a direct pay permit. Sellers who make sales upon which the sales or use tax is not collected by reason of the provisions of this section, in addition to existing requirements under this title, must maintain a copy of the direct pay permit and any such records or information as the department may specify.

(5) A direct pay permit is subject to revocation by the director at any time the department determines that the taxpayer has violated any provision of this section or that revocation would be in the best interests of collecting the taxes due under this title. The notice of revocation must be in writing and is effective either as of the end of the taxpayer's next normal reporting period or a date deemed appropriate by the director and identified in the revocation notice. The taxpayer may petition the director for reconsideration of a revocation and reinstatement of the permit.

(6) Any taxpayer who chooses to no longer use a direct pay permit or whose permit is revoked by the department, must return the permit to the department and immediately make a good faith effort to notify all vendors to whom the permit was given, advising them that the permit is no longer valid.

(7) Except as provided in this subsection, the direct pay permit may be used for any purchase of tangible personal property and any retail sale under RCW 82.04.050. The direct pay permit may not be used for:

(a) Purchases of meals or beverages;

(b) Purchases of motor vehicles, trailers, boats, airplanes, and other property subject to requirements for title transactions by the department of licensing;

(c) Purchases for which a reseller permit or other documentation authorized under RCW 82.04.470 may be used;

(d) Purchases that meet the definitions of RCW 82.04.050 (2) (e) and (f), (3) (a) through (d), (f), and (g), and (5); or

(e) Other activities subject to tax under chapter 82.08 or 82.12 RCW that the department by rule designates, consistent with the purposes of this section, as activities for which a direct pay permit is not appropriate and may not be used. [2010 c 112 § 10. Prior: 2009 c 563 § 210; 2009 c 176 § 5; 2001 c 188 § 2.]

Retroactive application—2010 c 112: See note following RCW 82.32.780.

Finding—Intent—Construction—Effective date—Reports and recommendations—2009 c 563: See notes following RCW 82.32.780.

Finding—Intent—2001 c 188: "The legislature finds that programs to allow buyers to remit sales and use tax, rather than traditional collection and remittance by the seller of sales and use tax, can assist in tax compliance, ease administrative burdens, and reduce impacts on buyers and sellers. It is the intent of the legislature to grant the department of revenue the authority to permit certain buyers direct payment authority of tax in those instances where it can be shown, to the satisfaction of the department, that direct payment does not burden sellers and does not complicate administration for the department. Buyers authorized for direct payment will remit tax directly to the department, and will pay use tax on tangible personal property and sales tax on retail labor and/or services.

This act does not affect the requirements to use a resale certificate nor does it affect the business and occupation tax treatment of the seller." [2001 c 188 § 1.]

Additional notes found at www.leg.wa.gov

82.32.090 Late payment—Disregard of written instructions—Evasion—Penalties. (1) If payment of any tax due on a return to be filed by a taxpayer is not received by the department of revenue by the due date, there is assessed a penalty of five percent of the amount of the tax; and if the tax is not received on or before the last day of the month following the due date, there is assessed a total penalty of fifteen percent of the amount of the tax under this subsection; and if the tax is not received on or before the last day of the second month following the due date, there is assessed a total penalty of twenty-five percent of the amount of the tax under this subsection. No penalty so added may be less than five dollars.

(2) If the department of revenue determines that any tax has been substantially underpaid, there is assessed a penalty of five percent of the amount of the tax determined by the department to be due. If payment of any tax determined by the department to be due is not received by the department by the due date specified in the notice, or any extension thereof, there is assessed a total penalty of fifteen percent of the amount of the tax under this subsection; and if payment of any tax determined by the department to be due is not received on or before the thirtieth day following the due date specified in the notice of tax due, or any extension thereof, there is assessed a total penalty of twenty-five percent of the amount of the tax under this subsection. No penalty so added may be less than five dollars. As used in this section, "substantially underpaid" means that the taxpayer has paid less than eighty percent of the amount of tax determined by the department to be due for all of the types of taxes included in, and for the entire period of time covered by, the department's examination, and the amount of underpayment is at least one thousand dollars.

(3) If a warrant is issued by the department of revenue for the collection of taxes, increases, and penalties, there is added thereto a penalty of ten percent of the amount of the tax, but not less than ten dollars.

(4) If the department finds that a person has engaged in any business or performed any act upon which a tax is imposed under this title and that person has not obtained from the department a registration certificate as required by RCW 82.32.030, the department must impose a penalty of five percent of the amount of tax due from that person for the period that the person was not registered as required by RCW 82.32.030. The department may not impose the penalty under

this subsection (4) if a person who has engaged in business taxable under this title without first having registered as required by RCW 82.32.030, prior to any notification by the department of the need to register, obtains a registration certificate from the department.

(5) If the department finds that a taxpayer has disregarded specific written instructions as to reporting or tax liabilities, or willfully disregarded the requirement to file returns or remit payment electronically, as provided by RCW 82.32.080, the department must add a penalty of ten percent of the amount of the tax that should have been reported and/or paid electronically or the additional tax found due if there is a deficiency because of the failure to follow the instructions. A taxpayer disregards specific written instructions when the department has informed the taxpayer in writing of the taxpayer's tax obligations and the taxpayer fails to act in accordance with those instructions unless, in the case of a deficiency, the department has not issued final instructions because the matter is under appeal pursuant to this chapter or departmental regulations. The department may not assess the penalty under this section upon any taxpayer who has made a good faith effort to comply with the specific written instructions provided by the department to that taxpayer. A taxpayer will be considered to have made a good faith effort to comply with specific written instructions to file returns and/or remit taxes electronically only if the taxpayer can show good cause, as defined in RCW 82.32.080, for the failure to comply with such instructions. A taxpayer will be considered to have willfully disregarded the requirement to file returns or remit payment electronically if the department has mailed or otherwise delivered the specific written instructions to the taxpayer on at least two occasions. Specific written instructions may be given as a part of a tax assessment, audit, determination, closing agreement, or other written communication, provided that such specific written instructions apply only to the taxpayer addressed or referenced on such communication. Any specific written instructions by the department must be clearly identified as such and must inform the taxpayer that failure to follow the instructions may subject the taxpayer to the penalties imposed by this subsection. If the department determines that it is necessary to provide specific written instructions to a taxpayer that does not comply with the requirement to file returns or remit payment electronically as provided in RCW 82.32.080, the specific written instructions must provide the taxpayer with a minimum of forty-five days to come into compliance with its electronic filing and/or payment obligations before the department may impose the penalty authorized in this subsection.

(6) If the department finds that all or any part of a deficiency resulted from engaging in a disregarded transaction, as described in RCW 82.32.655(3), the department must assess a penalty of thirty-five percent of the additional tax found to be due as a result of engaging in a transaction disregarded by the department under RCW 82.32.655(2). The penalty provided in this subsection may be assessed together with any other applicable penalties provided in this section on the same tax found to be due, except for the evasion penalty provided in subsection (7) of this section. The department may not assess the penalty under this subsection if, before the department discovers the taxpayer's use of a transaction described under RCW 82.32.655(3), the taxpayer discloses its participation in the transaction to the department.

(7) If the department finds that all or any part of the deficiency resulted from an intent to evade the tax payable hereunder, a further penalty of fifty percent of the additional tax found to be due must be added.

(8) The penalties imposed under subsections (1) through (4) of this section can each be imposed on the same tax found to be due. This subsection does not prohibit or restrict the application of other penalties authorized by law.

(9) The department may not impose the evasion penalty in combination with the penalty for disregarding specific written instructions or the penalty provided in subsection (6) of this section on the same tax found to be due.

(10) For the purposes of this section, "return" means any document a person is required by the state of Washington to file to satisfy or establish a tax or fee obligation that is administered or collected by the department, and that has a statutorily defined due date. [2011 c 24 § 3; 2010 1st sp.s. c 23 § 203; 2006 c 256 § 6; 2003 1st sp.s. c 13 § 13; 2000 c 229 § 7; 1999 c 277 § 11; 1996 c 149 § 15; 1992 c 206 § 3; 1991 c 142 § 11; 1987 c 502 § 9; 1983 2nd ex.s. c 3 § 23; 1983 c 7 § 32; 1981 c 172 § 8; 1981 c 7 § 2; 1971 ex.s. c 179 § 1; 1967 ex.s. c 149 § 26; 1965 ex.s. c 141 § 3; 1963 ex.s. c 28 § 7; 1961 c 15 § 82.32.090. Prior: 1959 c 197 § 12; 1955 c 110 § 1; 1951 1st ex.s. c 9 § 9; 1949 c 228 § 23; 1937 c 227 § 18; 1935 c 180 § 192; Rem. Supp. 1949 § 8370-192.]

Application—2011 c 24: See note following RCW 82.32.080.

Effective date—2010 1st sp.s. c 23: See note following RCW 82.32.655.

Findings—Intent—2010 1st sp.s. c 23: See notes following RCW 82.04.220.

Effective dates—Application—Savings—2006 c 256: See notes following RCW 82.32.045.

Findings—Intent—Effective date—1996 c 149: See notes following RCW 82.32.050.

Additional notes found at www.leg.wa.gov

82.32.100 Failure to file returns or provide records—Assessment of tax by department—Penalties and interest. (1) If any person fails or refuses to make any return or to make available for examination the records required by this chapter, the department shall proceed, in such manner as it may deem best, to obtain facts and information on which to base its estimate of the tax; and to this end the department may examine the records of any such person as provided in RCW 82.32.110.

(2) As soon as the department procures such facts and information as it is able to obtain upon which to base the assessment of any tax payable by any person who has failed or refused to make a return, it shall proceed to determine and assess against such person the tax and any applicable penalties or interest due, but such action shall not deprive such person from appealing the assessment as provided in this chapter. The department shall notify the taxpayer by mail, or electronically as provided in RCW 82.32.135, of the total amount of such tax, penalties, and interest, and the total amount shall become due and shall be paid within thirty days from the date of such notice.

(3) No assessment or correction of an assessment may be made by the department more than four years after the close

of the tax year, except (a) against a taxpayer who has not registered as required by this chapter, (b) upon a showing of fraud or of misrepresentation of a material fact by the taxpayer, or (c) where a taxpayer has executed a written waiver of such limitation. The execution of a written waiver shall also extend the period for making a refund or credit as provided in RCW 82.32.060(2). [2007 c 111 § 107; 1992 c 169 § 3; 1989 c 378 § 21; 1971 ex.s. c 299 § 20; 1965 ex.s. c 141 § 4; 1961 c 15 § 82.32.100. Prior: 1951 1st ex.s. c 9 § 10; 1935 c 180 § 194; RRS § 8370-194.]

Part headings not law—2007 c 111: See note following RCW 82.16.120.

Additional notes found at www.leg.wa.gov

82.32.105 Waiver or cancellation of penalties or interest—Rules. (1) If the department of revenue finds that the payment by a taxpayer of a tax less than that properly due or the failure of a taxpayer to pay any tax by the due date was the result of circumstances beyond the control of the taxpayer, the department of revenue shall waive or cancel any penalties imposed under this chapter with respect to such tax.

(2) The department shall waive or cancel the penalty imposed under RCW 82.32.090(1) when the circumstances under which the delinquency occurred do not qualify for waiver or cancellation under subsection (1) of this section if:

(a) The taxpayer requests the waiver for a tax return required to be filed under RCW 82.32.045, 82.14B.061, 82.23B.020, 82.27.060, 82.29A.050, or 84.33.086; and

(b) The taxpayer has timely filed and remitted payment on all tax returns due for that tax program for a period of twenty-four months immediately preceding the period covered by the return for which the waiver is being requested.

(3) The department shall waive or cancel interest imposed under this chapter if:

(a) The failure to timely pay the tax was the direct result of written instructions given the taxpayer by the department; or

(b) The extension of a due date for payment of an assessment of deficiency was not at the request of the taxpayer and was for the sole convenience of the department.

(4) The department of revenue shall adopt rules for the waiver or cancellation of penalties and interest imposed by this chapter. [1998 c 304 § 13; 1996 c 149 § 17; 1975 1st ex.s. c 278 § 78; 1965 ex.s. c 141 § 8.]

Findings—Effective dates—1998 c 304: See notes following RCW 82.14B.020.

Findings—Intent—Effective date—1996 c 149: See notes following RCW 82.32.050.

Additional notes found at www.leg.wa.gov

82.32.110 Examination of books or records—Subpoenas—Contempt of court. The department of revenue or its duly authorized agent may examine any books, papers, records, or other data, or stock of merchandise bearing upon the amount of any tax payable or upon the correctness of any return, or for the purpose of making a return where none has been made, or in order to ascertain whether a return should be made; and may require the attendance of any person at a time and place fixed in a summons served by any sheriff in the same manner as a subpoena is served in a civil case, or served in like manner by an agent of the department of revenue.

The persons summoned may be required to testify and produce any books, papers, records, or data required by the department with respect to any tax, or the liability of any person therefor.

The director of the department of revenue, or any duly authorized agent thereof, shall have power to administer an oath to the person required to testify; and any person giving false testimony after the administration of such oath shall be guilty of perjury in the first degree.

If any person summoned as a witness before the department, or its authorized agent, fails or refuses to obey the summons, or refuses to testify or answer any material questions, or to produce any book, record, paper, or data when required to do so, the person is subject to proceedings for contempt, and the department shall thereupon institute contempt of court proceedings in the superior court of Thurston county or of the county in which such person resides. [1989 c 373 § 27; 1975 1st ex.s. c 278 § 79; 1961 c 15 § 82.32.110. Prior: 1935 c 180 § 194; RRS § 8370-194.]

Additional notes found at www.leg.wa.gov

82.32.117 Application for court approval of subpoena prior to issuance—No notice required. (1) The department or its duly authorized agent may apply for and obtain a superior court order approving and authorizing a subpoena in advance of its issuance. The application may be made in the county where the subpoenaed person resides or is found, or the county where the subpoenaed records or documents are located, or in Thurston county. The application must:

(a) State that an order is sought pursuant to this subsection;

(b) Adequately specify the records, documents, or testimony; and

(c) Declare under oath that an investigation is being conducted for a lawfully authorized purpose related to an investigation within the department's authority and that the subpoenaed documents or testimony are reasonably related to an investigation within the department's authority.

(2) Where the application under this subsection is made to the satisfaction of the court, the court must issue an order approving the subpoena. An order under this subsection constitutes authority of law for the agency to subpoena the records or testimony.

(3) The department or its duly authorized agent may seek approval and a court may issue an order under this subsection without prior notice to any person, including the person to whom the subpoena is directed and the person who is the subject of an investigation.

(4) This section does not preclude the use of other legally authorized means of obtaining records, nor preclude the assertion of any legally recognized privileges.

(5) The department may not disclose any return or tax information, as defined in RCW 82.32.330, obtained in response to a subpoena issued under this section, except as authorized in RCW 82.32.330.

(6) A third party may not be held civilly liable for any harm resulting from that person's compliance with a subpoena issued under the authority of this section.

(7) The entire court file of any proceeding instituted under this section must be sealed and is not open to public

inspection by any person except upon order of the court as authorized by law. [2011 c 174 § 401; 2010 c 22 § 4.]

Findings—Intent—2010 c 22: See note following RCW 51.04.040.

82.32.120 Oaths and acknowledgments. All officers empowered by law to administer oaths, the director of the department of revenue, and such officers as he or she may designate shall have the power to administer an oath to any person or to take the acknowledgment of any person with respect to any return or report required by law or the rules and regulations of the department of revenue. [2013 c 23 § 323; 1975 1st ex.s. c 278 § 80; 1961 c 15 § 82.32.120. Prior: 1935 c 180 § 195; RRS § 8370-195.]

Additional notes found at www.leg.wa.gov

82.32.130 Notice and orders—Service. Notwithstanding any other law, any notice or order required by this title to be mailed to any taxpayer may be provided electronically as provided in RCW 82.32.135, served in the manner prescribed by law for personal service of summons and complaint in the commencement of actions in the superior courts of the state. However if the notice or order is mailed, it shall be addressed to the address of the taxpayer as shown by the records of the department, or, if no such address is shown, to such address as the department is able to ascertain by reasonable effort. Failure of the taxpayer to receive such notice or order whether served, mailed, or provided electronically as provided in RCW 82.32.135 shall not release the taxpayer from any tax or any increases or penalties thereon. [2007 c 111 § 108; 1979 ex.s. c 95 § 2; 1975 1st ex.s. c 278 § 81; 1967 c 237 § 20; 1961 c 15 § 82.32.130. Prior: 1935 c 180 § 196; RRS § 8370-196.]

Part headings not law—2007 c 111: See note following RCW 82.16.120.

Additional notes found at www.leg.wa.gov

82.32.135 Notice, assessment, other information—Electronic delivery. (1) Except as otherwise provided in this subsection, whenever the department is required to send any assessment, notice, or any other information to persons by regular mail, the department must instead provide the assessment, notice, or other information electronically. The department may implement the requirement in this subsection in phases. The department, for good cause, may waive the requirement in this subsection for any taxpayer. In the discretion of the department, a waiver under this subsection may be made temporary or permanent, and may be made on the department's own motion.

(2) If the assessment, notice, or other information is subject to the confidentiality provisions of RCW 82.32.330, the department must use methods reasonably designed to protect the information from unauthorized disclosure. The provisions of this subsection (2) may be waived by a taxpayer. The waiver must be in writing and may be provided to the department electronically. A person may provide a waiver with respect to a particular item of information or may give a blanket waiver with respect to any item of information or certain items of information to be provided electronically. A blanket waiver will continue until revoked in writing by the taxpayer. Such revocation may be provided to the department electronically in a manner provided or approved by the department.

(3) Any assessment, notice, or other information provided by the department electronically to a person is deemed to be received by the taxpayer on the date that the department electronically sends the information to the person or electronically notifies the person that the information is available to be accessed by the person.

(4) This section also applies to any information that is not expressly required by statute to be sent by regular mail, but is customarily sent by the department using regular mail, to persons entitled to receive the information.

(5)(a) For purposes of this section, "good cause" includes the inability of the department to comply with this section for any reason, including lacking information necessary to send information to a person electronically or to electronically notify a person that information is available to be accessed by the person.

(b) "Good cause" also includes the inability of a person to receive or otherwise obtain information from the department electronically because:

(i) The person does not have the equipment or software necessary to enable the person to receive or otherwise obtain information from the department electronically;

(ii) The equipment or software necessary to enable the person to receive or otherwise obtain information from the department electronically is not functioning properly;

(iii) The person does not have access to the internet using the person's own equipment; or

(iv) Some other circumstance or condition exists that, in the department's judgment, prevents the taxpayer from receiving or otherwise obtaining information from the department electronically. [2009 c 176 § 1; 2007 c 111 § 113.]

Part headings not law—2007 c 111: See note following RCW 82.16.120.

82.32.140 Taxpayer quitting business—Liability of successor. (1) Whenever any taxpayer quits business, or sells out, exchanges, or otherwise disposes of more than fifty percent of the fair market value of either its tangible or intangible assets, any tax payable hereunder shall become immediately due and payable, and such taxpayer shall, within ten days thereafter, make a return and pay the tax due, unless an extension is granted under RCW 82.32.080.

(2) Any person who becomes a successor shall withhold from the purchase price a sum sufficient to pay any tax due from the taxpayer until such time as the taxpayer shall produce a receipt from the department of revenue showing payment in full of any tax due or a certificate that no tax is due. If any tax is not paid by the taxpayer within ten days from the date of such sale, exchange, or disposal, the successor shall become liable for the payment of the full amount of tax. If the fair market value of the assets acquired by a successor is less than fifty thousand dollars, the successor's liability for payment of the unpaid tax is limited to the fair market value of the assets acquired from the taxpayer. The burden of establishing the fair market value of the assets acquired is on the successor.

(3) The payment of any tax by a successor shall, to the extent thereof, be deemed a payment upon the purchase price; and if such payment is greater in amount than the purchase price the amount of the difference shall become a debt due the successor from the taxpayer.

(4) No successor shall be liable for any tax due from the person from whom the successor has acquired a business or stock of goods if the successor gives written notice to the department of revenue of such acquisition and no assessment is issued by the department of revenue within six months of receipt of such notice against the former operator of the business and a copy thereof mailed to the successor or provided electronically to the successor in accordance with RCW 82.32.135. [2008 c 181 § 503; 2007 c 111 § 109; 2003 1st sp.s. c 13 § 12; 1985 c 414 § 7; 1975 1st ex.s. c 278 § 82; 1961 c 15 § 82.32.140. Prior: 1957 c 88 § 1; 1935 c 180 § 197; RRS § 8370-197.]

Part headings not law—2008 c 181: See note following RCW 43.06.220.

Part headings not law—2007 c 111: See note following RCW 82.16.120.

Additional notes found at www.leg.wa.gov

82.32.145 Limited liability business entity—Terminated, dissolved, abandoned, insolvent—Collection of unpaid trust fund taxes. (1) Whenever the department has issued a warrant under RCW 82.32.210 for the collection of unpaid trust fund taxes from a limited liability business entity and that business entity has been terminated, dissolved, or abandoned, or is insolvent, the department may pursue collection of the entity's unpaid trust fund taxes, including penalties and interest on those taxes, against any or all of the responsible individuals. For purposes of this subsection, "insolvent" means the condition that results when the sum of the entity's debts exceeds the fair market value of its assets. The department may presume that an entity is insolvent if the entity refuses to disclose to the department the nature of its assets and liabilities.

(2) Personal liability under this section may be imposed for state and local trust fund taxes.

(3)(a) For a responsible individual who is the current or a former chief executive or chief financial officer, liability under this section applies regardless of fault or whether the individual was or should have been aware of the unpaid trust fund tax liability of the limited liability business entity.

(b) For any other responsible individual, liability under this section applies only if he or she willfully fails to pay or to cause to be paid to the department the trust fund taxes due from the limited liability business entity.

(4)(a) Except as provided in this subsection (4)(a), a responsible individual who is the current or a former chief executive or chief financial officer is liable under this section only for trust fund tax liability accrued during the period that he or she was the chief executive or chief financial officer. However, if the responsible individual had the responsibility or duty to remit payment of the limited liability business entity's trust fund taxes to the department during any period of time that the person was not the chief executive or chief financial officer, that individual is also liable for trust fund tax liability that became due during the period that he or she had the duty to remit payment of the limited liability business entity's taxes to the department but was not the chief executive or chief financial officer.

(b) All other responsible individuals are liable under this section only for trust fund tax liability that became due during the period he or she had the responsibility or duty to remit payment of the limited liability business entity's taxes to the department.

(5) Persons described in subsection (3)(b) of this section are exempt from liability under this section in situations where nonpayment of the limited liability business entity's trust fund taxes is due to reasons beyond their control as determined by the department by rule.

(6) Any person having been issued a notice of assessment under this section is entitled to the appeal procedures under RCW 82.32.160, 82.32.170, 82.32.180, 82.32.190, and 82.32.200.

(7) This section does not relieve the limited liability business entity of its trust fund tax liability or otherwise impair other tax collection remedies afforded by law.

(8) Collection authority and procedures prescribed in this chapter apply to collections under this section.

(9) The definitions in this subsection apply throughout this section unless the context clearly requires otherwise.

(a) "Chief executive" means: The president of a corporation; or for other entities or organizations other than corporations or if the corporation does not have a president as one of its officers, the highest ranking executive manager or administrator in charge of the management of the company or organization.

(b) "Chief financial officer" means: The treasurer of a corporation; or for entities or organizations other than corporations or if a corporation does not have a treasurer as one of its officers, the highest senior manager who is responsible for overseeing the financial activities of the entire company or organization.

(c) "Limited liability business entity" means a type of business entity that generally shields its owners from personal liability for the debts, obligations, and liabilities of the entity, or a business entity that is managed or owned in whole or in part by an entity that generally shields its owners from personal liability for the debts, obligations, and liabilities of the entity. Limited liability business entities include corporations, limited liability companies, limited liability partnerships, trusts, general partnerships and joint ventures in which one or more of the partners or parties are also limited liability business entities, and limited partnerships in which one or more of the general partners are also limited liability business entities.

(d) "Manager" has the same meaning as in RCW 25.15.005.

(e) "Member" has the same meaning as in RCW 25.15.005, except that the term only includes members of member-managed limited liability companies.

(f) "Officer" means any officer or assistant officer of a corporation, including the president, vice president, secretary, and treasurer.

(g)(i) "Responsible individual" includes any current or former officer, manager, member, partner, or trustee of a limited liability business entity with an unpaid tax warrant issued by the department.

(ii) "Responsible individual" also includes any current or former employee or other individual, but only if the individual had the responsibility or duty to remit payment of the limited liability business entity's unpaid trust fund tax liability reflected in a tax warrant issued by the department.

(iii) Whenever any taxpayer has one or more limited liability business entities as a member, manager, or partner, "responsible individual" also includes any current and former officers, members, or managers of the limited liability business entity or entities or of any other limited liability business entity involved directly in the management of the taxpayer. For purposes of this subsection (9)(g)(iii), "taxpayer" means a limited liability business entity with an unpaid tax warrant issued against it by the department.

(h) "Trust fund taxes" means taxes collected from purchasers and held in trust under RCW 82.08.050, including taxes imposed under RCW 82.08.020 and 82.08.150.

(i) "Willfully fails to pay or to cause to be paid" means that the failure was the result of an intentional, conscious, and voluntary course of action. [2012 c 39 § 8; 2010 1st sp.s. c 23 § 801; 1995 c 318 § 2; 1987 c 245 § 1.]

Construction—Effective date—2012 c 39: See notes following RCW 82.08.155.

Effective date—2010 1st sp.s. c 23: See note following RCW 82.32.655.

Findings—Intent—2010 1st sp.s. c 23: See notes following RCW 82.04.220.

Additional notes found at www.leg.wa.gov

82.32.150 Contest of tax—Prepayment required—Restraining orders and injunctions barred. All taxes, penalties, and interest shall be paid in full before any action may be instituted in any court to contest all or any part of such taxes, penalties, or interest. No restraining order or injunction shall be granted or issued by any court or judge to restrain or enjoin the collection of any tax or penalty or any part thereof, except upon the ground that the assessment thereof was in violation of the Constitution of the United States or that of the state. [1961 c 15 § 82.32.150. Prior: 1935 c 180 § 198; RRS § 8370-198.]

82.32.160 Correction of tax—Administrative procedure—Conference—Determination by department. Any person having been issued a notice of additional taxes, delinquent taxes, interest, or penalties assessed by the department, may within thirty days after the issuance of the original notice of the amount thereof or within the period covered by any extension of the due date thereof granted by the department petition the department in writing for a correction of the amount of the assessment, and a conference for examination and review of the assessment. The petition shall set forth the reasons why the correction should be granted and the amount of the tax, interest, or penalties, which the petitioner believes to be due. The department shall promptly consider the petition and may grant or deny it. If denied, the petitioner shall be notified by mail, or electronically as provided in RCW 82.32.135, thereof forthwith. If a conference is granted, the department shall fix the time and place therefor and notify the petitioner thereof by mail or electronically as provided in RCW 82.32.135. After the conference the department may make such determination as may appear to it to be just and lawful and shall mail a copy of its determination to the petitioner, or provide a copy of its determination electronically as provided in RCW 82.32.135. If no such petition is filed within the thirty-day period the assessment covered by the notice shall become final.

The procedures provided for herein shall apply also to a notice denying, in whole or in part, an application for a pollution control tax exemption and credit certificate, with such modifications to such procedures established by departmental rules and regulations as may be necessary to accommodate a claim for exemption or credit. [2007 c 111 § 110; 1989 c 378 § 22; 1975 1st ex.s. c 158 § 4; 1967 ex.s. c 26 § 49; 1963 ex.s. c 28 § 8; 1961 c 15 § 82.32.160. Prior: 1939 c 225 § 29, part; 1935 c 180 § 199, part; RRS § 8370-199, part.]

Part headings not law—2007 c 111: See note following RCW 82.16.120.

Additional notes found at www.leg.wa.gov

82.32.170 Reduction of tax after payment—Petition—Conference—Determination by department. Any person, having paid any tax, original assessment, additional assessment, or corrected assessment of any tax, may apply to the department within the time limitation for refund provided in this chapter, by petition in writing for a correction of the amount paid, and a conference for examination and review of the tax liability, in which petition he or she shall set forth the reasons why the conference should be granted, and the amount in which the tax, interest, or penalty, should be refunded. The department shall promptly consider the petition, and may grant or deny it. If denied, the petitioner shall be notified by mail, or electronically as provided in RCW 82.32.135, thereof forthwith. If a conference is granted, the department shall notify the petitioner by mail, or electronically as provided in RCW 82.32.135, of the time and place fixed therefor. After the hearing, the department may make such determination as may appear to it just and lawful, and shall mail a copy of its determination to the petitioner, or provide a copy of its determination electronically as provided in RCW 82.32.135. [2013 c 23 § 324; 2007 c 111 § 111; 1967 ex.s. c 26 § 50; 1961 c 15 § 82.32.170. Prior: 1951 1st ex.s. c 9 § 11; 1939 c 225 § 29, part; 1935 c 180 § 199, part; RRS § 8370-199, part.]

Part headings not law—2007 c 111: See note following RCW 82.16.120.

Additional notes found at www.leg.wa.gov

82.32.180 Court appeal—Procedure. Any person, except one who has failed to keep and preserve books, records, and invoices as required in this chapter and chapter 82.24 RCW, having paid any tax as required and feeling aggrieved by the amount of the tax may appeal to the superior court of Thurston county, within the time limitation for a refund provided in chapter 82.32 RCW or, if an application for refund has been made to the department within that time limitation, then within thirty days after rejection of the application, whichever time limitation is later. In the appeal the taxpayer shall set forth the amount of the tax imposed upon the taxpayer which the taxpayer concedes to be the correct tax and the reason why the tax should be reduced or abated. The appeal shall be perfected by serving a copy of the notice of appeal upon the department within the time herein specified and by filing the original thereof with proof of service with the clerk of the superior court of Thurston county.

The trial in the superior court on appeal shall be de novo and without the necessity of any pleadings other than the notice of appeal. At trial, the burden shall rest upon the tax-

payer to prove that the tax as paid by the taxpayer is incorrect, either in whole or in part, and to establish the correct amount of the tax. In such proceeding the taxpayer shall be deemed the plaintiff, and the state, the defendant; and both parties shall be entitled to subpoena the attendance of witnesses as in other civil actions and to produce evidence that is competent, relevant, and material to determine the correct amount of the tax that should be paid by the taxpayer. Either party may seek appellate review in the same manner as other civil actions are appealed to the appellate courts.

It shall not be necessary for the taxpayer to protest against the payment of any tax or to make any demand to have the same refunded or to petition the director for a hearing in order to appeal to the superior court, but no court action or proceeding of any kind shall be maintained by the taxpayer to recover any tax paid, or any part thereof, except as herein provided.

The provisions of this section shall not apply to any tax payment which has been the subject of an appeal to the board of tax appeals with respect to which appeal a formal hearing has been elected. [1997 c 156 § 4; 1992 c 206 § 4; 1989 c 378 § 23; 1988 c 202 § 67; 1971 c 81 § 148; 1967 ex.s. c 26 § 51; 1965 ex.s. c 141 § 5; 1963 ex.s. c 28 § 9; 1961 c 15 § 82.32.180. Prior: 1951 1st ex.s. c 9 § 12; 1939 c 225 § 29, part; 1935 c 180 § 199, part; RRS § 8370-199, part.]

Appeal to board of tax appeals, formal hearing: RCW 82.03.160.

Additional notes found at www.leg.wa.gov

82.32.190 Stay of collection pending suit—Interest. (1) The department, by its order, may hold in abeyance the collection of tax from any taxpayer or any group of taxpayers when a question bearing on their liability for tax hereunder is pending before the courts. The department may impose such conditions as may be deemed just and equitable and shall require the payment of interest at the rate of three-quarters of one percent of the amount of the tax for each thirty days or portion thereof from the date upon which such tax became due until the date of payment.

(2) Interest imposed under this section for periods after January 1, 1997, shall be computed on a daily basis at the rate as computed under RCW 82.32.050(2). The rate so computed shall be adjusted on the first day of January of each year. Interest for taxes held in abeyance under this section before January 1, 1997, but outstanding after January 1, 1997, shall not be recalculated but shall remain at three-quarters of one percent per each thirty days or portion thereof. [1996 c 149 § 3; 1971 ex.s. c 299 § 21; 1965 ex.s. c 141 § 6; 1961 c 15 § 82.32.190. Prior: 1937 c 227 § 19; 1935 c 180 § 200; RRS § 8370-200.]

Findings—Intent—Effective date—1996 c 149: See notes following RCW 82.32.050.

Additional notes found at www.leg.wa.gov

82.32.200 Stay of collection—Bond—Interest. (1) When any assessment or additional assessment has been made, the taxpayer may obtain a stay of collection, under such circumstances and for such periods as the department of revenue may by general regulation provide, of the whole or any part thereof, by filing with the department a bond in an amount, not exceeding twice the amount on which stay is desired, and with sureties as the department deems necessary, conditioned for the payment of the amount of the assessments, collection of which is stayed by the bond, together with the interest thereon at the rate of one percent of the amount of such assessment for each thirty days or portion thereof from the date the bond is filed until the date of payment.

(2) Interest imposed under this section after January 1, 1997, shall be computed on a daily basis on the amount of tax at the rate as computed under RCW 82.32.050(2). The rate so computed shall be adjusted on the first day of January of each year. Interest for bonds filed before January 1, 1997, but outstanding after January 1, 1997, shall not be recalculated but shall remain at one percent per each thirty days or portion thereof. [1996 c 149 § 4; 1975 1st ex.s. c 278 § 83; 1961 c 15 § 82.32.200. Prior: 1935 c 180 § 201; RRS § 8370-201.]

Findings—Intent—Effective date—1996 c 149: See notes following RCW 82.32.050.

Additional notes found at www.leg.wa.gov

82.32.210 Tax warrant—Filing—Lien—Effect. (1) If any fee, tax, increase, or penalty or any portion thereof is not paid within fifteen days after it becomes due, the department may issue a warrant in the amount of the unpaid sums, together with interest thereon from the date the warrant is issued until the date of payment. If, however, the department believes that a taxpayer is about to cease business, leave the state, or remove or dissipate the assets out of which fees, taxes or penalties might be satisfied and that any tax or penalty will not be paid when due, it may declare the fee, tax or penalty to be immediately due and payable and may issue a warrant immediately.

(a) Interest imposed before January 1, 1999, is computed at the rate of one percent of the amount of the warrant for each thirty days or portion thereof.

(b) Interest imposed after December 31, 1998, is computed on a daily basis on the amount of outstanding tax or fee at the rate as computed under RCW 82.32.050(2). The rate so computed must be adjusted on the first day of January of each year for use in computing interest for that calendar year. As used in this subsection, "fee" does not include an administrative filing fee such as a court filing fee and warrant fee.

(2) Except as provided in RCW 82.32.212, the department must file a copy of the warrant with the clerk of the superior court of any county of the state in which real and/or personal property of the taxpayer may be found. The clerk is entitled to a filing fee under RCW 36.18.012(10). Upon filing, the clerk will enter in the judgment docket, the name of the taxpayer mentioned in the warrant and in appropriate columns the amount of the fee, tax or portion thereof and any increases and penalties for which the warrant is issued and the date when the copy is filed. The amount of the warrant so docketed is a specific lien upon all goods, wares, merchandise, fixtures, equipment, or other personal property used in the conduct of the business of the taxpayer against whom the warrant is issued, including property owned by third persons who have a beneficial interest, direct or indirect, in the operation of the business, and no sale or transfer of the personal property in any way affects the lien.

(3) The lien is not superior, however, to bona fide interests of third persons that vested before the filing of the warrant when the third persons do not have a beneficial interest,

direct or indirect, in the operation of the business, other than to secure payment of a debt or to receive a regular rental on equipment. The phrase "bona fide interests of third persons" does not include any mortgage of real or personal property or any other credit transaction that results in the mortgagee or the holder of the security acting as trustee for unsecured creditors of the taxpayer mentioned in the warrant who executed the chattel or real property mortgage or the document evidencing the credit transaction.

(4) The amount of the warrant so docketed is also a lien upon the title to and interest in all other real and personal property of the taxpayer against whom it is issued the same as a judgment in a civil case duly docketed in the office of the clerk. The warrant so docketed is sufficient to support the issuance of writs of garnishment in favor of the state as provided by law for judgments wholly or partially unsatisfied. [2011 c 131 § 1; 2001 c 146 § 12; 1998 c 311 § 8; 1997 c 157 § 3; 1987 c 405 § 15; 1983 1st ex.s. c 55 § 8; 1967 ex.s. c 89 § 3; 1961 c 15 § 82.32.210. Prior: 1955 c 389 § 38; prior: 1951 1st ex.s. c 9 § 13; 1949 c 228 § 225, part; 1937 c 227 § 20, part; 1935 c 180 § 202, part; Rem. Supp. 1949 § 8370-202, part.]

Effective date—2011 c 131: See note following RCW 82.32.212.

Additional notes found at www.leg.wa.gov

82.32.212 Tax warrant—Notice of lien. (1) To secure payment of a tax warrant issued by the department under RCW 82.32.210, the department may issue a notice of lien against any real property in which the taxpayer against whom the warrant was issued has an ownership interest, if the total amount for which the warrant was issued exceeds twenty-five thousand dollars and the department determines that issuing the notice of lien would best protect the state's interest in collecting the amount due on the warrant. The department must file the notice of lien with the recording officer of the county where the real property is located. The recording officer is entitled to a filing fee as provided under RCW 36.18.010.

(2)(a) Except as otherwise provided in this section, recording a notice of lien as authorized in this section is in lieu of filing with the clerk of the superior court a copy of the warrant secured by the notice of lien.

(b) Notwithstanding (a) of this subsection (2), the department may file with the superior court a warrant that is secured by a notice of lien under this section if: (i) The department determines that filing the warrant is in the best interest of collecting the amount due on the tax warrant; or (ii) the warrant remains unpaid six months after the notice of lien was issued.

(3) If a warrant has been filed with the clerk of the superior court, the department may issue and record a notice of lien against real property of the taxpayer and file a conditional satisfaction of the warrant with the clerk of the superior court of the county in which the warrant was filed, if the department determines that such actions are in the best interest of collecting the amount due on the warrant.

(a) A warrant for which a conditional satisfaction is filed will continue to accrue interest on the unpaid balance as provided in RCW 82.32.210.

(b)(i) The department may refile a warrant for which a conditional satisfaction has been filed if: (A) The department determines that refiling the warrant is in the best interest of collecting the amount due on the warrant; or (B) the warrant remains unpaid six months after the notice of lien was issued.

(ii) A warrant is refiled in the same manner as it was originally filed.

(c) A warrant that is refiled as provided in this subsection (3) reinstates the liens provided under RCW 82.32.210 as of the date the warrant is refiled.

(d) For the purposes of this subsection (3), a "conditional satisfaction" is a document issued by the department, which, when filed with the clerk of the superior court of the county in which the warrant was filed, releases the liens provided under RCW 82.32.210 without prejudice to refile the warrant at a later date.

(4) When a taxpayer has requested the department to use the collection authority under this section, in order to determine if the issuance of a notice of lien would best protect the state's interest in collecting the amount due on the warrant, the department may require the taxpayer to:

(a) Provide, at the taxpayer's expense, the department with a current abstract of title as defined by RCW 48.29.010 from a title insurer that possesses a certificate of authority issued under Title 48 RCW; and

(b) Authorize the department to obtain the taxpayer's current credit report.

(5) A notice of lien issued under this section must include the following information:

(a) The name of the taxpayer who has an interest in the real property against which the notice of lien is filed;

(b) The taxpayer's tax registration number issued as provided in RCW 82.32.030;

(c) The number of the warrant issued by the department;

(d) The amount for which the warrant was issued;

(e) The legal description, tax parcel number assigned under RCW 84.40.160, and the street address, if available, of the real property against which the notice of lien is issued; and

(f) Any other information the department determines would be useful.

(6) The notice of lien issued under this section is superior to all other liens and encumbrances, except:

(a) Bona fide interests of third persons that had vested prior to the recording of the notice of lien, if the third persons do not have a beneficial interest, direct or indirect, in the operation of the taxpayer's business, other than the securing of the payment of a debt or the receiving of a regular rental on equipment. For purposes of this subsection, "bona fide interests of third persons" has the same meaning as in RCW 82.32.210; and

(b) Property taxes and special assessments against the property.

(7) The department must release a notice of lien issued under this section as soon as practicable after receipt of payment in full of the amount due on the warrant secured by the notice of lien, including interest accrued as provided in RCW 82.32.210(1) and all recording fees claimed by the recording officer for the recording of the notice of lien and the release of the lien.

(8) The department must release a notice of lien issued under this section within fourteen days if the notice of lien was issued in error. [2011 c 131 § 2.]

Effective date—2011 c 131: "This act takes effect January 1, 2012." [2011 c 131 § 3.]

82.32.215 Revocation of certificate of registration. (1) The department may, by order, revoke the certificate of registration of a taxpayer for any of the following reasons:

(a) A warrant issued under this chapter is not paid within thirty days after it has been filed with the clerk of the superior court;

(b) The taxpayer is delinquent, for three consecutive reporting periods, in the transmission to the department of retail sales tax collected by the taxpayer; or

(c)(i)(A) The taxpayer was convicted of violating RCW 82.32.290(4) and continues to engage in business without fully complying with RCW 82.32.290(4)(b) (i) through (iii); or

(B) A person convicted of violating RCW 82.32.290(4) is an owner, officer, director, partner, trustee, member, or manager of the taxpayer, and the person and taxpayer have not fully complied with RCW 82.32.290(4)(b) (i) through (iii).

(ii) For the purposes of this subsection (1)(c), the terms "manager," "member," and "officer" mean the same as defined in RCW 82.32.145.

(2) If the department enters a final order revoking a taxpayer's certificate of registration, a copy of the order must, if practicable, be posted in a conspicuous place at the main entrance to the taxpayer's place of business. The department may also post a final order revoking a taxpayer's certificate of registration in any public facility, such as a courthouse or post office, as may be allowed by the public entity that owns or occupies the facility. A final order posted at the taxpayer's place of business must remain posted until such time as the taxpayer is eligible to have its certificate of registration reinstated as provided in subsection (3) of this section or has abandoned the premises. A taxpayer will not be deemed to have abandoned the premises if the taxpayer or any person with an ownership interest in the taxpayer continues to operate a substantially similar type of business under a different legal entity at the same location.

(3) Any certificate revoked under subsection (1) of this section may not be reinstated, nor may a new certificate of registration be issued to the taxpayer, until:

(a) The amount due on the warrant has been paid, or provisions for payment satisfactory to the department have been entered, and until the taxpayer has deposited with the department security for payment of any taxes, increases, and penalties, due or which may become due in an amount and under such terms and conditions as the department of revenue may require, but the amount of the security may not be greater than one-half the estimated average annual liability of the taxpayer; or

(b) The taxpayer and, if applicable, the owner, officer, director, partner, trustee, member, or manager of the taxpayer who was convicted of violating RCW 82.32.290(4) are in full compliance with RCW 82.32.290(4)(b) (i) through (iii), if the certificate of registration was revoked under the provisions of subsection (1)(c) of this section. [2013 c 309 § 1; 1998 c 311 § 9; 1983 1st ex.s. c 55 § 9.]

Additional notes found at www.leg.wa.gov

82.32.220 Execution of warrant—Levy upon property—Satisfaction. The department of revenue may issue an order of execution, pursuant to a filed warrant, directed to the sheriff of the county in which the warrant has been filed, commanding the sheriff to levy upon and sell the real and/or personal property of the taxpayer found within the sheriff's county, or so much thereof as may be necessary, for the payment of the amount of the warrant, plus the cost of executing the warrant, and return the warrant to the department of revenue and pay to it the money collected by virtue thereof within sixty days after the receipt of the warrant. The sheriff shall thereupon proceed upon the same in all respects and with like effect as prescribed by law with respect to execution or other process issued against rights or property upon judgments of the superior court.

The sheriff shall be entitled to fees as provided by law for the sheriff's services in levying execution on a superior court judgment and the clerk shall be entitled to a filing fee as provided by law, which shall be added to the amount of the warrant.

The proceeds received from any sale shall be credited upon the amount due under the warrant and when the final amount due is received, together with interest, penalties, and costs, the judgment docket shall show the claim for taxes to be satisfied and the clerk of the court shall so note upon the docket. Any surplus received from any sale of property shall be paid to the taxpayer or to any lien holder entitled thereto. If the return on the warrant shows that the same has not been satisfied in full, the amount of the deficiency shall remain the same as a judgment against the taxpayer which may be collected in the same manner as the original amount of the warrant. [1998 c 311 § 10; 1983 1st ex.s. c 55 § 10; 1961 c 304 § 6; 1961 c 15 § 82.32.220. Prior: 1955 c 389 § 39; prior: 1951 1st ex.s. c 9 § 14; 1949 c 228 § 25, part; 1937 c 227 § 20, part; 1935 c 180 § 202, part; Rem. Supp. 1949 § 8370-202, part.]

Fee for filing tax warrant by county clerk: RCW 36.18.020.

Additional notes found at www.leg.wa.gov

82.32.230 Agent of the department of revenue may execute. In the discretion of the department of revenue, an order of execution of like terms, force, and effect may be issued and directed to any agent of the department authorized to collect taxes, and in the execution thereof such agent shall have all the powers conferred by law upon sheriffs, but shall not be entitled to any fee or compensation in excess of the actual expenses paid in the performance of such duty, which shall be added to the amount of the warrant. [1983 1st ex.s. c 55 § 11; 1975 1st ex.s. c 278 § 84; 1961 c 15 § 82.32.230. Prior: 1949 c 228 § 25, part; 1937 c 227 § 20, part; 1935 c 180 § 202, part; Rem. Supp. 1949 § 8370-202, part.]

Additional notes found at www.leg.wa.gov

82.32.235 Notice and order to withhold and deliver property due or owned by taxpayer—Bond—Judgment by default. (1) In addition to the remedies provided in this chapter the department is authorized to issue to any person, including the department, a notice and order to withhold and deliver property of any kind whatsoever when there is reason to believe that there is in the possession of such person, prop-

erty which is or will become due, owing, or belonging to any taxpayer against whom a warrant has been filed.

(2) The sheriff of the county where the service is made, or his or her deputy, or any duly authorized representative of the department may personally serve the notice and order to withhold and deliver upon the person to whom it is directed or may do so by certified mail, with return receipt requested. Upon written consent of the person to be served, a notice and order to withhold and deliver issued under subsection (1) of this section may be served electronically.

(3)(a) The department is authorized to issue a notice and order to withhold and deliver to any financial institution in the form of a listing of all or a portion of the unsatisfied tax warrants filed under this chapter and outstanding warrants under RCW 49.48.086 with the clerk of the superior court of a county of the state, except tax warrants subject to a payment agreement, which is not in default, between the department and the taxpayer. The department may also issue a notice and order to withhold and deliver in the form authorized in this subsection (3)(a) to itself or any other person upon that person's written consent.

(b) The department may serve the notice and order to withhold and deliver authorized under this subsection electronically. The remedy in this subsection (3) is in addition to any other remedies authorized by law.

(c) No more than one notice and order to withhold and deliver under this subsection (3) may be served on the same person in a calendar month except upon the person's written consent.

(d) A notice and order to withhold and deliver served on a financial institution under this subsection (3) must include the federal taxpayer identification number of each taxpayer listed in the notice.

(e) For purposes of this subsection, "financial institution" means a bank, trust company, mutual savings bank, savings and loan association, or credit union authorized to do business and accept deposits in this state under state or federal law.

(f) The department may provide a financial institution relief from a notice and order to withhold and deliver in the form provided under this subsection (3) upon the request of the financial institution. The department must consider the size, customer base, and geographic location of the financial institution when considering whether to provide relief. The department must serve any financial institution so relieved under subsection (1) of this section.

(4) Any person who has been served with a notice and order to withhold and deliver under subsection (1) of this section must answer the notice within twenty days, exclusive of the day of service. Any person who has been served with a notice and order to withhold and deliver under subsection (3) of this section must answer the notice within thirty days, exclusive of the day of service. The answer must be in writing, under oath if required by the department, and include true answers to the matters inquired of in the notice. Any person served under subsection (3) of this section may answer in aggregate within thirty days, but must answer separately as to each taxpayer listed and specify any property by taxpayer which is delivered. The department must allow any person served electronically as authorized in subsection (2) or (3) of this section to answer the notice and order to withhold and deliver electronically in a format provided or approved by the department.

(5) In the event there is in the possession of any person served with a notice and order to withhold and deliver, any property which may be subject to the claim of the department, such property must be delivered immediately to the department of revenue or its duly authorized representative upon demand. The department must hold the property in trust for application on the indebtedness involved or for return, without interest, in accordance with final determination of liability or nonliability. Instead of delivering the property to the department or the department's duly authorized representative, the person may furnish a bond satisfactory to the department conditioned upon final determination of liability.

(6) Should any person, having been served with a notice and order to withhold and deliver, fail to answer the notice and order to withhold and deliver within the time prescribed in this section or otherwise fail to comply with the duties imposed in this section, the department may bring a proceeding, in the superior court of Thurston county or of the county in which service of the notice was made, to enforce the notice and order to withhold and deliver. The court may render judgment by default against such person for the full amount claimed by the department in the notice and order to withhold and deliver or may grant such other relief as the court deems just, together with costs.

(7) For purposes of this section, "person" has the same meaning as in RCW 82.04.030 and also includes any agency, department, or institution of the state. [2014 c 210 § 2; 2014 c 97 § 104; 2009 c 562 § 1; 1987 c 208 § 1; 1975 1st ex.s. c 278 § 85; 1971 ex.s. c 299 § 22; 1963 ex.s. c 28 § 11.]

Reviser's note: This section was amended by 2014 c 97 § 104 and by 2014 c 210 § 2, each without reference to the other. Both amendments are incorporated in the publication of this section under RCW 1.12.025(2). For rule of construction, see RCW 1.12.025(1).

Finding—2009 c 562: "(1) The legislature finds that the state's vital interest in collecting lawfully due taxes must be balanced against the burden of complying with section 1(3) of this act, particularly for small financial institutions.

(2)(a) Therefore, the legislature directs the department of revenue to work with interested financial institutions to develop policies regarding the frequency of service under section 1(3) of this act and under what circumstances a notice and order to withhold and deliver will contain only a partial list of unsatisfied tax warrants eligible to be included in the notice. The policies should take into account the size of a financial institution, location of a financial institution, number of business accounts that a financial institution has, and any other factors the department may choose to consider.

(b) The department is also directed to develop a policy regarding the information to be contained in a notice and order to withhold and deliver to ensure that financial institutions can accurately match their records with the names of tax debtors.

(3) The department must report to the fiscal committees of the legislature on the implementation of section 1(3) of this act by January 1, 2012. The report should describe the policies developed by the department as directed in subsection (2) of this section. The report should also describe any difficulties the department encountered in implementing section 1(3) of this act and any suggestions the department may have to improve the effectiveness of section 1(3) of this act, reduce the burden on financial institutions in complying with section 1(3) of this act, or both." [2009 c 562 § 2.]

Additional notes found at www.leg.wa.gov

82.32.237 Notice and order to withhold and deliver—Continuing lien—Effective date. Upon service, the notice and order to withhold and deliver shall constitute a continuing lien on property of the taxpayer and upon wages due, owing, or belonging to the taxpayer. The department shall

include in the caption of the notice and order to withhold and deliver "continuing lien." The effective date of a notice and order to withhold and deliver served under RCW 82.32.235 shall be the date of service thereof. [1987 c 208 § 2.]

82.32.240 Tax constitutes debt to the state—Priority of lien. Any tax due and unpaid and all increases and penalties thereon, shall constitute a debt to the state and may be collected by court proceedings in the same manner as any other debt in like amount, which remedy shall be in addition to any and all other existing remedies.

In all cases of probate, insolvency, assignment for the benefit of creditors, or bankruptcy, involving any taxpayer who is, or decedent who was, engaging in business, the claim of the state for said taxes and all increases and penalties thereon shall be a lien upon all real and personal property of the taxpayer, and the mere existence of such cases or conditions shall be sufficient to create such lien without any prior or subsequent action by the state, and in all such cases it shall be the duty of all administrators, executors, guardians, receivers, trustees in bankruptcy or assignees for the benefit of creditors, to notify the department of revenue of such administration, receivership or assignment within sixty days from the date of their appointment and qualification.

The lien provided for by this section shall attach as of the date of the assignment for the benefit of creditors or of the initiation of the probate, insolvency, or bankruptcy proceedings: PROVIDED, That this sentence shall not be construed as affecting the validity or priority of any earlier lien that may have attached previously in favor of the state under any other section of this title.

Any administrator, executor, guardian, receiver or assignee for the benefit of creditors not giving the notification as provided for above shall become personally liable for payment of the taxes and all increases and penalties thereon to the extent of the value of the property subject to administration that otherwise would have been available for the payment of such taxes, increases, and penalties by the administrator, executor, guardian, receiver, or assignee.

As used in this section, "probate" includes the nonprobate claim settlement procedure under chapter 11.42 RCW, and "executor" and "administrator" includes any notice agent acting under chapter 11.42 RCW. [1994 c 221 § 69; 1988 c 64 § 21; 1975 1st ex.s. c 278 § 86; 1961 c 15 § 82.32.240. Prior: 1949 c 228 § 26; 1935 c 180 § 203; Rem. Supp. 1949 § 8370-203.]

Additional notes found at www.leg.wa.gov

82.32.245 Search for and seizure of property—Warrant—Procedure. (1) When there is probable cause to believe that there is property within this state, not otherwise exempt from process or execution, in the possession or control of any taxpayer against whom a tax warrant has been filed which remains unsatisfied, any judge of the superior court or district court in the county in which such property is located may, upon the request of the sheriff or agent of the department authorized to collect taxes, issue a warrant directed to such officers commanding the search for and seizure of the property described in the request for warrant.

(2) Application for, issuance, and execution and return of the warrant authorized by this section and for return of any property seized shall be in accordance with the criminal rules of the superior court and the justice court.

(3) The sheriff or agent of the department shall levy execution upon property seized pursuant to this section as provided in RCW 82.32.220 and 82.32.230.

(4) Nothing in this section shall require the application for and issuance of any warrant not otherwise required by law. [1985 c 414 § 3.]

82.32.260 Payment condition to dissolution or withdrawal of corporation. In the case of any corporation organized under the laws of this state, the courts shall not enter or sign any decree of dissolution, nor shall the secretary of state file in his or her office any certificate of dissolution, and in the case of any corporation organized under the laws of another jurisdiction and admitted to do business in this state, the secretary of state shall withhold the issuance of any certificate of withdrawal, until proof, in the form of a certificate from the department of revenue, has been furnished by the applicant for such dissolution or withdrawal, that every license fee, tax, increase, or penalty has been paid or provided for. [2013 c 23 § 325; 1975 1st ex.s. c 278 § 87; 1961 c 15 § 82.32.260. Prior: 1935 c 180 § 204; RRS § 8370-204.]

Additional notes found at www.leg.wa.gov

82.32.265 Use of collection agencies to collect taxes outside the state. (1) The department may retain, by written contract, collection agencies licensed under chapter 19.16 RCW or licensed under the laws of another state or the District of Columbia for the purpose of collecting from sources outside the state of Washington taxes including interest and penalties thereon imposed under this title and RCW 84.33.041.

(2) Only accounts represented by tax warrants filed in the superior court of a county in the state as provided by RCW 82.32.210 may be assigned to a collection agency, and no such assignment may be made unless the department has previously notified or has attempted to notify the taxpayer of his or her right to petition for correction of assessment within the time provided and in accordance with the procedures set forth in chapter 82.32 RCW.

(3) Collection agencies assigned accounts for collection under this section shall have only those remedies and powers that would be available to them as assignees of private creditors. However, nothing in this section limits the right to enforce the liability for taxes lawfully imposed under the laws of this state in the courts of another state or the District of Columbia as provided by the laws of such jurisdictions and RCW 4.24.140 and 4.24.150.

(4) The account of the taxpayer shall be credited with the amounts collected by a collection agency before reduction for reasonable collection costs, including attorneys fees, that the department is authorized to negotiate on a contingent fee or other basis. [1987 c 80 § 5; 1985 c 414 § 4.]

82.32.270 Accounting period prescribed. The taxes imposed hereunder, and the returns required therefor, shall be upon a calendar year basis; but, if any taxpayer in transacting his or her business, keeps books reflecting the same on a basis other than the calendar year, he or she may, with consent of the department of revenue, make his or her returns, and pay

taxes upon the basis of his or her accounting period as shown by the method of keeping the books of his or her business. [2013 c 23 § 326; 1975 1st ex.s. c 278 § 88; 1961 c 15 § 82.32.270. Prior: 1935 c 180 § 205; RRS § 8370-205.]

Additional notes found at www.leg.wa.gov

82.32.280 Tax declared additional. Taxes imposed hereunder shall be in addition to any and all other licenses, taxes, and excises levied or imposed by the state or any municipal subdivision thereof. [1961 c 15 § 82.32.280. Prior: 1935 c 180 § 206; RRS § 8370-206.]

82.32.290 Unlawful acts—Penalties. (1)(a) It is unlawful:

(i) For any person to engage in business without having obtained a certificate of registration as provided in this chapter;

(ii) For the president, vice president, secretary, treasurer, or other officer of any company to cause or permit the company to engage in business without having obtained a certificate of registration as provided in this chapter;

(iii) For any person to tear down or remove any order or notice posted by the department in violation of this chapter;

(iv) For any person to aid or abet another in any attempt to evade the payment of any tax or any part thereof;

(v) For any purchaser to fraudulently sign or furnish to a seller documentation authorized under RCW 82.04.470 without intent to resell the property purchased or with intent to otherwise use the property in a manner inconsistent with the claimed wholesale purchase; or

(vi) For any person to fail or refuse to permit the examination of any book, paper, account, record, or other data by the department or its duly authorized agent; or to fail or refuse to permit the inspection or appraisal of any property by the department or its duly authorized agent; or to refuse to offer testimony or produce any record as required.

(b) Any person violating any of the provisions of this subsection (1) is guilty of a gross misdemeanor in accordance with chapter 9A.20 RCW.

(2)(a) It is unlawful:

(i) For any person to engage in business after revocation of a certificate of registration unless the person's certification of registration has been reinstated;

(ii) For the president, vice president, secretary, treasurer, or other officer of any company to cause or permit the company to engage in business after revocation of a certificate of registration unless the company's certificate of registration has been reinstated; or

(iii) For any person to make any false or fraudulent return or false statement in any return, with intent to defraud the state or evade the payment of any tax or part thereof.

(b) Any person violating any of the provisions of this subsection (2) is guilty of a class C felony in accordance with chapter 9A.20 RCW.

(3) In addition to the foregoing penalties, any person who knowingly swears to or verifies any false or fraudulent return, or any return containing any false or fraudulent statement with the intent aforesaid, is guilty of the offense of perjury in the second degree; and any company for which a false return, or a return containing a false statement, as aforesaid, is made, must be punished, upon conviction thereof, by a fine of not more than one thousand dollars.

(4)(a) It is unlawful for any person to knowingly sell, purchase, install, transfer, manufacture, create, design, update, repair, use, possess, or otherwise make available, in this state, any automated sales suppression device or phantom-ware. However, it is not unlawful for persons to possess or use automated sales suppression devices or phantom-ware as authorized in RCW 82.32.670(6).

(b) It is unlawful for any person who has been convicted of violating this section to engage in business, or participate in any business as an owner, officer, director, partner, trustee, member, or manager of the business, unless:

(i) All taxes, penalties, and interest lawfully due are paid;

(ii) The person pays in full all penalties and fines imposed on the person for violating this section; and

(iii) The person, if the person is engaging in business subject to tax under this title, or the business in which the person participates, enters into a written agreement with the department for the electronic monitoring of the business's sales, by a method acceptable to the department, for five years at the business's expense.

(c)(i) Any person violating the provisions of this subsection, including material breach of the monitoring agreement under (b)(iii) of this subsection, is guilty of a class C felony in accordance with chapter 9A.20 RCW and, as applicable, (c)(ii) of this subsection.

(ii) Any person violating the provisions of this subsection by furnishing an automated sales suppression device or phantom-ware to another person or by updating or repairing another person's automated sales suppression device or phantom-ware is, in addition to the punishments prescribed in chapter 9A.20 RCW, subject to a mandatory fine fixed by the court in an amount equal to the greater of ten thousand dollars, the defendant's gain from the commission of the crime, or the state's loss from the commission of the crime. For purposes of this subsection (4)(c)(ii), "loss" means the total of all taxes, penalties, and interest certified by the department to be due, as of the date of sentencing, as a result of any violation of the provisions of this subsection by a person using the automated sales suppression device or phantom-ware obtained from, or updated or repaired by, the defendant, which results in the defendant's conviction for violating the provisions of this subsection.

(d) For the purposes of this subsection (4), the terms "manager," "member," and "officer" have the same meaning as in RCW 82.32.145.

(e) The definitions in RCW 82.32.670 apply to this subsection (4).

(5) All penalties or punishments provided in this section are in addition to all other penalties provided by law. [2013 c 309 § 2; 2010 c 112 § 11; 2009 c 563 § 211; 1985 c 414 § 2; 1975 1st ex.s. c 278 § 89; 1961 c 15 § 82.32.290. Prior: 1935 c 180 § 207; RRS § 8370-207.]

Effective date—2010 c 112 §§ 2, 3, 11, 12, and 15: See note following RCW 82.32.780.

Retroactive application—2010 c 112: See note following RCW 82.32.780.

Finding—Intent—Construction—Effective date—Reports and recommendations—2009 c 563: See notes following RCW 82.32.780.

Additional notes found at www.leg.wa.gov

82.32.291 Reseller permit—Unlawful use—Penalty—Rules. (1) Except as otherwise provided in this section, if any buyer improperly uses a reseller permit number, reseller permit, or other documentation authorized under RCW 82.04.470 to purchase items or services at retail without payment of sales tax that was legally due on the purchase, the department must assess against that buyer a penalty of fifty percent of the tax due, in addition to all other taxes, penalties, and interest due, on the improperly purchased item or service.

(2) The department must waive the penalty imposed under subsection (1) of this section if it finds that the use of the reseller permit number, reseller permit, or other documentation authorized under RCW 82.04.470 was due to circumstances beyond the taxpayer's control or if the reseller permit number, reseller permit, or other documentation authorized under RCW 82.04.470 was properly used for purchases for dual purposes. The department must define by rule what circumstances are considered to be beyond the taxpayer's control.

(3) A buyer that purchases items or services at retail without payment of sales tax legally due on the purchase is deemed to have improperly used a reseller permit number, reseller permit, or other documentation authorized under RCW 82.04.470 to purchase the items or services without payment of sales tax and is subject to the penalty in subsection (1) of this section if the buyer:

(a) Furnished to the seller a reseller permit number, a reseller permit or copy of a reseller permit, or other documentation authorized under RCW 82.04.470 to avoid payment of sales tax legally due on the purchase; or

(b) Made the purchase from a seller that had previously used electronic means to verify the validity of the buyer's reseller permit with the department and, as a result, did not require the buyer to provide a copy of its reseller permit or furnish other documentation authorized under RCW 82.04.470 to document the wholesale nature of the purchase. In such cases, the buyer bears the burden of proving that it did not improperly use its reseller permit to make the purchase without payment of sales tax. [2010 c 112 § 12. Prior: 2009 c 563 § 212; 2009 c 289 § 4; 1993 sp.s. c 25 § 703.]

Effective date—2010 c 112 §§ 2, 3, 11, 12, and 15: See note following RCW 82.32.780.

Retroactive application—2010 c 112: See note following RCW 82.32.780.

Finding—Intent—Construction—Effective date—Reports and recommendations—2009 c 563: See notes following RCW 82.32.780.

Seller's permit and uniform exemption certificate: RCW 82.04.470 and 82.08.130.

Additional notes found at www.leg.wa.gov

82.32.300 Department of revenue to administer—Chapters enforced by liquor control board. The administration of this and chapters 82.04 through 82.27 RCW of this title is vested in the department of revenue which shall prescribe forms and rules of procedure for the determination of the taxable status of any person, for the making of returns and for the ascertainment, assessment and collection of taxes and penalties imposed thereunder.

The department of revenue shall make and publish rules and regulations, not inconsistent therewith, necessary to enforce provisions of this chapter and chapters 82.02 through 82.23B and 82.27 RCW, and the liquor control board shall make and publish rules necessary to enforce chapters 82.24 and 82.26 RCW, which shall have the same force and effect as if specifically included therein, unless declared invalid by the judgment of a court of record not appealed from.

The department may employ such clerks, specialists, and other assistants as are necessary. Salaries and compensation of such employees shall be fixed by the department and shall be charged to the proper appropriation for the department.

The department shall exercise general supervision of the collection of taxes and, in the discharge of such duty, may institute and prosecute such suits or proceedings in the courts as may be necessary and proper. [1997 c 420 § 9; 1983 c 3 § 222; 1975 1st ex.s. c 278 § 90; 1961 c 15 § 82.32.300. Prior: 1935 c 180 § 208, part; RRS § 8370-208, part.]

Additional notes found at www.leg.wa.gov

82.32.310 Immunity of officers, agents, etc., of the department of revenue acting in good faith. When recovery is had in any suit or proceeding against an officer, agent, or employee of the department of revenue for any act done by him or her or for the recovery of any money exacted by or paid to him or her and by him or her paid over to the department, in the performance of his or her official duty, and the court certifies that there was probable cause for the act done by such officer, agent, or employee, or that he or she acted under the direction of the department or an officer thereof, no execution shall issue against such officer, agent, or employee, but the amount so recovered shall, upon final judgment, be paid by the department as an expense of operation. [2013 c 23 § 327; 1975 1st ex.s. c 278 § 91; 1961 c 15 § 82.32.310. Prior: 1935 c 180 § 208, part; RRS § 8370-208, part.]

Additional notes found at www.leg.wa.gov

82.32.320 Revenue to state treasurer—Allocation for return or payment for less than the full amount due. The department of revenue, on the next business day following the receipt of any payments hereunder, shall transmit them to the state treasurer, taking his or her receipt therefor. If a return or payment is submitted with less than the full amount of all taxes, interest, and penalties due, the department may allocate payments among applicable funds so as to minimize administrative costs to the extent practicable. [1995 c 318 § 7; 1975 1st ex.s. c 278 § 92; 1961 c 15 § 82.32.320. Prior: 1935 c 180 § 209; RRS § 8370-209.]

Additional notes found at www.leg.wa.gov

82.32.330 Disclosure of return or tax information. (1) For purposes of this section:

(a) "Disclose" means to make known to any person in any manner whatever a return or tax information;

(b) "Return" means a tax or information return or claim for refund required by, or provided for or permitted under, the laws of this state which is filed with the department of revenue by, on behalf of, or with respect to a person, and any amendment or supplement thereto, including supporting schedules, attachments, or lists that are supplemental to, or part of, the return so filed;

(c) "Tax information" means (i) a taxpayer's identity, (ii) the nature, source, or amount of the taxpayer's income, pay-

ments, receipts, deductions, exemptions, credits, assets, liabilities, net worth, tax liability deficiencies, overassessments, or tax payments, whether taken from the taxpayer's books and records or any other source, (iii) whether the taxpayer's return was, is being, or will be examined or subject to other investigation or processing, (iv) a part of a written determination that is not designated as a precedent and disclosed pursuant to RCW 82.32.410, or a background file document relating to a written determination, and (v) other data received by, recorded by, prepared by, furnished to, or collected by the department of revenue with respect to the determination of the existence, or possible existence, of liability, or the amount thereof, of a person under the laws of this state for a tax, penalty, interest, fine, forfeiture, or other imposition, or offense. However, data, material, or documents that do not disclose information related to a specific or identifiable taxpayer do not constitute tax information under this section. Except as provided by RCW 82.32.410, nothing in this chapter requires any person possessing data, material, or documents made confidential and privileged by this section to delete information from such data, material, or documents so as to permit its disclosure;

(d) "State agency" means every Washington state office, department, division, bureau, board, commission, or other state agency;

(e) "Taxpayer identity" means the taxpayer's name, address, telephone number, registration number, or any combination thereof, or any other information disclosing the identity of the taxpayer; and

(f) "Department" means the department of revenue or its officer, agent, employee, or representative.

(2) Returns and tax information are confidential and privileged, and except as authorized by this section, neither the department of revenue nor any other person may disclose any return or tax information.

(3) This section does not prohibit the department of revenue from:

(a) Disclosing such return or tax information in a civil or criminal judicial proceeding or an administrative proceeding:

(i) In respect of any tax imposed under the laws of this state if the taxpayer or its officer or other person liable under this title or chapter 83.100 RCW is a party in the proceeding;

(ii) In which the taxpayer about whom such return or tax information is sought and another state agency are adverse parties in the proceeding; or

(iii) Brought by the department under RCW 18.27.040 or 19.28.071;

(b) Disclosing, subject to such requirements and conditions as the director prescribes by rules adopted pursuant to chapter 34.05 RCW, such return or tax information regarding a taxpayer to such taxpayer or to such person or persons as that taxpayer may designate in a request for, or consent to, such disclosure, or to any other person, at the taxpayer's request, to the extent necessary to comply with a request for information or assistance made by the taxpayer to such other person. However, tax information not received from the taxpayer must not be so disclosed if the director determines that such disclosure would compromise any investigation or litigation by any federal, state, or local government agency in connection with the civil or criminal liability of the taxpayer or another person, or that such disclosure would identify a confidential informant, or that such disclosure is contrary to any agreement entered into by the department that provides for the reciprocal exchange of information with other government agencies which agreement requires confidentiality with respect to such information unless such information is required to be disclosed to the taxpayer by the order of any court;

(c) Disclosing the name of a taxpayer against whom a warrant under RCW 82.32.210 has been either issued or filed and remains outstanding for a period of at least ten working days. The department is not required to disclose any information under this subsection if a taxpayer has entered a deferred payment arrangement with the department for the payment of a warrant that has not been filed and is making payments upon such deficiency that will fully satisfy the indebtedness within twelve months;

(d) Publishing statistics so classified as to prevent the identification of particular returns or reports or items thereof;

(e) Disclosing such return or tax information, for official purposes only, to the governor or attorney general, or to any state agency, or to any committee or subcommittee of the legislature dealing with matters of taxation, revenue, trade, commerce, the control of industry or the professions;

(f) Permitting the department of revenue's records to be audited and examined by the proper state officer, his or her agents and employees;

(g) Disclosing any such return or tax information to a peace officer as defined in RCW 9A.04.110 or county prosecuting attorney, for official purposes. The disclosure may be made only in response to a search warrant, subpoena, or other court order, unless the disclosure is for the purpose of criminal tax enforcement. A peace officer or county prosecuting attorney who receives the return or tax information may disclose that return or tax information only for use in the investigation and a related court proceeding, or in the court proceeding for which the return or tax information originally was sought;

(h) Disclosing any such return or tax information to the proper officer of the internal revenue service of the United States, the Canadian government or provincial governments of Canada, or to the proper officer of the tax department of any state or city or town or county, for official purposes, but only if the statutes of the United States, Canada or its provincial governments, or of such other state or city or town or county, as the case may be, grants substantially similar privileges to the proper officers of this state;

(i) Disclosing any such return or tax information to the United States department of justice, including the bureau of alcohol, tobacco, firearms and explosives, the department of defense, the immigration and customs enforcement and the customs and border protection agencies of the United States department of homeland security, the United States coast guard, the alcohol and tobacco tax and trade bureau of the United States department of treasury, and the United States department of transportation, or any authorized representative of these federal agencies, for official purposes;

(j) Publishing or otherwise disclosing the text of a written determination designated by the director as a precedent pursuant to RCW 82.32.410;

(k) Disclosing, in a manner that is not associated with other tax information, the taxpayer name, entity type, busi-

ness address, mailing address, revenue tax registration numbers, reseller permit numbers and the expiration date and status of such permits, North American industry classification system or standard industrial classification code of a taxpayer, and the dates of opening and closing of business. This subsection may not be construed as giving authority to the department to give, sell, or provide access to any list of taxpayers for any commercial purpose;

(l) Disclosing such return or tax information that is also maintained by another Washington state or local governmental agency as a public record available for inspection and copying under the provisions of chapter 42.56 RCW or is a document maintained by a court of record and is not otherwise prohibited from disclosure;

(m) Disclosing such return or tax information to the United States department of agriculture for the limited purpose of investigating food stamp fraud by retailers;

(n) Disclosing to a financial institution, escrow company, or title company, in connection with specific real property that is the subject of a real estate transaction, current amounts due the department for a filed tax warrant, judgment, or lien against the real property;

(o) Disclosing to a person against whom the department has asserted liability as a successor under RCW 82.32.140 return or tax information pertaining to the specific business of the taxpayer to which the person has succeeded;

(p) Disclosing real estate excise tax affidavit forms filed under RCW 82.45.150 in the possession of the department, including real estate excise tax affidavit forms for transactions exempt or otherwise not subject to tax;

(q) Disclosing to local taxing jurisdictions the identity of sellers granted relief under RCW 82.32.430(5)(b)(i) and the period for which relief is granted;

(r) Disclosing such return or tax information to the court in respect to the department's application for a subpoena under RCW 82.32.117;

(s) Disclosing to a person against whom the department has asserted liability under RCW 83.100.120 return or tax information pertaining to that person's liability for tax under chapter 83.100 RCW;

(t) Disclosing such return or tax information to the streamlined sales tax governing board, member states of the streamlined sales tax governing board, or authorized representatives of such board or states, for the limited purposes of:

(i) Conducting on behalf of member states sales and use tax audits of taxpayers; or

(ii) Auditing certified service providers or certified automated systems providers; or

(u) Disclosing any such return or tax information when the disclosure is specifically authorized under any other section of the Revised Code of Washington.

(4)(a) The department may disclose return or taxpayer information to a person under investigation or during any court or administrative proceeding against a person under investigation as provided in this subsection (4). The disclosure must be in connection with the department's official duties relating to an audit, collection activity, or a civil or criminal investigation. The disclosure may occur only when the person under investigation and the person in possession of data, materials, or documents are parties to the return or tax information to be disclosed. The department may disclose return or tax information such as invoices, contracts, bills, statements, resale or exemption certificates, or checks. However, the department may not disclose general ledgers, sales or cash receipt journals, check registers, accounts receivable/payable ledgers, general journals, financial statements, expert's workpapers, income tax returns, state tax returns, tax return workpapers, or other similar data, materials, or documents.

(b) Before disclosure of any tax return or tax information under this subsection (4), the department must, through written correspondence, inform the person in possession of the data, materials, or documents to be disclosed. The correspondence must clearly identify the data, materials, or documents to be disclosed. The department may not disclose any tax return or tax information under this subsection (4) until the time period allowed in (c) of this subsection has expired or until the court has ruled on any challenge brought under (c) of this subsection.

(c) The person in possession of the data, materials, or documents to be disclosed by the department has twenty days from the receipt of the written request required under (b) of this subsection to petition the superior court of the county in which the petitioner resides for injunctive relief. The court must limit or deny the request of the department if the court determines that:

(i) The data, materials, or documents sought for disclosure are cumulative or duplicative, or are obtainable from some other source that is more convenient, less burdensome, or less expensive;

(ii) The production of the data, materials, or documents sought would be unduly burdensome or expensive, taking into account the needs of the department, the amount in controversy, limitations on the petitioner's resources, and the importance of the issues at stake; or

(iii) The data, materials, or documents sought for disclosure contain trade secret information that, if disclosed, could harm the petitioner.

(d) The department must reimburse reasonable expenses for the production of data, materials, or documents incurred by the person in possession of the data, materials, or documents to be disclosed.

(e) Requesting information under (b) of this subsection that may indicate that a taxpayer is under investigation does not constitute a disclosure of tax return or tax information under this section.

(5) Service of a subpoena issued under RCW 82.32.117 does not constitute a disclosure of return or tax information under this section. Notwithstanding anything else to the contrary in this section, a person served with a subpoena under RCW 82.32.117 may disclose the existence or content of the subpoena to that person's legal counsel.

(6) Any person acquiring knowledge of any return or tax information in the course of his or her employment with the department of revenue and any person acquiring knowledge of any return or tax information as provided under subsection (3) (e), (f), (g), (h), (i), or (m) of this section, who discloses any such return or tax information to another person not entitled to knowledge of such return or tax information under the provisions of this section, is guilty of a misdemeanor. If the person guilty of such violation is an officer or employee of the state, such person must forfeit such office or employment

and is incapable of holding any public office or employment in this state for a period of two years thereafter. [2011 c 174 § 404. Prior: 2010 c 112 § 13; 2010 c 106 § 104; prior: 2009 c 563 § 213; 2009 c 309 § 2; 2008 c 81 § 11; 2007 c 6 § 1502; 2006 c 177 § 7; prior: 2005 c 326 § 1; 2005 c 274 § 361; prior: 2000 c 173 § 1; 2000 c 106 § 1; 1998 c 234 § 1; 1996 c 184 § 5; 1995 c 197 § 1; 1991 c 330 § 1; 1990 c 67 § 1; 1985 c 414 § 9; 1984 c 138 § 12; 1969 ex.s. c 104 § 1; 1963 ex.s. c 28 § 10; 1961 c 15 § 82.32.330; prior: 1943 c 156 § 12; 1935 c 180 § 210; Rem. Supp. 1943 § 8370-210.]

Retroactive application—2010 c 112: See note following RCW 82.32.780.

Application—2010 c 106 §§ 104 and 111: "Sections 104(3) (a)(i) and (s) and 111 of this act apply to return or tax information in respect to the tax imposed under chapter 83.100 RCW in the possession of the department of revenue on or after July 1, 2010." [2010 c 106 § 403.]

Effective date—2010 c 106: See note following RCW 35.102.145.

Finding—Intent—Construction—Effective date—Reports and recommendations—2009 c 563: See notes following RCW 82.32.780.

Findings—Savings—Effective date—2008 c 81: See notes following RCW 82.08.975.

Part headings not law—Savings—Effective date—Severability—2007 c 6: See notes following RCW 82.32.020.

Findings—Intent—2007 c 6: See note following RCW 82.14.495.

Effective date—2006 c 177 §§ 1-9: See note following RCW 82.04.250.

Part headings not law—Effective date—2005 c 274: See RCW 42.56.901 and 42.56.902.

Additional notes found at www.leg.wa.gov

82.32.340 Chargeoff of uncollectible taxes—Destruction of files and records. (1) Any tax or penalty which the department of revenue deems to be uncollectible may be transferred from accounts receivable to a suspense account and cease to be accounted an asset. Any item transferred shall continue to be a debt due the state from the taxpayer and may at any time within twelve years from the filing of a warrant covering such amount with the clerk of the superior court be transferred back to accounts receivable for the purpose of collection. The department of revenue may charge off as finally uncollectible any tax or penalty which it deems uncollectible at any time after twelve years from the date that the last tax return for the delinquent taxpayer was or should have been filed if the department of revenue is satisfied that there are no cost-effective means of collecting the tax or penalty.

After any tax or penalty has been charged off as finally uncollectible under the provisions of this section, the department of revenue may destroy any or all files and records pertaining to the liability of any taxpayer for such tax or penalty.

The department of revenue, subject to the approval of the state records committee, may at the expiration of five years after the close of any taxable year, destroy any or all files and records pertaining to the tax liability of any taxpayer for such taxable year, who has fully paid all taxes, penalties and interest for such taxable year, or any preceding taxable year for which such taxes, penalties and interest have been fully paid. In the event that such files and records are reproduced on film pursuant to RCW 40.20.020 for use in accordance with RCW 40.20.030, the original files and records may be destroyed immediately after reproduction and such reproductions may be destroyed at the expiration of the above five-year period, subject to the approval of the state records committee.

(2) Notwithstanding subsection (1) of this section, the department may charge off any tax within its jurisdiction to collect that is owed by a taxpayer, including any penalty or interest thereon, if the department ascertains that the cost of collecting that tax would be greater than the total amount which is owed or likely in the near future to be owed by, and collectible from, the taxpayer. [1989 c 78 § 3; 1985 c 414 § 1; 1979 1st ex.s. c 95 § 3; 1979 c 151 § 184; 1967 ex.s. c 89 § 4; 1965 ex.s. c 141 § 7; 1961 c 15 § 82.32.340. Prior: 1955 c 389 § 40; 1939 c 225 § 30; 1937 c 227 § 21; 1935 c 180 § 210(a); RRS § 8370-210a.]

82.32.350 Closing agreements authorized. The department may enter into an agreement in writing with any person relating to the liability of such person in respect of any tax imposed by any of the preceding chapters of this title for any taxable period or periods. [1971 ex.s. c 299 § 23; 1961 c 15 § 82.32.350. Prior: 1945 c 251 § 1; Rem. Supp. 1945 § 8370-225.]

Additional notes found at www.leg.wa.gov

82.32.360 Conclusive effect of agreements. Upon approval of such agreement, evidenced by execution thereof by the department of revenue and the person so agreeing, the agreement shall be final and conclusive as to tax liability or tax immunity covered thereby, and, except upon a showing of fraud or malfeasance, or of misrepresentation of a material fact:

(1) The case shall not be reopened as to the matters agreed upon, or the agreement modified, by any officer, employee, or agent of the state, or the taxpayer, and

(2) In any suit, action or proceeding, such agreement, or any determination, assessment, collection, payment, abatement, refund, or credit made in accordance therewith, shall not be annulled, modified, set aside, or disregarded. [1975 1st ex.s. c 278 § 93; 1961 c 15 § 82.32.360. Prior: 1945 c 251 § 2; Rem. Supp. 1945 § 8370-226.]

Additional notes found at www.leg.wa.gov

82.32.380 Revenues to be deposited in general fund. The state treasurer, upon receipt of any payments of tax, penalty, interest, or fees collected hereunder shall deposit them to the credit of the state general fund or such other fund as may be provided by law. [1961 c 15 § 82.32.380. Prior: 1945 c 249 § 10; 1943 c 156 § 12A, 1941 c 178 § 19(a); 1939 c 225 § 31; 1937 c 227 § 32; 1935 c 180 § 211; Rem. Supp. 1945 § 8370-211.]

82.32.393 Thermal electric generation facilities with tax exemptions for air pollution control equipment—Payments upon cessation of operation. ***(Expires December 31, 2015.)*** If a business is allowed an exemption under RCW 82.08.810, 82.12.810, 82.08.811, 82.12.811, or 84.36.487, and the business ceases operation of the facility for which the exemption is allowed, the business shall deposit into the general fund an amount equal to the fair market value of one-quarter of the total sulfur dioxide allowances authorized by federal law available to the facility at the time of cessation of operation of the generation facility as if the allowances were sold for a period of ten years following the time of cessation

of operation of the generation facility. This section expires December 31, 2015. [2012 c 198 § 6; 1997 c 368 § 12.]

Effective date—2012 c 198: See note following RCW 70.94.6532.

Findings—Intent—Rules adoption—Severability—Effective date—1997 c 368: See notes following RCW 82.08.810.

82.32.394 Revenues from sale or use of leaded racing fuel to be deposited into the advanced environmental mitigation revolving account. The department of revenue shall deposit into the advanced environmental mitigation revolving account, created in RCW 47.12.340, all moneys received from the imposition on consumers of the taxes under chapters 82.08 and 82.12 RCW on the sales or use of leaded racing fuel which is exempted from the motor vehicle fuel tax under *RCW 82.38.081. [1998 c 115 § 7.]

***Reviser's note:** RCW 82.38.081 was repealed by 2007 c 515 § 34.

Intent—1998 c 115 §§ 6 and 7: "It is the intent of the legislature that leaded racing fuel be exempted from payment of the motor vehicle fuel tax, as provided in RCW 82.38.081, since it is illegal for use on the public highways of the state under federal law. The legislature further intends that leaded racing fuel be subject to the retail sales and use taxes under chapters 82.08 and 82.12 RCW and that the revenue collected will be earmarked as provided in RCW 82.32.394." [1998 c 115 § 5.]

82.32.410 Written determinations as precedents. (1) The director may designate certain written determinations as precedents.

(a) By rule adopted pursuant to chapter 34.05 RCW, the director shall adopt criteria which he or she shall use to decide whether a determination is precedential. These criteria shall include, but not be limited to, whether the determination clarifies an unsettled interpretation of Title 82 RCW or where the determination modifies or clarifies an earlier interpretation.

(b) Written determinations designated as precedents by the director shall be made available for public inspection and shall be published by the department.

(c) The department shall disclose any written determination upon which it relies to support any assessment of tax, interest, or penalty against such taxpayer, after making the deletions provided by subsection (2) of this section.

(2) Before making a written determination available for public inspection under subsection (1) of this section, the department shall delete:

(a) The names, addresses, and other identifying details of the person to whom the written determination pertains and of another person identified in the written determination; and

(b) Information the disclosure of which is specifically prohibited by any statute applicable to the department of revenue, and the department may also delete other information exempted from disclosure by chapter 42.56 RCW or any other statute applicable to the department of revenue. [2005 c 274 § 362; 2001 c 320 § 10; 1997 c 409 § 211; 1991 c 330 § 2.]

Part headings not law—Effective date—2005 c 274: See RCW 42.56.901 and 42.56.902.

Additional notes found at www.leg.wa.gov

82.32.430 Liability for tax rate calculation errors—Geographic information system. (1) A person who collects and remits sales or use tax to the department and who calculates the tax using geographic information system technology developed and provided by the department shall be held harmless and is not liable for the difference in amount due nor subject to penalties or interest in regards to rate calculation errors resulting from the proper use of such technology.

(2) Except as provided in subsection (3) of this section, the department shall notify sellers who collect and remit sales or use tax to the department of changes in boundaries and rates to taxes imposed under the authority of chapter 82.14 RCW no later than sixty days before the effective date of the change.

(3) The department shall notify sellers who collect and remit sales or use tax to the department and make sales from printed catalogs of changes, as to such sales, of boundaries and rates to taxes imposed under the authority of chapter 82.14 RCW no later than one hundred twenty days before the effective date of the change.

(4) Sellers who have not received timely notice of rate and boundary changes under subsections (2) and (3) of this section due to actions or omissions of the department are not liable for the difference in the amount due until they have received the appropriate period of notice. Purchasers are liable for any uncollected amounts of tax.

(5)(a) Except as provided in (b) of this subsection, sellers registered with the department under RCW 82.32.030(3) and certified service providers must use the address-based geographic information technology system developed and provided by the department to calculate the tax to be collected and remitted to the department and to determine the appropriate local jurisdictions entitled to the tax.

(b)(i) Upon a showing that using the address-based geographic information technology system would cause undue hardship, a seller may be temporarily held harmless and not liable for the difference in amount due nor subject to penalties or interest in regards to rate calculation errors resulting from the proper use of zip code-based technology provided by the department for the period in which relief is granted. The department shall notify local taxing jurisdictions of the identity of sellers granted relief under this section and the period for which relief is granted.

(ii) The department shall reimburse local taxing jurisdictions for differences in amount due on account of such rate calculation errors occurring during the period in which relief is granted. Purchasers are liable for any uncollected amounts of tax. The department shall retain amounts collected from purchasers that have been reimbursed to local taxing jurisdictions under this subsection (5)(b)(ii). [2007 c 6 § 1501; 2003 c 168 § 207; 2001 c 320 § 11; 2000 c 104 § 4.]

Part headings not law—Savings—Effective date—Severability—2007 c 6: See notes following RCW 82.32.020.

Findings—Intent—2007 c 6: See note following RCW 82.14.495.

Findings—Intent—Effective date—2000 c 104: See notes following RCW 82.14.055.

Additional notes found at www.leg.wa.gov

82.32.440 Project on sales and use tax exemption requirements. (1) The department is authorized to enter into agreements with sellers who meet the criteria in this section for a project on sales and use tax exemption requirements. This project will allow the use of electronic data collection in lieu of paper certificates otherwise required by law, including the use of electronic signatures.

(2) The object of the project is to determine whether using an electronic system and reviewing the data regarding the exempt transactions provides the same level of reliability as the current system while lessening the burden on the seller.

(3) A business making both sales taxable and exempt under chapter 82.08 or 82.12 RCW, that has electronic data-collecting capabilities, and that wishes to participate in the project may make application to the department in such form and manner as the department may require. To be eligible for such participation, a seller must demonstrate its capability to take part in the project and to provide data to the department in a form in which the data can be used by the department. The department is not required to accept all applicants in this project and is not required to provide any reason for not selecting a participant. A seller selected as a participant may be relieved of other sales and use tax exemption documentation requirements provided by law as covered by the project. [2010 c 106 § 227; 2001 c 116 § 2.]

Effective date—2010 c 106: See note following RCW 35.102.145.

Findings—2001 c 116: "The legislature finds that current sales and use tax exemption documentation requirements are often confusing and burdensome for retailers, taxpayers, and the state. Additionally, the legislature notes the national efforts under way to simplify and streamline the sales and use tax, and that those efforts include a new system for retailers to use in processing sales and use tax exemptions. The legislature further finds that it would be beneficial to the state and its residents to allow for the simplification of sales and use tax exemption requirements." [2001 c 116 § 1.]

82.32.450 Natural or manufactured gas, electricity—Maximum combined credits and deferrals allowed—Availability of credits and deferrals. (1) The total combined credits and deferrals that may be taken under RCW 82.04.447, 82.12.024, and 82.16.0495 shall not exceed two million five hundred thousand dollars in any fiscal year. Each person is limited to no more than a total of one million five hundred thousand dollars in tax deferred and credit allowed in any fiscal year in which more than one person takes tax credits and claims tax deferral. The department may require reporting of the credits taken and amounts deferred in a manner and form as is necessary to keep a running total of the amounts.

(2) Credits and deferred tax are available on a first come basis. Priority for tax credits and deferrals among approved applicants shall be designated based on the first actual consumption of gas under RCW 82.04.447 or 82.12.024, or on the first actual use of electricity under RCW 82.16.0495, by each approved applicant. The department shall disallow any credits or deferred tax, or portion thereof, that would cause the total amount of credits taken and deferred taxes claimed to exceed the fiscal year cap or to exceed the per person fiscal year cap. If the fiscal cap is reached or exceeded[,] the department shall notify those persons who have approved applications under RCW 82.04.447, 82.12.024, and 82.16.0495 that no more credits may be taken or tax deferred during the remainder of the fiscal year. In addition, the department shall provide written notice to any person who has taken any tax credits or claimed any deferred tax in excess of the fiscal year cap. The notice shall indicate the amount of tax due and shall provide that the tax be paid within thirty days from the date of such notice.

(3) No portion of an application for credit or deferral disallowed under this section may be carried back or carried forward nor may taxes ineligible for credit or deferral due to the fiscal cap having been reached or exceeded be carried forward or carried backward. [2001 c 214 § 12.]

Findings—2001 c 214: See note following RCW 39.35.010.

Additional notes found at www.leg.wa.gov

82.32.470 Transfer of sales and use tax on toll projects. (1) The tax imposed and collected under chapters 82.08 and 82.12 RCW, less any credits allowed under chapter 82.14 RCW, on initial construction for a transportation project to be constructed under chapter 36.120 RCW, must be transferred to the transportation project to defray costs or pay debt service on that transportation project. In the case of a toll project, this transfer or credit must be used to lower the overall cost of the project and thereby the corresponding tolls.

(2) This transaction is exempt from the requirements in *RCW 43.135.035(4).

(3) Government entities constructing transportation projects under chapter 36.120 RCW shall report to the department the amount of state sales or use tax covered under this section. [2002 c 56 § 407.]

***Reviser's note:** RCW 43.135.035 was repealed by 2011 c 1 § 3 (Initiative Measure No. 1053) without cognizance of its amendment by 2010 c 4 § 2. 2010 c 4 § 2 was subsequently repealed by 2013 c 1 § 3 (Initiative Measure No. 1185, approved November 6, 2012).

Additional notes found at www.leg.wa.gov

82.32.480 Washington forest products commission—Disclosure of taxpayer information. The forest products commission, created pursuant to chapter 15.100 RCW, constitutes a state agency for purposes of applying the exemption contained in RCW 82.32.330(3)(e) for the disclosure of taxpayer information by the department. Disclosure of return or tax information may be made only to employees of the commission and not to commission members. Employees are authorized to use this information in accordance with RCW 15.100.100(4). Employees are subject to all civil and criminal penalties provided under RCW 82.32.330 for disclosures made to another person not entitled under the provisions of this section or RCW 15.100.100 to knowledge of such information. [2010 c 106 § 105; 2001 c 314 § 20.]

Effective date—2010 c 106: See note following RCW 35.102.145.

Findings—Construction—Severability—2001 c 314: See RCW 15.100.010, 15.100.900, and 15.100.901.

82.32.490 Electronic database for use by mobile telecommunications service provider. (1)(a) The department may provide an electronic database as described in this section to a mobile telecommunications service provider, or if the department does not provide an electronic database to mobile telecommunications service providers, then the designated database provider may provide an electronic database to a mobile telecommunications service provider.

(b)(i) An electronic database, whether provided by the department or the designated database provider, shall be provided in a format approved by the American national standards institute's accredited standards committee X12, that after allowing for de minimis deviations, designates for each street address in the state, including to the extent practicable, any multiple postal street addresses applicable to one street location, the appropriate taxing jurisdictions, and the appro-

priate code for each taxing jurisdiction, for each level of taxing jurisdiction, identified by one nationwide standard numeric code.

(ii) An electronic database shall also provide the appropriate code for each street address with respect to political subdivisions that are not taxing jurisdictions when reasonably needed to determine the proper taxing jurisdiction.

(iii) The nationwide standard numeric codes shall contain the same number of numeric digits with each digit or combination of digits referring to the same level of taxing jurisdiction throughout the United States using a format similar to FIPS 55-3 or other appropriate standard approved by the federation of tax administrators and the multistate tax commission, or their successors. Each address shall be provided in standard postal format.

(2) The department or designated database provider, as applicable, that provides or maintains an electronic database described in subsection (1) of this section shall provide notice of the availability of the then-current electronic database, and any subsequent revisions, by publication in the manner normally employed for the publication of informational tax, charge, or fee notices to taxpayers in the state.

(3) A mobile telecommunications service provider using the data contained in an electronic database described in subsection (1) of this section shall be held harmless from any tax, charge, or fee liability that otherwise would be due solely as a result of any error or omission in the database provided by the department or designated database provider. The mobile telecommunications service provider shall reflect changes made to the database during a calendar quarter not later than thirty days after the end of the calendar quarter if the department or designated database provider, as applicable, has issued notice of the availability of an electronic database reflecting the changes under subsection (2) of this section. [2002 c 67 § 11.]

Finding—Effective date—2002 c 67: See notes following RCW 82.04.530.

82.32.495 Liability of mobile telecommunications service provider if no database provided. (1) If neither the department nor the designated database provider provides an electronic database under RCW 82.32.490, a mobile telecommunications service provider shall be held harmless from any tax, charge, or fee liability in any taxing jurisdiction in this state that otherwise would be due solely as a result of an assignment of a street address to an incorrect taxing jurisdiction if, subject to RCW 82.32.500, the home service provider employs an enhanced zip code to assign each street address to a specific taxing jurisdiction for each level of taxing jurisdiction and exercises due diligence at each level of taxing jurisdiction to ensure that each street address is assigned to the correct taxing jurisdiction. If an enhanced zip code overlaps boundaries of taxing jurisdictions of the same level, the home service provider must designate one specific jurisdiction within the enhanced zip code for use in taxing the activity for such enhanced zip code for each level of taxing jurisdiction. Any enhanced zip code assignment changed in accordance with RCW 82.32.500 is deemed to be in compliance with this section. For purposes of this section, there is a rebuttable presumption that a home service provider has exercised due diligence if the home service provider demonstrates that it has:

(a) Expended reasonable resources to implement and maintain an appropriately detailed electronic database of street address assignments to taxing jurisdictions;

(b) Implemented and maintained reasonable internal controls to correct misassignments of street addresses to taxing jurisdictions promptly; and

(c) Used all reasonably obtainable and usable data pertaining to municipal annexations, incorporations, reorganizations, and any other changes in jurisdictional boundaries that materially affect the accuracy of the database.

(2) Subsection (1) of this section applies to a mobile telecommunications service provider that is in compliance with the requirements of subsection (1) of this section, if in this state an electronic database has not been provided under RCW 82.32.490, until the later of:

(a) Eighteen months after the nationwide standard numeric code described in RCW 82.32.490(1) has been approved by the federation of tax administrators and the multistate tax commission; or

(b) Six months after the department or a designated database provider in this state provides the database as prescribed in RCW 82.32.490(1). [2002 c 67 § 12.]

Finding—Effective date—2002 c 67: See notes following RCW 82.04.530.

82.32.500 Determination of taxing jurisdiction for telecommunications services. A taxing jurisdiction, or the department on behalf of any taxing jurisdiction or taxing jurisdictions within this state, may:

(1) Determine that the address used for purposes of determining the taxing jurisdictions to which taxes, charges, or fees for mobile telecommunications services are remitted does not meet the definition of place of primary use in RCW 82.04.065 and give binding notice to the home service provider to change the place of primary use on a prospective basis from the date of notice of determination. If the authority making the determination is not the department, the taxing jurisdiction must obtain the consent of all affected taxing jurisdictions within the state before giving the notice of determination. Before the taxing jurisdiction gives the notice of determination, the customer must be given an opportunity to demonstrate, in accordance with applicable state or local tax, charge, or fee administrative procedures, that the address is the customer's place of primary use; and

(2) Determine that the assignment of a taxing jurisdiction by a home service provider under RCW 82.32.495 does not reflect the correct taxing jurisdiction and give binding notice to the home service provider to change the assignment on a prospective basis from the date of notice of determination. If the authority making the determination is not the department, the taxing jurisdiction must obtain the consent of all affected taxing jurisdictions within the state before giving the notice of determination. The home service provider must be given an opportunity to demonstrate, in accordance with applicable state or local tax, charge, or fee administrative procedures, that the assignment reflects the correct taxing jurisdiction. [2002 c 67 § 13.]

Finding—Effective date—2002 c 67: See notes following RCW 82.04.530.

82.32.505 Telecommunications services—Place of primary use. (1) A home service provider is responsible for obtaining and maintaining information regarding the customer's place of primary use as defined in RCW 82.04.065. Subject to RCW 82.32.500, and if the home service provider's reliance on information provided by its customer is in good faith, a taxing jurisdiction shall:

(a) Allow a home service provider to rely on the applicable residential or business street address supplied by the home service provider's customer; and

(b) Not hold a mobile telecommunications service provider liable for any additional taxes, charges, or fees based on a different determination of the place of primary use.

(2) Except as provided in RCW 82.32.500, a taxing jurisdiction shall allow a home service provider to treat the address used by the home service provider for tax purposes for any customer under a service contract or agreement in effect on August 1, 2002, as that customer's place of primary use for the remaining term of the service contract or agreement, excluding any extension or renewal of the service contract or agreement, for purposes of determining the taxing jurisdictions to which taxes, charges, or fees on charges for mobile telecommunications services are remitted. [2002 c 67 § 14.]

Finding—Effective date—2002 c 67: See notes following RCW 82.04.530.

82.32.510 Scope of mobile telecommunications act—Identification of taxable and nontaxable charges. (1) Chapter 67, Laws of 2002 does not modify, impair, supersede, or authorize the modification, impairment, or supersession of any law allowing a taxing jurisdiction to collect a tax, charge, or fee from a customer that has failed to provide its place of primary use.

(2) If a taxing jurisdiction does not otherwise subject charges for mobile telecommunications services to taxation and if these charges are aggregated with and not separately stated from charges that are subject to taxation, then the charges for nontaxable mobile telecommunications services may be subject to taxation unless the mobile telecommunications service provider can reasonably identify charges not subject to the tax, charge, or fee from its books and records that are kept in the regular course of business.

(3) If a taxing jurisdiction does not subject charges for mobile telecommunications services to taxation, a customer may not rely upon the nontaxability of charges for mobile telecommunications services unless the customer's home service provider separately states the charges for nontaxable mobile telecommunications services from taxable charges or the home service provider elects, after receiving a written request from the customer in the form required by the provider, to provide verifiable data based upon the home service provider's books and records that are kept in the regular course of business that reasonably identifies the nontaxable charges. [2002 c 67 § 15.]

Finding—Effective date—2002 c 67: See notes following RCW 82.04.530.

82.32.515 Applicability of telephone and telecommunications definitions. The definitions in RCW 82.04.065 apply to RCW 82.32.490 through 82.32.510 and 35.21.873. [2002 c 67 § 17.]

Finding—Effective date—2002 c 67: See notes following RCW 82.04.530.

82.32.520 Sourcing of calls. (1) Except for the defined telecommunications services listed in subsection (3) of this section, the sale of telecommunications service as defined in RCW 82.04.065 sold on a call-by-call basis is sourced to (a) each level of taxing jurisdiction where the call originates and terminates in that jurisdiction or (b) each level of taxing jurisdiction where the call either originates or terminates and in which the service address is also located.

(2) Except for the defined telecommunications services listed in subsection (3) of this section, a sale of telecommunications service as defined in RCW 82.04.065 sold on a basis other than a call-by-call basis, is sourced to the customer's place of primary use.

(3) The sales of telecommunications service as defined in RCW 82.04.065 that are listed in subsection (3) of this section is sourced to each level of taxing jurisdiction as follows:

(a) A sale of mobile telecommunications services, other than air-ground radiotelephone service and prepaid calling service, is sourced to the customer's place of primary use as required by RCW 82.08.066.

(b) A sale of postpaid calling service is sourced to the origination point of the telecommunications signal as first identified by either (i) the seller's telecommunications system, or (ii) information received by the seller from its service provider, where the system used to transport such signals is not that of the seller.

(c) A sale of prepaid calling service or a sale of a prepaid wireless calling service is sourced as follows:

(i) When a prepaid calling service or a prepaid wireless calling service is received by the purchaser at a business location of the seller, the sale is sourced to that business location;

(ii) When a prepaid calling service or a prepaid wireless calling service is not received by the purchaser at a business location of the seller, the sale is sourced to the location where receipt by the purchaser or the purchaser's donee, designated as such by the purchaser, occurs, including the location indicated by instructions for delivery to the purchaser or donee, known to the seller;

(iii) When (c)(i) and (ii) of this subsection do not apply, the sale is sourced to the location indicated by an address for the purchaser that is available from the business records of the seller that are maintained in the ordinary course of the seller's business when use of this address does not constitute bad faith;

(iv) When (c)(i), (ii), and (iii) of this subsection do not apply, the sale is sourced to the location indicated by an address for the purchaser obtained during the consummation of the sale, including the address of a purchaser's payment instrument, if no other address is available, when use of this address does not constitute bad faith;

(v) When (c)(i), (ii), (iii), and (iv) of this subsection do not apply, including the circumstance where the seller is without sufficient information to apply those provisions, the sale is sourced as provided in RCW 82.32.730(1)(e);

(vi) In the case of a sale of prepaid wireless calling service, (c)(v) of this subsection includes as an option the location associated with the mobile telephone number.

(d) A sale of a private communication service is sourced as follows:

(i) Service for a separate charge related to a customer channel termination point is sourced to each level of jurisdiction in which such customer channel termination point is located.

(ii) Service where all customer termination points are located entirely within one jurisdiction or levels of jurisdiction is sourced in such jurisdiction in which the customer channel termination points are located.

(iii) Service for segments of a channel between two customer channel termination points located in different jurisdictions and which segment of channel are separately charged is sourced fifty percent in each level of jurisdiction in which the customer channel termination points are located.

(iv) Service for segments of a channel located in more than one jurisdiction or levels of jurisdiction and which segments are not separately billed is sourced in each jurisdiction based on the percentage determined by dividing the number of customer channel termination points in the jurisdiction by the total number of customer channel termination points.

(4) The definitions in this subsection apply throughout this chapter.

(a) "Air-ground radiotelephone service" means air-ground radio service, as defined in 47 C.F.R. Sec. 22.99, as amended or renumbered as of January 1, 2003, in which common carriers are authorized to offer and provide radio telecommunications service for hire to subscribers in aircraft.

(b) "Call-by-call basis" means any method of charging for telecommunications services where the price is measured by individual calls.

(c) "Communications channel" means a physical or virtual path of communications over which signals are transmitted between or among customer channel termination points.

(d) "Customer" means the person or entity that contracts with the seller of telecommunications services. If the end user of telecommunications services is not the contracting party, the end user of the telecommunications service is the customer of the telecommunications service. "Customer" does not include a reseller of telecommunications service or for mobile telecommunications service of a serving carrier under an agreement to serve the customer outside the home service provider's licensed service area.

(e) "Customer channel termination point" means the location where the customer either inputs or receives the communications.

(f) "End user" means the person who uses the telecommunications service. In the case of an entity, the term end user means the individual who uses the service on behalf of the entity.

(g) "Home service provider" means the same as that term is defined in RCW 82.04.065.

(h) "Mobile telecommunications service" means the same as that term is defined in RCW 82.04.065.

(i) "Place of primary use" means the street address representative of where the customer's use of the telecommunications service primarily occurs, which must be the residential street address or the primary business street address of the customer. In the case of mobile telecommunications services, "place of primary use" must be within the licensed service area of the home service provider.

(j) "Postpaid calling service" means the telecommunications service obtained by making a payment on a call-by-call basis either through the use of a credit card or payment mechanism such as a bank card, travel card, credit card, or debit card, or by charge made to a telephone number that is not associated with the origination or termination of the telecommunications service. A postpaid calling service includes a telecommunications service, except a prepaid wireless calling service, that would be a prepaid calling service except it is not exclusively a telecommunications service.

(k) "Prepaid calling service" means the right to access exclusively telecommunications services, which must be paid for in advance and which enables the origination of calls using an access number and/or authorization code, whether manually or electronically dialed, and that is sold in predetermined units or dollars of which the number declines with use in a known amount.

(l) "Prepaid wireless calling service" means a telecommunications service that provides the right to use mobile wireless service as well as other nontelecommunications services, including the download of digital products delivered electronically, content, and ancillary services, which must be paid for in advance that is sold in predetermined units or dollars of which the number declines with use in a known amount.

(m) "Private communication service" means a telecommunications service that entitles the customer to exclusive or priority use of a communications channel or group of channels between or among termination points, regardless of the manner in which such channel or channels are connected, and includes switching capacity, extension lines, stations, and any other associated services that are provided in connection with the use of such channel or channels.

(n) "Service address" means:

(i) The location of the telecommunications equipment to which a customer's call is charged and from which the call originates or terminates, regardless of where the call is billed or paid;

(ii) If the location in (n)(i) of this subsection is not known, the origination point of the signal of the telecommunications services first identified by either the seller's telecommunications system or in information received by the seller from its service provider, where the system used to transport such signals is not that of the seller;

(iii) If the locations in (n)(i) and (ii) of this subsection are not known, the location of the customer's place of primary use. [2010 c 106 § 228. Prior: 2007 c 54 § 18; 2007 c 6 § 1001; 2004 c 153 § 403; 2003 c 168 § 501.]

Effective date—2010 c 106: See note following RCW 35.102.145.

Severability—2007 c 54: See note following RCW 82.04.050.

Part headings not law—Savings—Effective date—Severability—2007 c 6: See notes following RCW 82.32.020.

Findings—Intent—2007 c 6: See note following RCW 82.14.495.

Additional notes found at www.leg.wa.gov

82.32.525 Purchaser's cause of action for over-collected sales or use tax. (1) A purchaser's cause of action against the seller for over-collected sales or use tax does not

accrue until the purchaser has provided written notice to the seller and the seller has sixty days to respond. The notice to the seller must contain the information necessary to determine the validity of the request.

(2) In connection with a purchaser's request from a seller for over-collected sales or use taxes, a seller shall be presumed to have a reasonable business practice, if in the collection of such sales or use taxes, the seller:

(a) Uses either a provider or a system, including a proprietary system, that is certified by the state; and

(b) Has remitted to the state all taxes collected less any deductions, credits, or collection allowances. [2004 c 153 § 408; 2003 c 168 § 211.]

Additional notes found at www.leg.wa.gov

82.32.530 Seller nexus. The department may not use registration under the streamlined sales and use tax agreement and collection of sales and use taxes in member states as a factor in determining whether the seller has nexus with Washington for any tax at any time. [2004 c 153 § 404; 2003 c 168 § 213.]

Additional notes found at www.leg.wa.gov

82.32.532 Digital products—Nexus. (1) For purposes of the taxes imposed in this title, the department of revenue may not consider a person's ownership of, or rights in, computer software as defined in RCW 82.04.215, including computer software used in providing a digital automated service; master copies of software; digital goods or digital codes residing on servers located in this state in determining whether the person has substantial nexus with this state.

(2) For purposes of this section, "substantial nexus" means the requisite connection that a person has with a state to allow the state to subject the person to the state's taxing authority, consistent with the commerce clause of the United States Constitution. [2010 c 111 § 701; 2009 c 535 § 901.]

Purpose—Retroactive application—Effective date—2010 c 111: See notes following RCW 82.04.050.

Intent—Construction—2009 c 535: See notes following RCW 82.04.192.

82.32.533 Digital products—Amnesty. (1) Except as provided in subsection (2) of this section, no person may be held liable for the failure to collect or pay state and local sales and use taxes accrued before July 26, 2009, on the sale or use of digital goods or of services defined as a retail sale in RCW 82.04.050(2)(a) and rendered in respect to digital goods.

(2) Subsection (1) of this section does not relieve any person from liability for state and local sales taxes that the person collected from buyers but did not remit to the department of revenue.

(3) Nothing in this section may be construed as authorizing the refund of state and local sales and use taxes properly paid on the sale or use, before July 26, 2009, of digital goods or of services defined as a retail sale in RCW 82.04.050(2)(a) and rendered in respect to digital goods.

(4) A person is not entitled to a credit or refund of any business and occupation tax paid in excess of that properly due as a result of the person paying tax on its income earned from the sale of eligible digital products and services at the tax rate provided in RCW 82.04.290(2)(a) rather than the tax rate provided in RCW 82.04.250(1), unless the person requesting the credit or refund has paid the proper amount of state and local sales taxes due on the sales of the eligible digital products and services that generated the income in respect to which the business and occupation tax credit or refund is sought. For purposes of this subsection, "eligible digital products and services" means: (a) Digital goods; and (b) services defined as a retail sale in RCW 82.04.050(2)(a) and rendered in respect to digital goods.

(5) For purposes of this section, "digital goods" has the same meaning as in RCW 82.04.192. [2010 c 111 § 801; 2009 c 535 § 1001.]

Purpose—Retroactive application—Effective date—2010 c 111: See notes following RCW 82.04.050.

Intent—Construction—2009 c 535: See notes following RCW 82.04.192.

82.32.534 Annual report requirement for tax preferences. (1)(a) Every person claiming a tax preference that requires a report under this section must file a complete annual report with the department. The report is due by April 30th of the year following any calendar year in which a person becomes eligible to claim the tax preference that requires a report under this section. The department may extend the due date for timely filing of annual reports under this section as provided in RCW 82.32.590.

(b) The report must include information detailing employment, wages, and employer-provided health and retirement benefits for employment positions in Washington for the year that the tax preference was claimed. However, persons engaged in manufacturing commercial airplanes or components of such airplanes may report employment, wage, and benefit information per job at the manufacturing site for the year that the tax preference was claimed. The report must not include names of employees. The report must also detail employment by the total number of full-time, part-time, and temporary positions for the year that the tax preference was claimed.

(c) Persons receiving the benefit of the tax preference provided by RCW 82.16.0421 or claiming any of the tax preferences provided by RCW 82.04.2909, 82.04.4481, 82.08.805, 82.12.805, or 82.12.022(5) must indicate on the annual report the quantity of product produced in this state during the time period covered by the report.

(d) If a person filing a report under this section did not file a report with the department in the previous calendar year, the report filed under this section must also include employment, wage, and benefit information for the calendar year immediately preceding the calendar year for which a tax preference was claimed.

(2) As part of the annual report, the department may request additional information necessary to measure the results of, or determine eligibility for, the tax preference.

(3) Other than information requested under subsection (2) of this section, the information contained in an annual report filed under this section is not subject to the confidentiality provisions of RCW 82.32.330 and may be disclosed to the public upon request.

(4) Except as otherwise provided by law, if a person claims a tax preference that requires an annual report under this section but fails to submit a complete report by the due

date or any extension under RCW 82.32.590, the department must declare the amount of the tax preference claimed for the previous calendar year to be immediately due and payable. The department must assess interest, but not penalties, on the amounts due under this subsection. The interest must be assessed at the rate provided for delinquent taxes under this chapter, retroactively to the date the tax preference was claimed, and accrues until the taxes for which the tax preference was claimed are repaid. Amounts due under this subsection are not subject to the confidentiality provisions of RCW 82.32.330 and may be disclosed to the public upon request.

(5) The department must use the information from this section to prepare summary descriptive statistics by category. No fewer than three taxpayers may be included in any category. The department must report these statistics to the legislature each year by December 1st.

(6) For the purposes of this section:

(a) "Person" has the meaning provided in RCW 82.04.030 and also includes the state and its departments and institutions.

(b) "Tax preference" has the meaning provided in RCW 43.136.021 and includes only the tax preferences requiring a survey under this section. [2014 c 97 § 102; 2010 c 114 § 103.]

Annual surveys and reports—Recommendations to update and improve—2013 2nd sp.s. c 13: "By December 1, 2013, the department of revenue, in consultation with the joint legislative audit and review committee, must make recommendations to the appropriate fiscal committees of the legislature on ways to update and improve the annual report and annual survey. The recommendations must include suggested revisions to the report and survey that would make the data more relevant and reduce the administrative burden on the taxpayer." [2013 2nd sp.s. c 13 § 1801.]

Application—Finding—Intent—2010 c 114: See notes following RCW 82.32.585.

82.32.550 "Commercial airplane," "component," and "superefficient airplane"—Definitions. (1) "Commercial airplane" has its ordinary meaning, which is an airplane certified by the federal aviation administration for transporting persons or property, and any military derivative of such an airplane.

(2) "Component" means a part or system certified by the federal aviation administration for installation or assembly into a commercial airplane.

(3) "Superefficient airplane" means a twin aisle airplane that carries between two hundred and three hundred fifty passengers, with a range of more than seven thousand two hundred nautical miles, a cruising speed of approximately mach .85, and that uses fifteen to twenty percent less fuel than other similar airplanes on the market. [2010 1st sp.s. c 23 § 517; 2008 c 81 § 12; 2007 c 54 § 20; 2003 2nd sp.s. c 1 § 17.]

Effective date—2010 1st sp.s. c 23: See note following RCW 82.04.4292.

Findings—Intent—2010 1st sp.s. c 23: See notes following RCW 82.04.220.

Findings—Savings—Effective date—2008 c 81: See notes following RCW 82.08.975.

Severability—2007 c 54: See note following RCW 82.04.050.

Finding—2003 2nd sp.s. c 1: See note following RCW 82.04.4461.

82.32.555 Telecommunications and ancillary services taxes—Identification of taxable and nontaxable charges. If a taxing jurisdiction does not subject some charges for ancillary services or telecommunications service, as those terms are defined in RCW 82.04.065, to taxation, but these charges are aggregated with and not separately stated from charges that are subject to taxation, then the charges for nontaxable ancillary services or telecommunications service, as those terms are defined in RCW 82.04.065, may be subject to taxation unless the telecommunications service provider or ancillary services provider can reasonably identify charges not subject to the tax, charge, or fee from its books and records that are kept in the regular course of business and for purposes other than merely allocating the sales price of an aggregated charge to the individually aggregated items. [2007 c 54 § 21; 2007 c 6 § 1011; 2004 c 76 § 1.]

Reviser's note: This section was amended by 2007 c 6 § 1011 and by 2007 c 54 § 21, each without reference to the other. Both amendments are incorporated in the publication of this section under RCW 1.12.025(2). For rule of construction, see RCW 1.12.025(1).

Severability—2007 c 54: See note following RCW 82.04.050.

Part headings not law—Savings—Effective date—Severability—2007 c 6: See notes following RCW 82.32.020.

Findings—Intent—2007 c 6: See note following RCW 82.14.495.

82.32.580 Sales and use tax deferral—Historic automobile museum. (1) The governing board of a nonprofit organization, corporation, or association may apply for deferral of taxes on an eligible project. Application shall be made to the department in a form and manner prescribed by the department. The application shall contain information regarding the location of the project, estimated or actual costs of the project, time schedules for completion and operation of the project, and other information required by the department. The department shall rule on the application within sixty days. All applications for the tax deferral under this section must be received no later than December 31, 2008.

(2) The department shall issue a sales and use tax deferral certificate for state and local sales and use taxes due under chapters 82.08, 82.12, and 82.14 RCW on each eligible project.

(3) The nonprofit organization, corporation, or association shall begin paying the deferred taxes in the fifth year after the date certified by the department as the date on which the eligible project is operationally complete. The first payment is due on December 31st of the fifth calendar year after such certified date, with subsequent annual payments due on December 31st of the following nine years. Each payment shall equal ten percent of the deferred tax.

(4) The department may authorize an accelerated repayment schedule upon request of the nonprofit organization, corporation, or association.

(5) Except as provided in subsection (6) of this section, interest shall not be charged on any taxes deferred under this section for the period of deferral. The debt for deferred taxes is not extinguished by insolvency or other failure of the nonprofit organization, corporation, or association.

(6) If the project is not operationally complete within five calendar years from issuance of the tax deferral or if at any time the department finds that the project is not eligible for tax deferral under this section, the amount of deferred taxes outstanding for the project shall be immediately due and payable. If deferred taxes must be repaid under this subsection, the department shall assess interest, but not penalties,

on amounts due under this subsection. Interest shall be assessed at the rate provided for delinquent taxes under this chapter, retroactively to the date of deferral, and shall accrue until the deferred taxes due are repaid.

(7) Applications and any other information received by the department of revenue under this section are not confidential under RCW 82.32.330. This chapter applies to the administration of this section.

(8) This section applies to taxable eligible project activity that occurs on or after July 1, 2007.

(9) The following definitions apply to this section:

(a) "Eligible project" means a project that is used primarily for a historic automobile museum.

(b) "Historic automobile museum" means a facility owned and operated by a nonprofit organization, corporation, or association that is used to maintain and exhibit to the public a collection of at least five hundred motor vehicles.

(c) "Nonprofit organization, corporation, or association" means an organization, corporation, or association exempt from tax under section 501(c) (3), (4), or (10) of the federal internal revenue code (26 U.S.C. Sec. 501(c) (3), (4), or (10)).

(d) "Project" means the construction of new structures, the acquisition and installation of fixtures that are permanently affixed to and become a physical part of those structures, and site preparation. For purposes of this subsection, structures do not include parking facilities used for motor vehicles that are not on display or part of the museum collection.

(e) "Site preparation" includes soil testing, site clearing and grading, demolition, or any other related activities that are initiated before construction. Site preparation does not include landscaping services or landscaping materials. [2005 c 514 § 701.]

Effective date—2005 c 514 § 701: "Section 701 of this act takes effect July 1, 2007." [2005 c 514 § 1306.]

Part headings not law—Severability—2005 c 514: See notes following RCW 82.12.808.

82.32.585 Annual survey requirement for tax preferences. (1)(a) Every person claiming a tax preference that requires a survey under this section must file a complete annual survey with the department.

(i) Except as provided in (a)(ii) of this subsection, the survey is due by April 30th of the year following any calendar year in which a person becomes eligible to claim the tax preference that requires a survey under this section.

(ii) If the tax preference is a deferral of tax, the first survey must be filed by April 30th of the calendar year following the calendar year in which the investment project is certified by the department as operationally complete, and a survey must be filed by April 30th of each of the seven succeeding calendar years.

(b) The department may extend the due date for timely filing of annual surveys under this section as provided in RCW 82.32.590.

(2)(a) The survey must include the amount of the tax preference claimed for the calendar year covered by the survey. For a person that claimed an exemption provided in RCW 82.08.025651 or 82.12.025651, the survey must include the amount of tax exempted under those sections in the prior calendar year for each general area or category of research and development for which exempt machinery and equipment and labor and services were acquired in the prior calendar year.

(b) The survey must also include the following information for employment positions in Washington, not to include names of employees, for the year that the tax preference was claimed:

(i) The number of total employment positions;

(ii) Full-time, part-time, and temporary employment positions as a percent of total employment;

(iii) The number of employment positions according to the following wage bands: Less than thirty thousand dollars; thirty thousand dollars or greater, but less than sixty thousand dollars; and sixty thousand dollars or greater. A wage band containing fewer than three individuals may be combined with another wage band; and

(iv) The number of employment positions that have employer-provided medical, dental, and retirement benefits, by each of the wage bands.

(c) For persons claiming the tax preference provided under chapter 82.60 or 82.63 RCW, the survey must also include the number of new products or research projects by general classification, and the number of trademarks, patents, and copyrights associated with activities at the investment project.

(d) For persons claiming the credit provided under RCW 82.04.4452, the survey must also include the qualified research and development expenditures during the calendar year for which the credit was claimed, the taxable amount during the calendar year for which the credit was claimed, the number of new products or research projects by general classification, the number of trademarks, patents, and copyrights associated with the research and development activities for which the credit was claimed, and whether the tax preference has been assigned, and who assigned the credit. The definitions in RCW 82.04.4452 apply to this subsection (2)(d).

(e) For persons claiming the tax exemption in RCW 82.08.025651 or 82.12.025651, the survey must also include the general areas or categories of research and development for which machinery and equipment and labor and services were acquired, exempt from tax under RCW 82.08.025651 or 82.12.025651, in the prior calendar year.

(f) If the person filing a survey under this section did not file a survey with the department in the previous calendar year, the survey filed under this section must also include the employment, wage, and benefit information required under (b)(i) through (iv) of this subsection for the calendar year immediately preceding the calendar year for which a tax preference was claimed.

(3) As part of the annual survey, the department may request additional information necessary to measure the results of, or determine eligibility for, the tax preference.

(4) All information collected under this section, except the information required in subsection (2)(a) of this section, is deemed taxpayer information under RCW 82.32.330. Information required in subsection (2)(a) of this section is not subject to the confidentiality provisions of RCW 82.32.330 and may be disclosed to the public upon request, except as provided in subsection (5) of this section. If the amount of the tax preference claimed as reported on the survey is different

than the amount actually claimed or otherwise allowed by the department based on the taxpayer's excise tax returns or other information known to the department, the amount actually claimed or allowed may be disclosed.

(5) Persons for whom the actual amount of the tax reduced or saved is less than ten thousand dollars during the period covered by the survey may request the department to treat the amount of the tax reduction or savings as confidential under RCW 82.32.330.

(6)(a) Except as otherwise provided by law, if a person claims a tax preference that requires an annual survey under this section but fails to submit a complete annual survey by the due date of the survey or any extension under RCW 82.32.590, the department must declare the amount of the tax preference claimed for the previous calendar year to be immediately due. If the tax preference is a deferral of tax, twelve and one-half percent of the deferred tax is immediately due. If the economic benefits of the deferral are passed to a lessee, the lessee is responsible for payment to the extent the lessee has received the economic benefit.

(b) The department must assess interest, but not penalties, on the amounts due under this subsection. The interest must be assessed at the rate provided for delinquent taxes under this chapter, retroactively to the date the tax preference was claimed, and accrues until the taxes for which the tax preference was claimed are repaid. Amounts due under this subsection are not subject to the confidentiality provisions of RCW 82.32.330 and may be disclosed to the public upon request.

(7) The department must use the information from this section to prepare summary descriptive statistics by category. No fewer than three taxpayers may be included in any category. The department must report these statistics to the legislature each year by December 1st.

(8) For the purposes of this section:

(a) "Person" has the meaning provided in RCW 82.04.030 and also includes the state and its departments and institutions.

(b) "Tax preference" has the meaning provided in RCW 43.136.021 and includes only the tax preferences requiring a survey under this section. [2014 c 97 § 103; 2011 c 23 § 6; 2010 c 114 § 102.]

Annual surveys and reports—Recommendations to update and improve—2013 2nd sp.s. c 13: See note following RCW 82.32.534.

Findings—2011 c 23: See note following RCW 82.08.02565.

Effective date—Construction—2011 c 23: See notes following RCW 82.08.025651.

Application—2010 c 114: "Those provisions of sections 101 through 103, 105 through 109, 111 through 116, 118 through 122, 124, 126 through 128, 130, 132 through 149, and 151 through 153 of this act that relate to annual surveys and annual reports apply beginning with annual surveys and annual reports due in 2011 and thereafter." [2010 c 114 § 203.]

Finding—Intent—2010 c 114: "(1) The legislature finds that accountability and effectiveness are important aspects of setting tax policy. In order to make policy choices regarding the best use of limited state resources, the legislature needs information on how a tax preference is used. In recent years, the legislature has enacted or extended numerous tax preferences that require the reporting of information to the department of revenue. Although there are many similarities in the requirements, and only two distinct accountability documents, there is a lack of uniformity in the information reported, penalties for failure to file, due dates, filing extensions, and filing requirements. Greater uniformity in the data reported is necessary to adequately compare tax preference programs. The legislature intends to create two sets of uniform reporting requirements that apply to the existing tax preferences and can be used in future legislation granting additional tax preferences.

(2) The legislative fiscal committees or the department of revenue are required to study many of the existing tax preferences and report to the legislature at least once. Because chapter 43.136 RCW now requires the joint legislative audit and review committee, with support from the department of revenue, to comprehensively review most tax preferences every ten years and provide a report to the legislature, a number of redundant studies by the legislative fiscal committees and the department of revenue have been eliminated. However, the department of revenue will continue to prepare summary descriptive statistics by category and report the statistics to the legislature each year." [2010 c 114 § 101.]

82.32.590 Annual surveys or reports for tax incentives—Failure to file. (1) If the department finds that the failure of a taxpayer to file an annual survey under RCW 82.32.585 or annual report under RCW 82.32.534 by the due date was the result of circumstances beyond the control of the taxpayer, the department must extend the time for filing the survey or report. The extension is for a period of thirty days from the date the department issues its written notification to the taxpayer that it qualifies for an extension under this section. The department may grant additional extensions as it deems proper.

(2) In making a determination whether the failure of a taxpayer to file an annual survey or annual report by the due date was the result of circumstances beyond the control of the taxpayer, the department must be guided by rules adopted by the department for the waiver or cancellation of penalties when the underpayment or untimely payment of any tax was due to circumstances beyond the control of the taxpayer.

(3)(a) Subject to the conditions in this subsection (3), a taxpayer who fails to file an annual report or annual survey required under subsection (1) of this section by the due date of the report or survey is entitled to an extension of the due date. A request for an extension under this subsection (3) must be made in writing to the department.

(b) To qualify for an extension under this subsection (3), a taxpayer must have filed all annual reports and surveys, if any, due in prior years under subsection (1) of this section by their respective due dates, beginning with annual reports and surveys due in calendar year 2010.

(c) An extension under this subsection (3) is for ninety days from the original due date of the annual report or survey.

(d) No taxpayer may be granted more than one ninety-day extension under this subsection (3). [2011 c 174 § 306. Prior: 2010 c 137 § 1; 2010 c 114 § 135; 2009 c 461 § 7; prior: 2008 c 81 § 13; 2008 c 15 § 7; prior: 2006 c 354 § 17; 2006 c 300 § 10; 2006 c 177 § 8; 2006 c 112 § 7; 2006 c 84 § 7; 2005 c 514 § 1001.]

Application—2010 c 137: "Section 1 of this act applies to annual surveys and reports due under any of the statutes listed in RCW 82.32.590(1) in calendar year 2011 and thereafter." [2010 c 137 § 2.]

Application—Finding—Intent—2010 c 114: See notes following RCW 82.32.585.

Effective date—Contingent effective date—2009 c 461: See note following RCW 82.04.280.

Findings—Savings—Effective date—2008 c 81: See notes following RCW 82.08.975.

Effective date—2008 c 15: See note following RCW 82.82.010.

Effective dates—2006 c 354: See note following RCW 82.04.4268.

Effective dates—Contingent effective date—2006 c 300: See note following RCW 82.04.261.

Effective date—2006 c 177 §§ 1-9: See note following RCW 82.04.250.

Severability—2006 c 112: See RCW 28B.67.901.

Effective date—2006 c 84 §§ 2-8: See note following RCW 82.04.2404.

Findings—Intent—2006 c 84: See note following RCW 82.04.2404.

Retroactive application—2005 c 514 § 1001: "Section 1001 of this act applies retroactively to annual surveys required under RCW 82.04.4452 that are due after December 31, 2004." [2005 c 514 § 1312.]

Effective date—2005 c 514: See note following RCW 82.04.4272.

Part headings not law—Severability—2005 c 514: See notes following RCW 82.12.808.

82.32.600 Annual surveys or reports for tax incentives—Electronic filing. (1) Persons required to file annual surveys or annual reports under RCW 82.32.534 or 82.32.585 must electronically file with the department all surveys, reports, returns, and any other forms or information the department requires in an electronic format as provided or approved by the department. As used in this section, "returns" has the same meaning as "return" in RCW 82.32.050.

(2) Any survey, report, return, or any other form or information required to be filed in an electronic format under subsection (1) of this section is not filed until received by the department in an electronic format.

(3) The department may waive the electronic filing requirement in subsection (1) of this section for good cause shown. [2010 c 114 § 136; 2009 c 461 § 8. Prior: 2008 c 81 § 14; 2008 c 15 § 8; prior: 2007 c 54 § 23; 2007 c 54 § 22; prior: 2006 c 354 § 16; 2006 c 300 § 11; 2006 c 178 § 9; 2006 c 177 § 9; 2006 c 84 § 8; 2005 c 514 § 1002.]

Application—Finding—Intent—2010 c 114: See notes following RCW 82.32.585.

Effective date—Contingent effective date—2009 c 461: See note following RCW 82.04.280.

Findings—Savings—Effective date—2008 c 81: See notes following RCW 82.08.975.

Effective date—2008 c 15: See note following RCW 82.82.010.

Severability—2007 c 54: See note following RCW 82.04.050.

Effective dates—2006 c 354: See note following RCW 82.04.4268.

Effective dates—Contingent effective date—2006 c 300: See note following RCW 82.04.261.

Effective date—Severability—2006 c 178: See notes following RCW 82.75.010.

Effective date—2006 c 177 §§ 1-9: See note following RCW 82.04.250.

Effective date—2006 c 84 §§ 2-8: See note following RCW 82.04.2404.

Findings—Intent—2006 c 84: See note following RCW 82.04.2404.

Effective date—2005 c 514 §§ 501 and 1002: See note following RCW 82.04.4463.

Part headings not law—Severability—2005 c 514: See notes following RCW 82.12.808.

82.32.605 Annual survey—Hog fuel. ***(Expires June 30, 2024.)*** (1) Every taxpayer claiming an exemption under RCW 82.08.956 or 82.12.956 must file with the department a complete annual survey as required under RCW 82.32.585, except that the taxpayer must file a separate survey for each facility owned or operated in the state of Washington.

(2) This section expires June 30, 2024. [2013 2nd sp.s. c 13 § 1004.]

Intent—2013 2nd sp.s. c 13: See note following RCW 82.08.956.

Effective date—2013 2nd sp.s. c 13: See note following RCW 82.08.200.

82.32.607 Annual survey for tax exemption for sales of machinery and equipment used in generating electricity. Every taxpayer claiming an exemption under RCW 82.08.962 or 82.12.962 must file with the department a complete annual survey as required under RCW 82.32.585, except that the taxpayer must file a separate survey for each facility owned or operated in the state of Washington developed with machinery, equipment, services, or labor for which the exemption under RCW 43.136.058, 82.08.962, and 82.12.962 is claimed. [2013 2nd sp.s. c 13 § 1503.]

Intent—2013 2nd sp.s. c 13: See note following RCW 82.08.962.

Effective date—2013 2nd sp.s. c 13: See note following RCW 82.08.200.

82.32.655 Tax avoidance. (1) It is the legislature's intent to require all taxpayers to pay their fair share of taxes. To accomplish this purpose, it is the legislature's intent to stop transactions or arrangements that are designed to unfairly avoid taxes.

(2) The department must disregard, for tax purposes, the tax avoidance transactions or arrangements that are described in subsection (3) of this section. The department must deny the tax benefit that would otherwise result from the tax avoidance transaction or arrangement. In determining whether the department must disregard a transaction or arrangement described under subsection (3) of this section, the department may consider:

(a) Whether an arrangement or transaction changes in a meaningful way, apart from its tax effects, the economic positions of the participants in the arrangement when considered as a whole;

(b) Whether substantial nontax reasons exist for entering into an arrangement or transaction;

(c) Whether an arrangement or transaction is a reasonable means of accomplishing a substantial nontax purpose;

(d) An entities' relative contributions to the work that generates income;

(e) The location where work is performed; and

(f) Other relevant factors.

(3) This section applies only to the following transactions or arrangements:

(a) Arrangements that are, in form, a joint venture or similar arrangement between a construction contractor and the owner or developer of a construction project but that are, in substance, substantially guaranteed payments for the purchase of construction services characterized by a failure of the parties' agreement to provide for the contractor to share substantial profits and bear significant risk of loss in the venture;

(b) Arrangements through which a taxpayer attempts to avoid tax under chapter 82.04 RCW by disguising income received, or otherwise avoiding tax on income, from a person that is not affiliated with the taxpayer from business activities that would be taxable in Washington by moving that income to another entity that would not be taxable in Washington; and

(c) Arrangements through which a taxpayer attempts to avoid tax under chapter 82.08 or 82.12 RCW by engaging in a transaction to disguise its purchase or use of tangible personal property by vesting legal title or other ownership interest in another entity over which the taxpayer exercises control in such a manner as to effectively retain control of the tangible personal property.

(4) In determining whether a transaction or arrangement comes within the scope of subsection (3) of this section, the department is not required to prove a taxpayer's subjective intent in engaging in the transaction or arrangement.

(5) The department must adopt rules to assist in determining whether a transaction or arrangement is within the scope of subsection (3) of this section. The adoption of a rule as required under this subsection is not a condition precedent for the department's exercise of the authority provided in this section. Any rules adopted under this section must include examples of transactions that the department will disregard for tax purposes.

(6) This section does not affect the department's authority to apply any other remedies available under statutory or common law.

(7) For purposes of this section, "affiliated" means under common control. "Control" means the possession, directly or indirectly, of more than fifty percent of the power to direct or cause the direction of the management and policies of a person, whether through the ownership of voting shares, by contract, or otherwise. [2010 1st sp.s. c 23 § 201.]

Application—2010 1st sp.s. c 23 §§ 201 and 202: "Except as provided in section 202 of this act, section 201 of this act applies to tax periods beginning January 1, 2006." [2010 1st sp.s. c 23 § 1703.]

Effective date—2010 1st sp.s. c 23: "Except as otherwise provided in this act, this act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and takes effect May 1, 2010." [2010 1st sp.s. c 23 § 1708.]

Findings--Intent—2010 1st sp.s. c 23: See notes following RCW 82.04.220.

82.32.660 Tax avoidance—Statutory application. (1)(a) The department may not use RCW 82.32.655 to disregard any transaction or arrangement initiated before May 1, 2010, if, in respect to such transaction or arrangement, the taxpayer had reported its tax liability in conformance with either specific written instructions provided by the department to the taxpayer, a determination published under the authority of RCW 82.32.410, or other document made available by the department to the general public.

(b) This section does not apply if the transaction or arrangement engaged in by the taxpayer differs materially from the transaction or arrangement that was addressed in the specific written instructions, published determination, or other document made available by the department to the general public.

(2) RCW 82.32.655 does not apply to any tax periods ending before May 1, 2010, that were included in a completed field audit conducted by the department.

(3) For purposes of this section, "specific written instructions" means tax reporting instructions provided to a taxpayer and which specifically identify the taxpayer to whom the instructions apply. Specific written instructions may be provided as part of an audit, tax assessment, determination, closing agreement, or in response to a binding ruling request. [2010 1st sp.s. c 23 § 202.]

Application—2010 1st sp.s. c 23 §§ 201 and 202: See note following RCW 82.32.655.

Effective date—2010 1st sp.s. c 23: See note following RCW 82.32.655.

Findings—Intent—2010 1st sp.s. c 23: See notes following RCW 82.04.220.

82.32.670 Tax evasion by electronic means—Seizure and forfeiture. (1)(a) Automated sales suppression devices, phantom-ware, electronic cash registers or point of sale systems used with automated sales suppression devices or phantom-ware, and any property constituting proceeds traceable to any violation of RCW 82.32.290(4) are considered contraband and are subject to seizure and forfeiture.

(b) Property subject to forfeiture under (a) of this subsection (1) may be seized by any agent of the department authorized to assess or collect taxes, or law enforcement officer of this state, upon process issued by any superior court or district court having jurisdiction over the property. Seizure without process may be made if:

(i) The seizure is incident to an arrest or a search under a search warrant; or

(ii) The department or the law enforcement officer has probable cause to believe that the property was used or is intended to be used in violation of RCW 82.32.290(4) and exigent circumstances exist making procurement of a search warrant impracticable.

(2) Forfeiture authorized by this section is deemed to have commenced by the seizure. Notice of seizure must be given to the department if the seizure is made by a law enforcement officer without the presence of any agent of the department. The department must cause notice of the seizure and intended forfeiture to be served on the owner of the property seized, if known, and on any other person known by the department to have a right or interest in the seized property. Such service must be made within fifteen days following the seizure or the department's receipt of notification of the seizure. The notice may be served by any method authorized by law or court rule, by certified mail with return receipt requested, or electronically in accordance with RCW 82.32.135. Service by certified mail or electronic means is deemed complete upon mailing the notice, electronically sending the notice, or electronically notifying the person or persons entitled to the notice that the notice is available to be accessed by the person or persons, within the fifteen-day period following the seizure or the department's receipt of notification of the seizure.

(3) If no person notifies the department in writing of the person's claim of lawful ownership or right to lawful possession of the item or items seized within thirty days of the date of service of the notice of seizure and intended forfeiture, the item or items seized are deemed forfeited.

(4)(a) If any person notifies the department, in writing, of the person's claim of lawful ownership or lawful right to possession of the item or items seized within thirty days of the date of service of the notice of seizure and intended forfeiture, the person or persons must be afforded a reasonable opportunity to be heard as to the claim. The hearing must be before the director or the director's designee. A hearing and

any administrative or judicial review is governed by chapter 34.05 RCW. The burden of proof by a preponderance of the evidence is upon the person claiming to be the lawful owner or the person claiming to have the lawful right to possession of the item or items seized.

(b) The department must return the item or items to the claimant as soon as possible upon a determination that the claimant is the present lawful owner or is lawfully entitled to possession of the item or items seized.

(5) When property is sought to be forfeited on the ground that it constitutes proceeds traceable to a violation of RCW 82.32.290(4), the department must prove by a preponderance of the evidence that the property constitutes proceeds traceable to a violation of RCW 82.32.290(4).

(6)(a) When property forfeited under this section, other than proceeds traceable to a violation of RCW 82.32.290(4), is no longer required for evidentiary purposes, the department may:

(i) Destroy or have the property destroyed;

(ii) Retain the property for training or other official purposes; or

(iii) Loan or give the property to any law enforcement or tax administration agency of any state, political subdivision or municipal corporation of a state, or the United States for training or other official purposes. For purposes of this subsection (6)(a)(iii), "state" has the same meaning as in RCW 82.04.462.

(b) When proceeds traceable to a violation of RCW 82.32.290(4) forfeited under this section are no longer required for evidentiary purposes, they must be deposited into the general fund.

(7) The definitions in this subsection apply to this section:

(a) "Automated sales suppression device" means a software program that falsifies the electronic records of electronic cash registers or other point of sale systems, including transaction data and transaction reports. The term includes the software program, any device that carries the software program, or an internet link to the software program.

(b) "Electronic cash register" means a device that keeps a register or supporting documents through the means of an electronic device or computer system designed to record transaction data for the purpose of computing, compiling, or processing sales transaction data in whatever manner.

(c) "Phantom-ware" means a programming option that is hidden, preinstalled, or installed-at-a-later-time in the operating system of an electronic cash register or other point of sale device, or hardwired into the electronic cash register or other point of sale device, and that can be used to create a virtual second till or may eliminate or manipulate transaction reports that may or may not be preserved in digital formats to represent the true or manipulated record of transactions in the electronic cash register or other point of sale device.

(d) "Transaction data" means information about sales transactions, including items purchased by a customer, the price for each item, a taxability determination for each item, a segregated tax amount for each of the taxed items, the amount of cash or credit tendered, the net amount returned to the customer in change, the date and time of the purchase, the name, address, and identification number of the vendor, and the receipt or invoice number of the transaction.

(e) "Transaction reports" means a report that includes information associated with sales transactions, taxes collected, media totals, and discount voids at an electronic cash register that can be printed on cash register tape at the end of a day or shift, or a report documenting every action at an electronic cash register or other point of sale device and that is stored electronically. [2013 c 309 § 3.]

82.32.680 Tax evasion by electronic means—Search and seizure. When the department has good reason to believe that any property subject to seizure and forfeiture under RCW 82.32.670 is being used or maintained in this state in violation of RCW 82.32.290(4)(a), the department may make affidavit of facts describing the place or thing to be searched before any judge of any superior or district court in this state. The judge may issue a search warrant directed to a law enforcement officer or agent of the department authorized under RCW 82.32.670 to seize contraband, commanding him or her to diligently search any place or thing as designated in the affidavit and search warrant, and to seize such suspected contraband and hold it until disposed of as provided by RCW 82.32.670. [2013 c 309 § 4.]

82.32.700 Administration of the sales and use tax for hospital benefit zones. (1) As a condition to imposing a sales and use tax under RCW 82.14.465, a city, town, or county must apply to the department at least seventy-five days before the effective date of any such tax. The application shall be in a form and manner prescribed by the department and shall include but is not limited to information establishing that the applicant is eligible to impose such a tax, the anticipated effective date for imposing the tax, the estimated number of years that the tax will be imposed, and the estimated amount of tax revenue to be received in each fiscal year that the tax will be imposed. For purposes of this section, "fiscal year" means the year beginning July 1st and ending the following June 30th. The department shall make available forms to be used for this purpose. As part of the application, a city, town, or county must provide to the department a copy of the ordinance creating the benefit zone as required in RCW 39.100.040. The department shall rule on completed applications within sixty days of receipt. The department may begin accepting and approving applications August 1, 2006. No new applications shall be considered by the department after the thirtieth day of September of the third year following the year in which the first application was received by the department.

(2) The authority to impose the local option sales and use taxes under RCW 82.14.465 is on a first-come basis. Priority for collecting the taxes authorized under RCW 82.14.465 among approved applicants shall be based on the date that the approved application was received by the department. As a part of the approval of applications under this section, the department shall approve the amount of tax under RCW 82.14.465 that an applicant may impose. The amount of tax approved by the department shall not exceed the lesser of two million dollars or the average amount of tax revenue that the applicant estimates that it will receive in all fiscal years through the imposition of a sales and use tax under RCW 82.14.465. A city, town, or county shall not receive, in any fiscal year, more revenues from taxes imposed under RCW

82.14.465 than the amount approved by the department. The department shall not approve the receipt of more credit against the state sales and use tax than is authorized under subsection (3) of this section.

(3) No more than two million dollars of credit against the state sales and use tax provided for under RCW 82.14.465(2), may be received in any fiscal year by all cities, towns, and counties imposing a tax under RCW 82.14.465.

(4)(a) The credit against the state sales and use tax shall be available to any city, town, or county imposing a tax under RCW 82.14.465 only as long as the city, town, or county has outstanding indebtedness under chapter 39.100 RCW or the tax allocation revenues are used for public improvement costs, but in no case shall the credit be available for more than thirty years after the tax is first imposed by the city, town, or county.

(b) Local governments may pledge any receipts from taxes levied and collected under chapter 39.100 RCW and RCW 82.14.465 to the repayment of its bonds or bond anticipation notes. A local government shall notify the department when all outstanding indebtedness secured in whole or in part from receipts is no longer outstanding or tax allocation revenues are no longer used for public improvement costs, and the credit provided for under RCW 82.14.465 shall be terminated.

(5) The department may adopt any rules under chapter 34.05 RCW it considers necessary for the administration of chapter 39.100 RCW. [2007 c 266 § 9; 2006 c 111 § 9.]

Finding—Application—Effective date—2007 c 266: See notes following RCW 39.100.010.

Effective date—2006 c 111: See RCW 39.100.900.

82.32.710 Professional employer organizations—Eligibility for tax incentives—Responsibility for reports/surveys. (1) A client under the terms of a professional employer agreement is deemed to be the sole employer of a covered employee for purposes of eligibility for any tax credit, exemption, or other tax incentive, arising as the result of the employment of covered employees, provided in RCW 82.04.4333, 82.04.44525, 82.04.448, 82.04.4483, 82.08.965, 82.12.965, 82.16.0495, or 82.60.049 or chapter 82.62 or 82.70 RCW, or any other provision in this title. A client, and not the professional employer organization, is entitled to the benefit of any tax credit, exemption, or other tax incentive arising as the result of the employment of covered employees of that client.

(2) A client under the terms of a professional employer agreement is deemed to be the sole employer of a covered employee for purposes of reports or surveys that require the reporting of employment information relating to covered employees of the client, as provided in RCW 82.32.534 or 82.32.585. A client, and not the professional employer organization, is required to complete any survey or report that requires the reporting of employment information relating to covered employees of that client.

(3) For the purposes of this section, "client," "covered employee," "professional employer agreement," and "professional employer organization" have the same meanings as in RCW 82.04.540. [2010 c 114 § 137; 2006 c 301 § 4.]

Application—Finding—Intent—2010 c 114: See notes following RCW 82.32.585.

Effective date—2006 c 301: "This act takes effect July 1, 2006." [2006 c 301 § 10.]

Act does not affect application of Title 50 or 51 RCW—2006 c 301: "The provisions of this act do not affect the application of Title 50 or 51 RCW to the reporting requirement or tax liabilities of professional employer organizations or their clients." [2006 c 301 § 9.]

82.32.715 Monetary allowances—Streamlined sales and use tax agreement. (1) The department shall adopt by rule monetary allowances for certified service providers, model 2 sellers, and model 3 sellers and all other sellers that are not model 1 or model 2 sellers. The department may be guided by the provisions for monetary allowances adopted by the governing board of the agreement to determine the amount of the allowances and the conditions under which they are allowed. The monetary allowances must be reasonable and provide adequate incentive for certified service providers and sellers to collect and remit sales and use taxes under the agreement. Monetary allowances will be funded solely from state sales and use taxes.

(2) For certified service providers, the monetary allowance may include a base rate that applies to taxable transactions processed by the certified service provider. Additionally, for a period not to exceed twenty-four months following a seller's registration under RCW 82.32.030(3), the monetary allowance may include a percentage of tax revenue generated by the seller.

(3) For model 2 sellers, the monetary allowance may include a base rate and a percentage of revenue generated by a seller registering under RCW 82.32.030(3), but shall not exceed a period of twenty-four months.

(4) For model 3 sellers and all other sellers that are not model 1 sellers or model 2 sellers, the monetary allowance may include a percentage of tax revenue generated by a seller registering under RCW 82.32.030(3), but shall not exceed a period of twenty-four months. [2007 c 6 § 301.]

Part headings not law—Savings—Severability—2007 c 6: See notes following RCW 82.32.020.

Findings—Intent—2007 c 6: See note following RCW 82.14.495.

82.32.720 Vendor compensation—Streamlined sales and use tax agreement. ***(Contingent effective date.)*** (1) The department may adopt by rule vendor compensation for sellers collecting and remitting sales and use taxes. The vendor compensation may include a base rate or a percentage of tax revenue collected by the seller, and may vary by type of seller. The department may be guided by the findings of the cost of collection study performed under the agreement, by cost of collection studies performed by the department, and by vendor compensation provided by other states, to determine reasonable vendor compensation for sellers for the costs to collect and remit sales and use taxes. Vendor compensation will be funded solely from state sales and use taxes.

(2) A seller is not entitled to vendor compensation while the seller or its certified service provider receives a monetary allowance under RCW 82.32.715. [2007 c 6 § 302.]

Contingent effective date—2007 c 6 § 302: "(1) Section 302 of this act takes effect when:

(a) The United States congress grants individual states the authority to impose sales and use tax collection duties on remote sellers; or

(b) It is determined by a court of competent jurisdiction, in a judgment not subject to review, that a state can impose sales and use tax collection duties on remote sellers.

(2) The department of revenue shall provide notice to affected taxpayers, the legislature, and others as deemed appropriate by the department, if either of the contingencies in this section occurs." [2007 c 6 § 1705.]

Part headings not law—Savings—Severability—2007 c 6: See notes following RCW 82.32.020.

Findings—Intent—2007 c 6: See note following RCW 82.14.495.

82.32.725 Amnesty—Streamlined sales and use tax agreement. (1) No assessment for taxes imposed or authorized under chapters 82.08, 82.12, and 82.14 RCW, or related penalties or interest, may be made by the department against a seller who:

(a) Within twelve months of the effective date of this state becoming a member state of the agreement, registers under RCW 82.32.030(3) to collect and remit to the department the applicable taxes imposed or authorized under chapters 82.08, 82.12, and 82.14 RCW on sales made to buyers in this state in accordance with the terms of the agreement, if the seller was not otherwise registered in this state in the twelve-month period preceding the effective date of this state becoming a member state of the agreement; and

(b) Continues to be registered and continues to collect and remit to the department the applicable taxes imposed or authorized under chapters 82.08, 82.12, and 82.14 RCW for a period of at least thirty-six months, absent the seller's fraud or intentional misrepresentation of a material fact.

(2) The provisions of subsection (1) of this section preclude an assessment for taxes imposed or authorized under chapters 82.08, 82.12, and 82.14 RCW for sales made to buyers during the period the seller was not registered in this state.

(3) The provisions of this section do not apply to any seller with respect to:

(a) Any matter or matters for which the seller, before registering to collect and remit the applicable taxes imposed or authorized under chapters 82.08, 82.12, and 82.14 RCW, received notice from the department of the commencement of an audit and which audit is not yet finally resolved including any related administrative and judicial processes;

(b) Taxes imposed or authorized under chapters 82.08, 82.12, and 82.14 RCW and collected or remitted to the department by the seller; or

(c) That seller's liability for taxes imposed or authorized under chapters 82.08, 82.12, and 82.14 RCW in that seller's capacity as a buyer.

(4) The limitation periods for making an assessment or correction of an assessment prescribed in RCW *82.32.050(3) and 82.32.100(3) do not run during the thirty-six month period in subsection (1)(b) of this section. [2007 c 6 § 401.]

***Reviser's note:** RCW 82.32.050 was amended by 2008 c 181 § 501, changing subsection (3) to subsection (4).

Part headings not law—Savings—Effective date—Severability—2007 c 6: See notes following RCW 82.32.020.

Findings—Intent—2007 c 6: See note following RCW 82.14.495.

82.32.730 Sourcing—Streamlined sales and use tax agreement. (1) Except as provided in subsections (5) through (8) of this section, for purposes of collecting or paying sales or use taxes to the appropriate jurisdictions, all sales at retail shall be sourced in accordance with this subsection and subsections (2) through (4) of this section.

(a) When tangible personal property, an extended warranty, a digital good, digital code, digital automated service, or other service defined as a retail sale under RCW 82.04.050 is received by the purchaser at a business location of the seller, the sale is sourced to that business location.

(b) When the tangible personal property, extended warranty, digital good, digital code, digital automated service, or other service defined as a retail sale under RCW 82.04.050 is not received by the purchaser at a business location of the seller, the sale is sourced to the location where receipt by the purchaser or the purchaser's donee, designated as such by the purchaser, occurs, including the location indicated by instructions for delivery to the purchaser or donee, known to the seller.

(c) When (a) and (b) of this subsection do not apply, the sale is sourced to the location indicated by an address for the purchaser that is available from the business records of the seller that are maintained in the ordinary course of the seller's business when use of this address does not constitute bad faith.

(d) When (a), (b), and (c) of this subsection do not apply, the sale is sourced to the location indicated by an address for the purchaser obtained during the consummation of the sale, including the address of a purchaser's payment instrument, if no other address is available, when use of this address does not constitute bad faith.

(e) When (a), (b), (c), or (d) of this subsection do not apply, including the circumstance where the seller is without sufficient information to apply those provisions, then the location shall be determined by the address from which tangible personal property was shipped, from which the digital good or digital code or the computer software delivered electronically was first available for transmission by the seller, or from which the extended warranty or digital automated service or other service defined as a retail sale under RCW 82.04.050 was provided, disregarding for these purposes any location that merely provided the digital transfer of the product sold.

(2) The lease or rental of tangible personal property, other than property identified in subsection (3) or (4) of this section, shall be sourced as provided in this subsection.

(a) For a lease or rental that requires recurring periodic payments, the first periodic payment is sourced the same as a retail sale in accordance with subsection (1) of this section. Periodic payments made subsequent to the first payment are sourced to the primary property location for each period covered by the payment. The primary property location shall be as indicated by an address for the property provided by the lessee that is available to the lessor from its records maintained in the ordinary course of business, when use of this address does not constitute bad faith. The property location is not altered by intermittent use at different locations, such as use of business property that accompanies employees on business trips and service calls.

(b) For a lease or rental that does not require recurring periodic payments, the payment is sourced the same as a retail sale in accordance with subsection (1) of this section.

(c) This subsection (2) does not affect the imposition or computation of sales or use tax on leases or rentals based on a lump sum or accelerated basis, or on the acquisition of property for lease.

(3) The lease or rental of motor vehicles, trailers, semitrailers, or aircraft that do not qualify as transportation equipment shall be sourced as provided in this subsection.

(a) For a lease or rental that requires recurring periodic payments, each periodic payment is sourced to the primary property location. The primary property location is as indicated by an address for the property provided by the lessee that is available to the lessor from its records maintained in the ordinary course of business, when use of this address does not constitute bad faith. This location is not altered by intermittent use at different locations.

(b) For a lease or rental that does not require recurring periodic payments, the payment is sourced the same as a retail sale in accordance with subsection (1) of this section.

(c) This subsection does not affect the imposition or computation of sales or use tax on leases or rentals based on a lump sum or accelerated basis, or on the acquisition of property for lease.

(4) The retail sale, including lease or rental, of transportation equipment shall be sourced the same as a retail sale in accordance with subsection (1) of this section.

(5) This subsection applies to direct mail transactions not governed by subsection (6) of this section.

(a) This subsection (5)(a) applies to sales of advertising and promotional direct mail.

(i) A purchaser of advertising and promotional direct mail may provide the seller with either:

(A) A direct pay permit;

(B) A streamlined sales and use tax agreement certificate of exemption claiming direct mail (or other written statement approved, authorized, or accepted by the department); or

(C) Information showing the jurisdictions to which the advertising and promotional direct mail is to be delivered to recipients.

(ii) If the purchaser provides the permit, certificate, or statement referred to in (a)(i)(A) or (B) of this subsection (5), the seller, in the absence of bad faith, is relieved of all obligations to collect, pay, or remit any tax on any transaction involving advertising and promotional direct mail to which the permit, certificate, or statement applies. The purchaser must source the sale to the jurisdictions to which the advertising and promotional direct mail is to be delivered to the recipients and must report and pay any applicable tax due.

(iii) If the purchaser provides the seller information showing the jurisdictions to which the advertising and promotional direct mail is to be delivered to recipients, the seller must source the sale to the jurisdictions to which the advertising and promotional direct mail is to be delivered and must collect and remit the applicable tax. In the absence of bad faith, the seller is relieved of any further obligation to collect any additional tax on the sale of advertising and promotional direct mail where the seller has sourced the sale according to the delivery information provided by the purchaser.

(iv) If the purchaser does not provide the seller with any of the items listed in (a)(i)(A), (B), or (C) of this subsection (5), the sale must be sourced according to subsection (1)(e) of this section.

(b) This subsection (5)(b) applies to sales of other direct mail.

(i) Except as otherwise provided in this subsection (5)(b), sales of other direct mail are sourced in accordance with subsection (1)(c) of this section.

(ii) A purchaser of other direct mail may provide the seller with either:

(A) A direct pay permit; or

(B) A streamlined sales and use tax agreement certificate of exemption claiming direct mail (or other written statement approved, authorized, or accepted by the department).

(iii) If the purchaser provides the permit, certificate, or statement referred to in (b)(ii)(A) or (B) of this subsection (5), the seller, in the absence of bad faith, is relieved of all obligations to collect, pay, or remit any tax on any transaction involving other direct mail to which the permit, certificate, or statement applies. Notwithstanding (b)(i) of this subsection (5), the sale must be sourced to the jurisdictions to which the other direct mail is to be delivered to the recipients, and the purchaser must report and pay any applicable tax due.

(6)(a) This subsection applies only with respect to transactions in which direct mail is delivered or distributed from a location within this state to a location within this state.

(b) If the purchaser of direct mail provides the seller with a direct pay permit or a streamlined sales and use tax agreement certificate of exemption claiming direct mail (or other written statement approved, authorized, or accepted by the department), the seller, in the absence of bad faith, is relieved of all obligations to collect, pay, or remit the applicable tax on any transaction involving direct mail to which the permit, certificate, or statement applies. The purchaser must report and pay any applicable tax due. A streamlined sales and use tax agreement certificate of exemption claiming direct mail will remain in effect for all future sales of direct mail by the seller to the purchaser until it is revoked in writing.

(c)(i) Except as provided in (b), (c)(ii), and (c)(iii) of this subsection (6), the seller must collect the tax according to subsection (1)(e) of this section.

(ii) To the extent the seller knows that a portion of the sale of direct mail will be delivered or distributed to locations in another state, the seller must collect the tax on that portion according to subsection (5) of this section.

(iii) Notwithstanding (c)(i) and (ii) of this subsection (6), a seller may elect to use the provisions of subsection (5) of this section to source all sales of advertising and promotional direct mail.

(7) The following are sourced to the location at or from which delivery is made to the consumer:

(a) A retail sale of watercraft;

(b) A retail sale of a modular home, manufactured home, or mobile home;

(c) A retail sale, excluding the lease and rental, of a motor vehicle, trailer, semitrailer, or aircraft, that do not qualify as transportation equipment; and

(d) Florist sales. In the case of a sale in which one florist takes an order from a customer and then communicates that order to another florist who delivers the items purchased to the place designated by the customer, the location at or from which the delivery is made to the consumer is deemed to be the location of the florist originally taking the order.

(8)(a) A retail sale of the providing of telecommunications services, as that term is defined in RCW 82.04.065, is sourced in accordance with RCW 82.32.520.

(b) A retail sale of the providing of ancillary services, as that term is defined in RCW 82.04.065, is sourced to the customer's place of primary use of the telecommunications services in respect to which the ancillary services are associated with or incidental to. The definitions of "customer" and "place of primary use" in RCW 82.32.520 apply to this subsection (8)(b).

(9) The definitions in this subsection apply throughout this section.

(a) "Advertising and promotional direct mail" means printed material that meets the definition of direct mail, the primary purpose of which is to attract public attention to a product, person, business, or organization, or to attempt to sell, popularize, or secure financial support for a product, person, business, or organization. As used in this subsection (9)(a), the word "product" means tangible personal property, a product transferred electronically, or a service.

(b) "Delivered electronically" means delivered to the purchaser by means other than tangible storage media.

(c) "Direct mail" means printed material delivered or distributed by United States mail or other delivery service to a mass audience or to addressees on a mailing list provided by the purchaser or at the direction of the purchaser when the cost of the items are not billed directly to the recipients. "Direct mail" includes tangible personal property supplied directly or indirectly by the purchaser to the direct mail seller for inclusion in the package containing the printed material. "Direct mail" does not include multiple items of printed material delivered to a single address.

(d)(i) "Other direct mail" means any direct mail that is not advertising and promotional direct mail, regardless of whether advertising and promotional direct mail is included in the same mailing. The term includes, but is not limited to:

(A) Transactional direct mail that contains personal information specific to the addressee including, but not limited to, invoices, bills, statements of account, and payroll advices;

(B) Any legally required mailings including, but not limited to, privacy notices, tax reports, and stockholder reports; and

(C) Other nonpromotional direct mail delivered to existing or former shareholders, customers, employees, or agents including, but not limited to, newsletters and informational pieces.

(ii) Other direct mail does not include the development of billing information or the provision of any data processing service that is more than incidental.

(e) "Florist sales" means the retail sale of tangible personal property by a florist. For purposes of this subsection (9)(e), "florist" means a person whose primary business activity is the retail sale of fresh cut flowers, potted ornamental plants, floral arrangements, floral bouquets, wreaths, or any similar products, used for decorative and not landscaping purposes.

(f) "Receive" and "receipt" mean taking possession of tangible personal property, making first use of digital automated services or other services, or taking possession or making first use of digital goods or digital codes, whichever comes first. "Receive" and "receipt" do not include possession by a shipping company on behalf of the purchaser.

(g) "Transportation equipment" means:

(i) Locomotives and railcars that are used for the carriage of persons or property in interstate commerce;

(ii) Trucks and truck tractors with a gross vehicle weight rating of ten thousand one pounds or greater, trailers, semitrailers, or passenger buses that are:

(A) Registered through the international registration plan; and

(B) Operated under authority of a carrier authorized and certificated by the United States department of transportation or another federal authority to engage in the carriage of persons or property in interstate commerce;

(iii) Aircraft that are operated by air carriers authorized and certificated by the United States department of transportation or another federal or foreign authority to engage in the carriage of persons or property in interstate or foreign commerce; or

(iv) Containers designed for use on and component parts attached or secured on the items described in (g)(i) through (iii) of this subsection.

(10) In those instances where there is no obligation on the part of a seller to collect or remit this state's sales or use tax, the use of tangible personal property, digital good, digital code, or of a digital automated service or other service, subject to use tax, is sourced to the place of first use in this state. The definition of use in RCW 82.12.010 applies to this subsection. [2010 c 106 § 229. Prior: 2009 c 535 § 704; 2009 c 289 § 1; 2008 c 324 § 1; 2007 c 6 § 501.]

Effective date—2010 c 106: See note following RCW 35.102.145.

Intent—Construction—2009 c 535: See notes following RCW 82.04.192.

Effective date—2008 c 324: "This act takes effect July 1, 2008." [2008 c 324 § 2.]

Part headings not law—Savings—Effective date—Severability—2007 c 6: See notes following RCW 82.32.020.

Findings—Intent—2007 c 6: See note following RCW 82.14.495.

82.32.735 Confidentiality and privacy—Certified service providers—Streamlined sales and use tax agreement. (1) A fundamental precept of allowing the use of a certified service provider is to preserve the privacy of consumers by protecting their anonymity. With very limited exceptions, a certified service provider shall perform its tax calculation, remittance, and reporting functions without retaining the personally identifiable information of consumers.

(2) The department shall provide public notification to consumers, including purchasers claiming exemption from tax, of its practices relating to the collection, use, and retention of personally identifiable information.

(3) When personally identifiable information that has been collected and retained is no longer required to ensure the validity of exemptions from taxation by reason of the consumer's status or the intended use of the goods or services purchased, the information shall no longer be retained by the state of Washington.

(4) When personally identifiable information regarding an individual is retained by or on behalf of the state of Washington, this state shall provide reasonable access for the individual to his or her own information and a right to correct any inaccurately recorded information.

(5) If anyone other than a member state of the agreement, or other than a person authorized by Washington law or the agreement, seeks to discover personally identifiable information, the state of Washington shall make a reasonable and timely effort to notify the individual of the request.

(6) The provisions of this section may be enforced by petitioning the superior court of Thurston county for injunctive relief. [2007 c 6 § 601.]

Part headings not law—Savings—Effective date—Severability—2007 c 6: See notes following RCW 82.32.020.

Findings—Intent—2007 c 6: See note following RCW 82.14.495.

82.32.740 Taxability matrix—Liability—Streamlined sales and use tax agreement. (1) The department shall complete a taxability matrix maintained by the member states of the agreement in downloadable format. The matrix contains terms defined in the agreement. The department shall provide notice of changes in the taxability of products or services listed in the matrix.

(2) Sellers and certified service providers are relieved from liability to the state and to local jurisdictions for having charged or collected the incorrect amount of sales or use tax if the error resulted from reliance on erroneous information provided by the department in the taxability matrix. [2007 c 6 § 701.]

Part headings not law—Savings—Effective date—Severability—2007 c 6: See notes following RCW 82.32.020.

Findings—Intent—2007 c 6: See note following RCW 82.14.495.

82.32.745 Software certification by department—Classifications—Liability—Streamlined sales and use tax agreement. (1) The department shall review software submitted to the governing board of the agreement for certification as a certified automated system under the terms of the agreement. The review shall include a determination of whether the software adequately classifies this state's product-based sales tax exemptions. Upon completing the review, the department shall certify to the governing board its acceptance or rejection of the classifications made by the system.

(2) Certified service providers and model 2 sellers shall be held harmless and are not liable for sales or use taxes, nor interest or penalties on those taxes, not collected due to reliance on the certification of the department under subsection (1) of this section.

(3) The relief from liability provided to certified service providers and model 2 sellers under subsection (2) of this section does not apply with respect to the incorrect classification of an item or transaction into a product-based exemption certified by the department unless that item or transaction is contained in a listing of items or transactions within a product definition approved by the governing board or the department.

(4) If the department determines that an item or transaction is incorrectly classified as to its taxability, it shall notify the certified service provider or model 2 seller of the incorrect classification. The certified service provider or model 2 seller has ten days to revise the classification after receipt of notice from the department. Upon the expiration of the ten days, the certified service provider or model 2 seller is liable for the failure to collect the correct amount of sales or use taxes. [2007 c 6 § 702.]

Part headings not law—Savings—Effective date—Severability—2007 c 6: See notes following RCW 82.32.020.

Findings—Intent—2007 c 6: See note following RCW 82.14.495.

82.32.750 Purchaser liability—Penalty—Streamlined sales and use tax agreement. (1) Purchasers are relieved from liability for tax, interest, and penalty for having failed to pay the correct amount of sales or use tax in any of the following circumstances:

(a) A purchaser's seller or certified service provider relied on erroneous data provided by the department on tax rates, boundaries, taxing jurisdiction assignments, or in the taxability matrix completed by the department pursuant to RCW 82.32.740;

(b) A purchaser holding a direct pay permit relied on erroneous data provided by the department on tax rates, boundaries, taxing jurisdiction assignments, or in the taxability matrix completed by the department pursuant to RCW 82.32.740;

(c) A purchaser relied on erroneous data provided by the department in the taxability matrix completed by the department pursuant to RCW 82.32.740; or

(d) A purchaser relied on erroneous data provided by the department on tax rates, boundaries, or taxing jurisdiction assignments.

(2) For purposes of this section, "penalty" means an amount imposed for noncompliance that is not fraudulent, willful, or intentional that is in addition to the correct amount of sales or use tax and interest. [2007 c 6 § 703.]

Part headings not law—Savings—Effective date—Severability—2007 c 6: See notes following RCW 82.32.020.

Findings—Intent—2007 c 6: See note following RCW 82.14.495.

82.32.755 Sourcing compliance—Taxpayer relief—Interest and penalties—Streamlined sales and use tax agreement. (1) Notwithstanding any other provision in this chapter, no interest or penalties may be imposed on any taxpayer because of errors in collecting or remitting the correct amount of local sales tax arising out of changes in local sales and use tax sourcing rules implemented under RCW 82.14.490 and the chapter 6, Laws of 2007 amendments to RCW 82.14.020 if the taxpayer establishes that:

(a) Immediately before July 1, 2008, the taxpayer was registered with the department and engaged in making sales of tangible personal property that the taxpayer delivered to locations away from its place of business; and

(b) During the calendar year for which the error was made the taxpayer:

(i) Has gross income of the business less than five hundred thousand dollars;

(ii) Has at least five percent of its gross income from sales subject to sales tax derived from sales of tangible personal property delivered to physical locations away from its place of business; and

(iii) Has at least one percent of its gross income from sales subject to sales tax derived from deliveries of tangible personal property to destinations in local jurisdictions imposing sales tax other than the one to which the taxpayer reported the most local sales tax.

(2) The relief from penalty and interest provided by subsection (1) of this section does not apply with respect to trans-

actions occurring more than four years after the close of the calendar year in which *RCW 82.14.490 becomes effective. [2007 c 6 § 1601.]

***Reviser's note:** RCW 82.14.490 takes effect July 1, 2008.

Part headings not law—Savings—Effective date—Severability—2007 c 6: See notes following RCW 82.32.020.

Findings—Intent—2007 c 6: See note following RCW 82.14.495.

82.32.760 Sourcing compliance—Taxpayer relief—Credits—Streamlined sales and use tax agreement. (1) Eligible taxpayers may either:

(a) Use the services of a certified service provider at no cost to themselves for tax reporting periods up to two years after July 1, 2008; or

(b) Claim a credit against the tax imposed under RCW 82.08.020(1) collected and otherwise required to be remitted by the taxpayer as a seller and the tax imposed under RCW 82.04.220. The amount of the credit is equal to the amount of costs incurred within one year of July 1, 2008, in order to comply with changes in local sales and use tax sourcing rules implemented under RCW 82.14.490 and the chapter 6, Laws of 2007 amendments to RCW 82.14.020.

(i) The total amount of credit claimed under this subsection (1)(b) may not exceed one thousand dollars.

(ii) The credit may be claimed until it is used. No refunds may be granted for the credit. The costs that may be used in the calculation of the credit include goods and services purchased, and labor costs incurred, for the purpose of complying with the local sales tax sourcing rules.

(2) The use of a certified service provider under subsection (1)(a) of this section must begin within one year after July 1, 2008, but not before July 1, 2008.

(3) The credit under subsection (1)(b) of this section must first be claimed within one year after July 1, 2008, but not before July 1, 2008. This subsection does not affect the ability of a taxpayer to claim unused credit until it is used.

(4) For purposes of subsection (1) of this section, an "eligible taxpayer" means a taxpayer that:

(a) Immediately before July 1, 2008, was registered with the department and engaged in making sales of tangible personal property that the taxpayer delivered to physical locations away from its place of business; and

(b) During the calendar year in which *RCW 82.14.490 becomes effective:

(i) Has a physical presence in Washington;

(ii) Has gross income of the business less than five hundred thousand dollars;

(iii) Has at least five percent of its gross income from sales subject to sales tax derived from sales of tangible personal property delivered to physical locations away from its place of business; and

(iv) Has at least one percent of its gross income from sales subject to sales tax derived from deliveries of tangible personal property to destinations in local jurisdictions imposing sales tax other than the one to which the taxpayer reported the most local sales tax.

(5) Certified service providers agreeing to provide services to eligible taxpayers under subsection (1)(a) of this section shall be compensated for those services by retaining as a fee an amount adopted by rule by the department. The department may be guided by the provisions for monetary allowances adopted by the governing board of the agreement to determine the amount of the fee. The fee must be reasonable and provide adequate incentive for certified service providers to provide services to eligible taxpayers. The fee will be funded solely from state sales taxes.

(6) Taxpayers that use certified service provider services under subsection (1)(a) of this section but are not eligible taxpayers are immediately liable to the department for the amount retained by the certified service provider as a fee for providing those services to the taxpayer. All administrative provisions of this chapter applicable to the collection of taxes apply to amounts due under this subsection. If any amounts due under this subsection are not paid by the due date of any notice informing the taxpayer of such liability, the department shall apply interest, but not penalties, to amounts remaining due. Interest assessed under this subsection shall be at the rate provided for delinquent excise taxes under this chapter from the day after the due date until the amount due under this subsection is paid in full.

(7) Taxpayers that claim a credit under subsection (1)(b) of this section but are not eligible taxpayers are immediately liable to the department for the amount of credit claimed. If any amounts due under this subsection are not paid by the due date of any notice informing the taxpayer of such liability, the department shall apply interest, but not penalties, to amounts remaining due. Interest assessed under this subsection shall be at the rate provided for delinquent excise taxes under this chapter from the day after the due date until the amount due under this subsection is paid in full.

(8) No application is necessary for either the use of certified service providers under subsection (1)(a) of this section or the tax credit under subsection (1)(b) of this section. The taxpayer must keep records necessary for the department to determine eligibility under this section. The department may prescribe rules and procedures regarding the administration of this section. [2007 c 6 § 1602.]

***Reviser's note:** RCW 82.14.490 takes effect July 1, 2008.

Part headings not law—Savings—Severability—2007 c 6: See notes following RCW 82.32.020.

Findings—Intent—2007 c 6: See note following RCW 82.14.495.

82.32.765 Local revitalization financing—Reporting requirements. (1) A sponsoring local government receiving a project award under RCW 39.104.100 must provide a report to the department by March 1st of each year beginning March 1st after the project award has been approved. The report must contain the following information:

(a) The amounts of local property tax allocation revenues received in the preceding calendar year broken down by sponsoring local government and participating taxing district;

(b) The amount of state property tax allocation revenues estimated to have been received by the state in the preceding calendar year;

(c) The amount of local sales and use tax and other revenue from local public sources dedicated by any participating local government used for the payment of bonds under RCW 39.104.110 and public improvement costs within the revitalization area on a pay-as-you-go basis in the preceding calendar year;

(d) The amount of local sales and use tax dedicated by the sponsoring local government, as it relates to the sponsoring local government's local sales and use tax increment, used for the payment of bonds under RCW 39.104.110 and public improvement costs within the revitalization area on a pay-as-you-go basis;

(e) The amounts, other than those listed in (a) through (d) of this subsection, from local public sources, broken down by type or source, used for payment of bonds under RCW 39.104.110 or public improvement costs within the revitalization area on a pay-as-you-go basis in the preceding calendar year;

(f) The anticipated date when bonds under RCW 39.104.110 are expected to be retired;

(g) The names of any businesses locating within the revitalization area as a result of the public improvements undertaken by the sponsoring local government and financed in whole or in part with local revitalization financing;

(h) An estimate of the cumulative number of permanent jobs created in the revitalization area as a result of the public improvements undertaken by the sponsoring local government and financed in whole or in part with local revitalization financing;

(i) An estimate of the average wages and benefits received by all employees of businesses locating within the revitalization area as a result of the public improvements undertaken by the sponsoring local government and financed in whole or in part with local revitalization financing;

(j) A list of public improvements financed by bonds issued under RCW 39.104.110 and the date on which the bonds are anticipated to be retired;

(k) That the sponsoring local government is in compliance with RCW 39.104.030;

(l) At least once every three years, updated estimates of the amounts of state and local sales and use tax increments estimated to have been received since the approval by the department of the project award under RCW 39.104.100;

(m) The amount of revenues from local public sources that (i) were expended in prior years for the payment of bonds under RCW 39.104.110 and public improvement costs within the revitalization area on a pay-as-you-go basis in prior calendar years that were in excess of the project award amount for that year and are carried forward for dedication in future years, (ii) are deemed dedicated to payment of bonds or public improvement costs in the calendar year for which the report is prepared, and (iii) remain available for dedication in future years; and

(n) Any other information required by the department to enable the department to fulfill its duties under this chapter and RCW 82.14.510.

(2) The department must make a report available to the public and the legislature by June 1st of each year. The report must include a summary of the information provided to the department by sponsoring local governments under subsection (1) of this section. [2010 c 164 § 10; 2009 c 270 § 501.]

82.32.770 Sourcing compliance—Tax payer relief—Collection and remittance errors. (1) Notwithstanding any other provision in this chapter, no interest or penalties may be imposed on any taxpayer because of errors in collecting or remitting the correct amount of local sales or use tax arising out of changes in local sales and use tax sourcing rules implemented under RCW 82.14.490 and section 502, chapter 6, Laws of 2007 if the taxpayer demonstrates that it made a good faith effort to comply with the sourcing rules.

(2) The relief from penalty and interest provided by subsection (1) of this section only applies to taxpayers with a gross income of the business of less than five hundred thousand dollars in the prior calendar year.

(3) The relief from penalty and interest provided by subsection (1) of this section does not apply with respect to sales occurring after December 31, 2012. [2009 c 289 § 5.]

82.32.780 Reseller's permit—Taxpayer application. (1)(a) Taxpayers seeking to obtain a new reseller permit or to renew or reinstate a reseller permit, other than taxpayers subject to the provisions of RCW 82.32.783, must apply to the department in a form and manner prescribed by the department. The department must use its best efforts to rule on applications within sixty days of receiving a complete application. If the department fails to rule on an application within sixty days of receiving a complete application, the taxpayer may either request a review as provided in subsection (6) of this section or resubmit the application. Nothing in this subsection may be construed as preventing the department from ruling on an application more than sixty days after the department received the application.

(b) An application must be denied if:

(i) The department determines that, based on the nature of the applicant's business, the applicant is not entitled to make purchases at wholesale or is otherwise prohibited from using a reseller permit;

(ii) The application contains any material misstatement; or

(iii) The application is incomplete.

(c) The department may also deny an application if it determines that denial would be in the best interest of collecting taxes due under this title.

(d) The department's decision to approve or deny an application may be based on tax returns previously filed with the department by the applicant, a current or previous examination of the applicant's books and records by the department, information provided by the applicant in the master application and the reseller permit application, and other information available to the department.

(e) The department must refuse to accept an application to renew a reseller permit that is received more than ninety days before the expiration of the reseller permit.

(2) Notwithstanding subsection (1) of this section, the department may issue or renew a reseller permit for a taxpayer that has not applied for the permit or renewal of the permit if it appears to the department's satisfaction, based on the nature of the taxpayer's business activities and any other information available to the department, that the taxpayer is entitled to make purchases at wholesale.

(3)(a) Except as otherwise provided in this section, reseller permits issued, renewed, or reinstated under this section will be valid for a period of forty-eight months from the date of issuance, renewal, or reinstatement.

(b)(i) A reseller permit is valid for a period of twenty-four months and may be renewed for the period prescribed in

(a) of this subsection (3) if the permit is issued to a taxpayer who:

(A) Is not registered with the department under RCW 82.32.030;

(B) Has been registered with the department under RCW 82.32.030 for a continuous period of less than one year as of the date that the department received the taxpayer's application for a reseller permit;

(C) Was on nonreporting status as authorized under RCW 82.32.045(4) at the time that the department received the taxpayer's application for a reseller permit or to renew or reinstate a reseller permit;

(D) Has filed tax returns reporting no business activity for purposes of sales and business and occupation taxes for the twelve-month period immediately preceding the date that the department received the taxpayer's application for a reseller permit or to renew or reinstate a reseller permit; or

(E) Has failed to file tax returns covering any part of the twelve-month period immediately preceding the department's receipt of the taxpayer's application for a reseller permit or to renew or reinstate a reseller permit.

(ii) The provisions of this subsection (3)(b) do not apply to reseller permits issued to any business owned by a federally recognized Indian tribe or by an enrolled member of a federally recognized Indian tribe, if the business does not engage in any business activity that subjects the business to any tax imposed by the state under chapter 82.04 RCW. Permits issued to such businesses are valid for the period provided in (a) of this subsection (3).

(iii) Nothing in this subsection (3)(b) may be construed as affecting the department's right to deny a taxpayer's application for a reseller permit or to renew or reinstate a reseller permit as provided in subsection (1)(b) and (c) of this section.

(c) A reseller permit is no longer valid if the permit holder's certificate of registration is revoked, the permit holder's tax reporting account is closed by the department, or the permit holder otherwise ceases to engage in business.

(d) The department may provide by rule for a uniform expiration date for reseller permits issued, renewed, or reinstated under this section, if the department determines that a uniform expiration date for reseller permits will improve administrative efficiency for the department. If the department adopts a uniform expiration date by rule, the department may extend or shorten the twenty-four or forty-eight month period provided in (a) and (b) of this subsection for a period not to exceed six months as necessary to conform the reseller permit to the uniform expiration date.

(4)(a) The department may revoke a taxpayer's reseller permit for any of the following reasons:

(i) The taxpayer used or allowed or caused its reseller permit to be used to purchase any item or service without payment of sales tax, but the taxpayer or other purchaser was not entitled to use the reseller permit for the purchase;

(ii) The department issued the reseller permit to the taxpayer in error;

(iii) The department determines that the taxpayer is no longer entitled to make purchases at wholesale; or

(iv) The department determines that revocation of the reseller permit would be in the best interest of collecting taxes due under this title.

(b) The notice of revocation must be in writing and is effective on the date specified in the revocation notice. The notice must also advise the taxpayer of its right to a review by the department.

(c) The department may refuse to reinstate a reseller permit revoked under (a)(i) of this subsection until all taxes, penalties, and interest due on any improperly purchased item or service have been paid in full. In the event a taxpayer whose reseller permit has been revoked under this subsection reorganizes, the new business resulting from the reorganization is not entitled to a reseller permit until all taxes, penalties, and interest due on any improperly purchased item or service have been paid in full.

(d) For purposes of this subsection, "reorganize" or "reorganization" means: (i) The transfer, however effected, of a majority of the assets of one business to another business where any of the persons having an interest in the ownership or management in the former business maintain an ownership or management interest in the new business, either directly or indirectly; (ii) a mere change in identity or form of ownership, however effected; or (iii) the new business is a mere continuation of the former business based on significant shared features such as owners, personnel, assets, or general business activity.

(5) The department may provide the public with access to reseller permit numbers on its web site, including the name of the permit holder, the status of the reseller permit, the expiration date of the permit, and any other information that is disclosable under *RCW 82.32.330(3)(l).

(6) The department must provide by rule for the review of the department's decision to deny, revoke, or refuse to reinstate a reseller permit or the department's failure to rule on an application within the time prescribed in subsection (1)(a) of this section. Such review must be consistent with the requirements of chapter 34.05 RCW.

(7) As part of its continuing efforts to educate taxpayers on their sales and use tax responsibilities, the department will educate taxpayers on the appropriate use of a reseller permit or other documentation authorized under RCW 82.04.470 and the consequences of misusing such permits or other documentation. [2010 c 112 § 2; 2009 c 563 § 201.]

***Reviser's note:** RCW 82.32.330 was amended by 2010 c 106 § 104, changing subsection (3)(l) to subsection (3)(k).

Effective date—2010 c 112 §§ 2, 3, 11, 12, and 15: "Sections 2, 3, 11, 12, and 15 of this act take effect July 1, 2010." [2010 c 112 § 18.]

Retroactive application—2010 c 112: "(1) Except as provided in subsection (2) of this section, this act applies retroactively to January 1, 2010, as well as prospectively.

(2) Sections 2, 3, 11, 12, and 15 of this act apply prospectively only." [2010 c 112 § 17.]

Finding—Intent—2010 c 112; 2009 c 563: "The legislature finds that the department of revenue's 2008 compliance study estimates that sales tax noncompliance exceeds well over one hundred million dollars annually in unpaid state and local sales and use taxes.

The legislature intends to address this significant problem by eliminating the use of resale certificates to document wholesale purchases. Resale certificates will be replaced with reseller permits, which will be issued by the department of revenue only to those businesses that make wholesale purchases, such as retailers, wholesalers, manufacturers, and qualified contractors. Businesses that do not make wholesale purchases, such as most service businesses, will not be entitled to a reseller permit." [2010 c 112 § 1; 2009 c 563 § 101.]

Construction—2009 c 563: "This act must be liberally construed in order to carry out its purposes." [2009 c 563 § 402.]

Effective date—2009 c 563: "This act takes effect January 1, 2010." [2009 c 563 § 403.]

Reports and recommendations—2009 c 563: "By December 1, 2009, the finance committee of the house of representatives and the joint legislative task force on the underground economy in the Washington state construction industry, shall each prepare a report that reviews the issues and concerns that need to be addressed by the legislature as a result of the changes made in this act. The reports shall include any recommendations on potential modifications to the provisions of this act. The department of revenue shall provide necessary support and information." [2009 c 563 § 405.]

Construction—2009 c 563: "The effective date in section 403 of this act may not be construed as preventing the department of revenue from accepting applications for, or issuing, seller's permits before January 1, 2010, adopting rules, or taking any other action before January 1, 2010, necessary to ensure the effective implementation of this act." [2009 c 563 § 404.]

82.32.783 Reseller's permit—Contractor application. (1)(a) Contractors seeking a new reseller permit or to renew or reinstate a reseller permit must apply to the department in a form and manner prescribed by the department.

(b) As part of the application, the contractor must report the total combined dollar amount of all purchases of materials and labor during the preceding twenty-four months for retail construction activity, wholesale construction activity, speculative building, public road construction, and government contracting. If the contractor was not engaged in business as a contractor during the preceding twenty-four months, the contractor may provide an estimate of the dollar amount of purchases of materials and labor for retail construction activity, wholesale construction activity, speculative building, public road construction, and government contracting during the twelve-month or twenty-four month period for which the reseller permit will be valid. The contractor must also report the percentage of its total dollar amount of actual or, if applicable, estimated material and labor purchases that was for retail and wholesale construction activity performed by the applicant.

(c) The department must use its best efforts to rule on applications within sixty days of receiving a complete application. If the department fails to rule on an application within sixty days of receiving a complete application, the taxpayer may either request a review as provided in subsection (6) of this section or resubmit the application. Nothing in this subsection may be construed as preventing the department from ruling on an application more than sixty days after the department received the application.

(d)(i) An application must be denied if:

(A) The department determines that the applicant is not entitled to make purchases at wholesale or is otherwise prohibited from using a reseller permit;

(B) The application contains any material misstatement;

(C) The application is incomplete; or

(D) Less than twenty-five percent of the taxpayer's total dollar amount of actual or, if applicable, estimated material and labor purchases as reported on the application is for retail and wholesale construction activity performed by the applicant. However, the department may approve an application not meeting the criteria in this subsection (1)(d)(i)(D) if the department is satisfied that approval is unlikely to jeopardize collection of the taxes due under this title.

(ii) The department may also deny an application if the department determines that denial would be in the best interest of collecting taxes due under this title.

(iii) The department's decision to approve or deny an application may be based on tax returns previously filed with the department by the applicant, a current or previous examination of the applicant's books and records by the department, information provided by the applicant in the master application and the reseller permit application, and other information available to the department.

(e) The department must refuse to accept an application to renew a reseller permit that is received more than ninety days before the expiration of the reseller permit.

(2) Notwithstanding subsection (1) of this section, the department may issue or renew a reseller permit for a contractor that has not applied for the permit or renewal of the permit if the department is satisfied that the contractor is entitled to make purchases at wholesale and that issuing or renewing the reseller permit is unlikely to jeopardize collection of sales taxes due under this title based on criteria established by the department by rule. Such criteria may include but is not limited to whether the taxpayer has a previous history of misusing resale certificates or reseller permits or there is any other indication that issuing or renewing the reseller permit would jeopardize collection of sales taxes due from the contractor.

(3)(a) Except as otherwise provided in (b) of this subsection:

(i) Except as provided in (a)(ii) of this subsection, until June 30, 2013, reseller permits issued, renewed, or reinstated under this section will be valid for a period of twelve months from the date of issuance, renewal, or reinstatement; and

(ii) Beginning July 1, 2013, reseller permits issued, renewed, or reinstated under this section will be valid for a period of twenty-four months from the date of issuance, renewal, or reinstatement. However, the department may issue, renew, or reinstate permits for a period of twenty-four months beginning July 1, 2011, if the department is satisfied in the same manner as set forth in subsection (2) of this section.

(b)(i) A reseller permit is no longer valid if the permit holder's certificate of registration is revoked, the permit holder's tax reporting account is closed by the department, or the permit holder otherwise ceases to engage in business.

(ii) The department may provide by rule for a uniform expiration date for reseller permits issued, renewed, or reinstated under this section, if the department determines that a uniform expiration date for reseller permits will improve administrative efficiency for the department. If the department adopts a uniform expiration date by rule, the department may extend or shorten the twelve or twenty-four month period provided in (a)(i) and (ii) of this subsection for a period not to exceed six months as necessary to conform the reseller permit to the uniform expiration date.

(4)(a) The department may revoke a contractor's reseller permit for any of the following reasons:

(i) The contractor used or allowed or caused its reseller permit to be used to purchase any item or service without payment of sales tax, but the contractor or other purchaser was not entitled to use the reseller permit for the purchase;

(ii) The department issued the reseller permit to the contractor in error;

(iii) The department determines that the contractor is no longer entitled to make purchases at wholesale; or

(iv) The department determines that revocation of the reseller permit would be in the best interest of collecting taxes due under this title.

(b) The notice of revocation must be in writing and is effective on the date specified in the revocation notice. The notice must also advise the contractor of its right to a review by the department.

(c) The department may refuse to reinstate a reseller permit revoked under (a)(i) of this subsection until all taxes, penalties, and interest due on any improperly purchased item or service have been paid in full. In the event a contractor whose reseller permit has been revoked under this subsection reorganizes, the new business resulting from the reorganization is not entitled to a reseller permit until all taxes, penalties, and interest due on any improperly purchased item or service have been paid in full.

(d) For purposes of this subsection, "reorganize" or "reorganization" means: (i) The transfer, however effected, of a majority of the assets of one business to another business where any of the persons having an interest in the ownership or management in the former business maintain an ownership or management interest in the new business, either directly or indirectly; (ii) a mere change in identity or form of ownership, however effected; or (iii) the new business is a mere continuation of the former business based on significant shared features such as owners, personnel, assets, or general business activity.

(5) The department may provide the public with access to reseller permit numbers on its web site, including the name of the permit holder, the status of the reseller permit, the expiration date of the permit, and any other information that is disclosable under *RCW 82.32.330(3)(l).

(6) The department must provide by rule for the review of the department's decision to deny, revoke, or refuse to reinstate a reseller permit or the department's failure to rule on an application within the time prescribed in subsection (1)(a) of this section. Such review must be consistent with the requirements of chapter 34.05 RCW.

(7) As part of its continuing efforts to educate taxpayers on their sales and use tax responsibilities, the department will educate taxpayers on the appropriate use of a reseller permit or other documentation authorized under RCW 82.04.470 and the consequences of misusing such permits or other documentation.

(8) As used in this section, the following definitions apply:

(a) "Contractor" means a person whose primary business activity is as a contractor as defined in RCW 18.27.010 or an electrical contractor as defined in RCW 19.28.006.

(b) "Government contracting" means the activity described in RCW 82.04.190(6).

(c) "Public road construction" means the activity described in RCW 82.04.190(3).

(d) "Retail construction activity" means any activity defined as a retail sale in RCW 82.04.050(2) (b) or (c).

(e) "Speculative building" means the activities of a speculative builder as the term "speculative builder" is defined by rule of the department.

(f) "Wholesale construction activity" means labor and services rendered for persons who are not consumers in respect to real property, if such labor and services are expressly defined as a retail sale by RCW 82.04.050 when rendered to or for consumers. For purposes of this subsection (8)(f), "consumer" has the same meaning as in RCW 82.04.190. [2010 c 112 § 3; 2009 c 563 § 202.]

***Reviser's note:** RCW 82.32.330 was amended by 2010 c 106 § 104, changing subsection (3)(l) to subsection (3)(k).

Effective date—2010 c 112 §§ 2, 3, 11, 12, and 15: See note following RCW 82.32.780.

Retroactive application—2010 c 112: See note following RCW 82.32.780.

Finding—Intent—Construction—Effective date—Reports and recommendations—2009 c 563: See notes following RCW 82.32.780.

82.32.784 Reseller's permit—Information required. (1) Reseller permits issued by the department, as provided under RCW 82.32.780 and 82.32.783, will be in a form prescribed by the department, which may include an electronic form. Reseller permits must contain the following information:

(a) A unique identifying number assigned by the department;

(b) The name and address of the permit holder;

(c) The type of business engaged in;

(d) The date the permit was issued, renewed, or reinstated by the department; and

(e) The expiration date of the permit.

(2) Reseller permits may also contain such other information as required by the department, including, but not limited to:

(a) The categories of items or services to be purchased for resale or that are otherwise to be purchased at wholesale;

(b) The date that the permit was provided to the seller;

(c) A statement that the items or services purchased either: (i) Are purchased for resale in the regular course of business; or (ii) are otherwise purchased at wholesale;

(d) A statement that the permit holder acknowledges that misuse of [a] reseller permit or reseller permit number subjects the permit holder to revocation of the reseller permit, penalties as provided in RCW 82.32.290 and 82.32.291, in addition to the tax, interest, and any other penalties imposed by law;

(e) Instructions for renewing the permit;

(f) A statement that the department is authorized to obtain information concerning the permit holder's purchase of items or services under the permit from the seller to verify whether the permit holder was authorized to purchase such items or services without payment of retail sales tax; and

(g) The signature of the permit holder, unless a copy of the permit is provided to the seller in a format other than paper. [2010 c 112 § 4.]

Retroactive application—2010 c 112: See note following RCW 82.32.780.

82.32.785 Reseller's permit—Voluntary electronic verification. The department of revenue must, by January 1, 2011, develop a system, as resources permit, allowing sellers to voluntarily verify through electronic means whether their customers' reseller permits are valid. [2010 c 112 § 5; 2009 c 563 § 203.]

Retroactive application—2010 c 112: See note following RCW 82.32.780.

Finding—Intent—Construction—Effective date—Reports and recommendations—2009 c 563: See notes following RCW 82.32.780.

82.32.787 Reseller's permit—Request for copies. A person must, upon request of the department, provide the department with paper or electronic copies of all reseller permits, or other documentation as authorized in RCW 82.04.470, accepted by that person during the period specified by the department to substantiate wholesale sales. If, instead of the documentation specified in this subsection, the seller has retained the relevant data elements from such permits or other documentation authorized in RCW 82.04.470, as allowed under the streamlined sales and use tax agreement, the seller must provide such data elements to the department. [2010 c 112 § 6; 2009 c 563 § 204.]

Retroactive application—2010 c 112: See note following RCW 82.32.780.

Finding—Intent—Construction—Effective date—Reports and recommendations—2009 c 563: See notes following RCW 82.32.780.

82.32.790 Tax incentives contingent upon semiconductor microchip fabrication facility siting and operation. (1)(a) Section 206, chapter 106, Laws of 2010, sections 104, 110, 117, 123, 125, 129, 131, and 150, chapter 114, Laws of 2010, section 3, chapter 461, Laws of 2009, section 7, chapter 300, Laws of 2006, and section 4, chapter 149, Laws of 2003 are contingent upon the siting and commercial operation of a significant semiconductor microchip fabrication facility in the state of Washington.

(b) For the purposes of this section:

(i) "Commercial operation" means the same as "commencement of commercial production" as used in RCW 82.08.965.

(ii) "Semiconductor microchip fabrication" means "manufacturing semiconductor microchips" as defined in RCW 82.04.426.

(iii) "Significant" means the combined investment of new buildings and new machinery and equipment in the buildings, at the commencement of commercial production, will be at least one billion dollars.

(2) Chapter 149, Laws of 2003 takes effect the first day of the month in which a contract for the construction of a significant semiconductor fabrication facility is signed, as determined by the director of the department of revenue.

(3)(a) The department of revenue must provide notice of the effective date of sections 104, 110, 117, 123, 125, 129, 131, and 150, chapter 114, Laws of 2010[,] section 3, chapter 461, Laws of 2009, section 7, chapter 300, Laws of 2006, and section 4, chapter 149, Laws of 2003 to affected taxpayers, the legislature, and others as deemed appropriate by the department.

(b) If, after making a determination that a contract has been signed and chapter 149, Laws of 2003 is effective, the department discovers that commencement of commercial production did not take place within three years of the date the contract was signed, the department must make a determination that chapter 149, Laws of 2003 is no longer effective, and all taxes that would have been otherwise due are deemed deferred taxes and are immediately assessed and payable from any person reporting tax under RCW 82.04.240(2) or claiming an exemption or credit under section 2 or 5 through 10, chapter 149, Laws of 2003. The department is not authorized to make a second determination regarding the effective date of chapter 149, Laws of 2003. [2010 c 114 § 201; 2010 c 106 § 401; 2009 c 461 § 9; 2006 c 300 § 12; 2003 c 149 § 12.]

Reviser's note: This section was amended by 2010 c 106 § 401 and by 2010 c 114 § 201, each without reference to the other. Both amendments are incorporated in the publication of this section under RCW 1.12.025(2). For rule of construction, see RCW 1.12.025(1).

Finding—Intent—2010 c 114: See note following RCW 82.32.585.

82.32.800 Contributions of high technology research and development tax credit—Opportunity expansion account. A person eligible for the high technology research and development tax credit under RCW 82.04.4452 may contribute all or any portion of the credit to the opportunity expansion account hereby created in the state treasury. The department must create the forms and processes to allow a person to make such an election easily and quickly by means of checking a box. By May 1, 2012, and by May 1st of every year thereafter, the department must report the amount so contributed and certify the amount to the state treasurer. By July 1, 2012, and by July 1st of every year thereafter, the state treasurer must transfer the amount into the opportunity expansion account. Money in the account may only be appropriated for the purposes specified in RCW 28B.145.060. [2011 1st sp.s. c 13 § 10.]

Finding—Intent—Short title—Effective date—2011 1st sp.s. c 13: See RCW 28B.145.005, 28B.145.900, and 28B.145.901.

82.32.805 Tax preferences—Expiration dates. (1)(a) Except as otherwise provided in this section, every new tax preference expires on the first day of the calendar year that is subsequent to the calendar year that is ten years from the effective date of the tax preference. With respect to any new property tax exemption, the exemption does not apply to taxes levied for collection beginning in the calendar year that is subsequent to the calendar year that is ten years from the effective date of the tax preference.

(b) A future amendment that expands a tax preference does not extend the tax preference beyond the period provided in this subsection unless an extension is expressly and unambiguously stated in the amendment.

(2) Subsection (1) of this section does not apply if legislation creating a new tax preference includes an expiration date for the new tax preference.

(3) Subsection (1) of this section does not apply to any existing tax preference that is amended to clarify an ambiguity or correct a technical inconsistency. Future enacted legislation intended to make such clarifications or corrections must explicitly indicate this intent.

(4) For the purposes of this section, the following definitions apply:

(a) "New tax preference" means a tax preference that initially takes effect after August 1, 2013, or a tax preference in effect as of August 1, 2013, that is expanded or extended after August 1, 2013, even if the expanding or extending amendment includes any other change to the tax preference.

(b) "Tax preference" has the same meaning as in RCW 43.136.021 with respect to any state tax administered by the department, except does not include the Washington estate and transfer tax in chapter 83.100 RCW.

(5) The department must provide written notice to the office of the code reviser of a ten-year expiration date required under this section for a new tax preference. [2013 2nd sp.s. c 13 § 1701.]

Effective date—2013 2nd sp.s. c 13: See note following RCW 82.04.43393.

82.32.808 Tax preferences—Performance statement requirement. (1) As provided in this section, every bill enacting a new tax preference must include a tax preference performance statement.

(2) A tax preference performance statement must state the legislative purpose for the new tax preference. The tax preference performance statement must indicate one or more of the following general categories, by reference to the applicable category specified in this subsection, as the legislative purpose of the new tax preference:

(a) Tax preferences intended to induce certain designated behavior by taxpayers;

(b) Tax preferences intended to improve industry competitiveness;

(c) Tax preferences intended to create or retain jobs;

(d) Tax preferences intended to reduce structural inefficiencies in the tax structure;

(e) Tax preferences intended to provide tax relief for certain businesses or individuals; or

(f) A general purpose not identified in (a) through (e) of this subsection.

(3) In addition to identifying the general legislative purpose of the tax preference under subsection (2) of this section, the tax preference performance statement must provide additional detailed information regarding the legislative purpose of the new tax preference.

(4) A new tax preference performance statement must specify clear, relevant, and ascertainable metrics and data requirements that allow the joint legislative audit and review committee and the legislature to measure the effectiveness of the new tax preference in achieving the purpose designated under subsection (2) of this section.

(5) If the tax preference performance statement for a new tax preference indicates a legislative purpose described in subsection (2)(b) or (c) of this section, any taxpayer claiming the new tax preference must file an annual survey in accordance with RCW 82.32.585.

(6)(a) Taxpayers claiming a new tax preference must report the amount of the tax preference claimed by the taxpayer to the department as otherwise required by statute or determined by the department as part of the taxpayer's regular tax reporting responsibilities. For new tax preferences allowing certain types of gross income of the business to be excluded from business and occupation or public utility taxation, the tax return must explicitly report the amount of the exclusion, regardless of whether it is structured as an exemption or deduction, if the taxpayer is otherwise required to report taxes to the department on a monthly or quarterly basis. For a new sales and use tax exemption, the total sales or uses subject to the exemption claimed by the buyer must be reported on an addendum to the buyer's tax return if the buyer is otherwise required to report taxes to the department on a monthly or quarterly basis and the buyer is required to submit an exemption certificate, or similar document, to the seller.

(b) This subsection does not apply to:

(i) Property tax exemptions;

(ii) Tax preferences required by constitutional law;

(iii) Tax preferences for which the tax benefit to the taxpayer is less than one thousand dollars per calendar year; or

(iv) Taxpayers who are annual filers.

(c) The department may waive the filing requirements of this subsection for taxpayers who are not required to file electronically any return, report, or survey under this chapter.

(7)(a) Except as otherwise provided in this subsection, the amount claimed by a taxpayer for any new tax preference is subject to public disclosure and is not considered confidential tax information under RCW 82.32.330, if the reporting periods subject to disclosure ended at least twenty-four months prior to the date of disclosure and the taxpayer is required to report the amount of the tax preference claimed by the taxpayer to the department under subsection (6) of this section.

(b)(i) The department may waive the public disclosure requirement under (a) of this subsection (7) for good cause. Good cause may be demonstrated by a reasonable showing of economic harm to a taxpayer if the information specified under this subsection is disclosed. The waiver under this subsection (7)(b)(i) only applies to the new tax preferences provided in chapter 13, Laws of 2013 2nd sp. sess.

(ii) The amount of the tax preference claimed by a taxpayer during a calendar year is confidential under RCW 82.32.330 and may not be disclosed under this subsection if the amount for the calendar year is less than ten thousand dollars.

(c) In lieu of the disclosure and waiver requirements under this subsection, the requirements under RCW 82.32.585 apply to any tax preference that requires a survey.

(8) If a new tax preference does not include the information required under subsections (2) through (4) of this section, the joint legislative audit and review committee is not required to perform a tax preference review under chapter 43.136 RCW, and it is legislatively presumed that it is the intent of the legislature to allow the new tax preference to expire upon its scheduled expiration date.

(9) For the purposes of this section, "tax preference" and "new tax preference" have the same meaning as provided in RCW 82.32.805. [2013 2nd sp.s. c 13 § 1702.]

Effective date—2013 2nd sp.s. c 13: See note following RCW 82.04.43393.

82.32.850 Significant commercial airplane manufacturing—Tax preference—Contingent effective date. (1) Chapter 2, Laws of 2013 3rd sp. sess. takes effect contingent upon the siting of a significant commercial airplane manufacturing program in the state of Washington. If a significant commercial airplane manufacturing program is not sited in the state of Washington by June 30, 2017, chapter 2, Laws of 2013 3rd sp. sess. does not take effect.

(2) The definitions in this subsection apply throughout this section unless the context clearly requires otherwise.

(a) "Commercial airplane" has the same meaning provided in RCW 82.32.550.

(b) "New model, or any version or variant of an existing model, of a commercial airplane" means a commercial airplane manufactured with a carbon fiber composite fuselage or carbon fiber composite wings or both.

(c) "Significant commercial airplane manufacturing program" means an airplane program in which the following products, including final assembly, will commence manufacture at a new or existing location within Washington state on or after July 9, 2014:

(i) The new model, or any version or variant of an existing model, of a commercial airplane; and

(ii) Fuselages and wings of a new model, or any version or variant of an existing model, of a commercial airplane.

(d) "Siting" means a final decision, made on or after November 1, 2013, by a manufacturer to locate a significant commercial airplane manufacturing program in Washington state.

(3) The department must make a determination regarding whether the contingency in subsection (1) of this section occurs and must provide written notice of the date on which such contingency occurs and chapter 2, Laws of 2013 3rd sp. sess. takes effect. If the department determines that the contingency in subsection (1) of this section has not occurred by June 30, 2017, the department must provide written notice stating that chapter 2, Laws of 2013 3rd sp. sess. does not take effect. Written notice under this subsection (3) must be provided to affected parties, the chief clerk of the house of representatives, the secretary of the senate, the office of the code reviser, and others as deemed appropriate by the department. [2013 3rd sp.s. c 2 § 2.]

Reviser's note: The department of revenue determined that the contingency in section 2, chapter 2 (Engrossed Substitute Senate Bill No. 5952), Laws of 2013 3rd sp.s. occurred and that the bill took effect July 9, 2014.

Findings—Intent—2013 3rd sp.s. c 2: "(1) The legislature finds that the people of Washington have benefited enormously from the presence of the aerospace industry in Washington state. The legislature further finds that the industry continues to provide good wages and benefits for the thousands of engineers, mechanics, and support staff working directly in the industry throughout the state. The legislature further finds that suppliers and vendors that support the aerospace industry in turn provide a range of well-paying jobs. In 2003, and again in 2006, and 2007, the legislature determined it was in the public interest to encourage the continued presence of the aerospace industry through the provision of tax incentives. To this end, and in recognition of the continuing extreme importance of the aerospace industry in Washington, it is the legislature's intent to reaffirm and build upon prior aerospace tax incentive legislation in a fiscally prudent manner.

(2) The legislature categorizes the tax preferences extended in this act as intended to create or retain jobs, as indicated in RCW 82.32.808(2)(c).

(3) It is the legislature's specific public policy objective to maintain and grow Washington's aerospace industry workforce. To help achieve this public policy objective, it is the legislature's intent to conditionally extend aerospace industry tax preferences until July 1, 2040, in recognition of intent by the state's aerospace industry sector to maintain and grow its workforce within the state.

(4) The joint legislative audit and review committee must review the tax preferences provided in this act and report to the legislature by December 1, 2019, and every five years thereafter. As part of its tax preference reviews, the committee must specifically assess changes in aerospace industry employment in Washington in comparison with other states and internationally. To the extent practicable, the committee must use occupational data statistics provided by the bureau of labor statistics and state agencies responsible for administering unemployment insurance to perform this assessment." [2013 3rd sp.s. c 2 § 1.]

82.32.860 Liquefied natural gas—Estimated sales tax revenue. ***(Effective July 1, 2015, until July 1, 2028.)*** (1) By the last workday of the second and fourth calendar quarters, the state treasurer must transfer the amount specified in subsection (2) of this section from the general fund to the motor vehicle fund established under RCW 46.68.070. The first transfer under this subsection must occur by December 31, 2017.

(2) By December 15th and by June 15th of each year, the department must estimate the increase in state general fund revenues from the taxes collected under RCW 82.08.0261(2)(a) on the nonexempt portion of liquefied natural gas sales in the current and prior calendar quarters and notify the state treasurer of the increase.

(3) This section expires July 1, 2028. [2014 c 216 § 406.]

Effective date—Findings—Tax preference performance statement—2014 c 216: See notes following RCW 82.38.030.

82.32.900 Work group created—Transition plan—Taxing liquefied natural gas used for marine vessel transportation. ***(Effective July 1, 2015.)*** (1) The department of licensing must convene a work group that includes, at a minimum, representatives from the department of transportation, the trucking industry, manufacturers of compressed natural gas and liquefied natural gas, and any other stakeholders as deemed necessary, for the following purposes:

(a) To evaluate the annual license fee in lieu of fuel tax under RCW 82.38.075 to determine a fee that more closely represents the average consumption of vehicles by weight and to make recommendations to the transportation committees of the legislature by December 1, 2014, on an updated fee schedule.

(b) To develop a transition plan to move vehicles powered by liquefied natural gas and compressed natural gas from the annual license fee in lieu of fuel tax to the fuel tax under RCW 82.38.030. The transition plan must incorporate stakeholder feedback and must include draft legislation and cost and revenue estimates. The transition plan must be submitted to the transportation committees of the legislature by December 1, 2015.

(2) The department of revenue must convene a work group that includes, at a minimum, representatives from the department of transportation, the marine shipping industry, manufacturers of liquefied natural gas, and any other stakeholders as deemed necessary, for the purpose of examining the appropriate level and manner of taxing liquefied natural gas used for marine vessel transportation. The department must make recommendations to the fiscal committees of the legislature by December 1, 2025. [2014 c 216 § 209.]

Effective date—Findings—Tax preference performance statement—2014 c 216: See notes following RCW 82.38.030.

Chapter 458-20 WAC
EXCISE TAX RULES

*WAC
458-20-185 Tax on tobacco products.
458-20-186 Tax on cigarettes.
*Partial listing of sections.

WAC 458-20-185 Tax on tobacco products. (1) **Introduction.** This rule explains the tax liabilities of persons engaged in business as retailers or distributors of tobacco products other than cigarettes. The tax on tobacco products (also called "other tobacco products tax," "tobacco tax," or "OTP tax") is in addition to all other taxes owed, such as retailing or wholesaling business and occupation tax, sales tax, and litter tax. See WAC 458-20-186 for tax liabilities associated with taxes that apply exclusively to cigarettes.

(2) **Organization of rule.** The information provided in this rule is divided into five parts:

(a) Part I provides definitions and explains the tax liabilities of persons engaged in the business of selling or distributing tobacco products (excluding cigarettes) in this state.

(b) Part II explains wholesale and retail tobacco products vendor licensing requirements and responsibilities.

(c) Part III explains the requirements and responsibilities for persons transporting tobacco products in Washington.

(d) Part IV explains the recordkeeping requirements and enforcement of the tobacco tax.

(e) Part V describes the credits for tax paid and the procedures that must be followed to qualify for credit.

Part I - Tax on Tobacco Products (excluding Cigarettes)

(101) **Definitions.** For the purposes of this rule, the following definitions apply:

(a) **"Actual price"** means the total amount of consideration for which tobacco products are sold, valued in money, whether received in money or otherwise, including any charges by the seller necessary to complete the sale such as charges for delivery, freight, transportation, or handling.

(b) **"Affiliated"** means related in any way by virtue of any form or amount of common ownership, control, operation, or management.

(c) **"Board"** means the liquor control board.

(d) **"Business"** means any trade, occupation, activity, or enterprise engaged in for the purpose of selling or distributing tobacco products in this state.

(e) **"Cigar"** means a roll for smoking that is of any size or shape and that is made wholly or in part of tobacco, irrespective of whether the tobacco is pure or flavored, adulterated or mixed with any other ingredient, if the roll has a wrapper made wholly or in greater part of tobacco. "Cigar" does not include a cigarette.

(f) **"Cigarette"** has the same meaning as in RCW 82.24.010.

(g) **"Department"** means the department of revenue.

(h) **"Distributor"** means:

(i) Any person engaged in the business of selling tobacco products in this state who brings, or causes to be brought, into this state from without the state any tobacco products for sale;

(ii) Any person who makes, manufactures, fabricates, or stores tobacco products in this state for sale in this state;

(iii) Any person engaged in the business of selling tobacco products from outside this state who ships or transports tobacco products to retailers in this state, to be sold by those retailers;

(iv) Any person engaged in the business of selling tobacco products in this state who handles for sale any tobacco products that are within this state but upon which tax has not been imposed. RCW 82.26.010 (3)(a) through (d). (For example, Sunshine Tobacco Shop ("Sunshine") buys cigars from an out-of-state manufacturer for resale to consumers in this state. The cigars are shipped to Sunshine via common carrier. In this instance, Sunshine is a distributor, must have both a tobacco distributor license and a tobacco products retailer license, and must pay the tobacco products tax on the products it brings into the state. However, if Sunshine bought its merchandise exclusively from in-state distributors that have paid the tobacco products tax on that merchandise, Sunshine would not be considered a distributor, and would need only a tobacco products retailer license.)

(i) **"Indian," "Indian country,"** and **"Indian tribe"** have the same meaning as defined in chapter 82.24 RCW and WAC 458-20-192.

(j) **"Indian distributor"** means a federally recognized Indian tribe or tribal entity that would otherwise meet the definition of distributor under RCW 82.26.010, if federally recognized Indian tribes and tribal entities were not excluded from the definition of "person" in RCW 82.26.010.

(k) **"Indian retailer"** means a federally recognized Indian tribe or tribal entity that would otherwise meet the definition of retailer under RCW 82.26.010, if federally recognized Indian tribes and tribal entities were not excluded from the definition of "person" in RCW 82.26.010.

(l) **"Indian tribal organization"** means a federally recognized Indian tribe, or tribal entity, and includes an Indian distributor or retailer that is owned by an Indian who is an enrolled tribal member conducting business under tribal license or similar tribal approval within Indian country.

(m) **"Little cigar"** means a cigar that has a cellulose acetate integrated filter.

(n) **"Manufacture"** means the production, assembly, or creation of new tobacco products. For the purposes of this rule, "manufacture" does not necessarily have the same meaning as provided in RCW 82.04.120.

(o) **"Manufacturer"** means a person who manufactures and sells tobacco products.

(p) **"Manufacturer's representative"** means a person hired by a manufacturer to sell or distribute the manufac-

turer's tobacco products, and includes employees and independent contractors.

(q) **"Moist snuff"** means tobacco that is finely cut, ground, or powdered; is not for smoking; and is intended to be placed in the oral, but not the nasal, cavity.

(r) **"Person"** means any individual, receiver, administrator, executor, assignee, trustee in bankruptcy, trust, estate, firm, copartnership, joint venture, club, company, joint stock company, business trust, municipal corporation, the state and its departments and institutions, political subdivision of the state of Washington, corporation, limited liability company, association, society, any group of individuals acting as a unit, whether mutual, cooperative, fraternal, nonprofit, or otherwise. The term excludes any person immune from state taxation, including the United States or its instrumentalities, and federally recognized Indian tribes and enrolled tribal members, conducting business within Indian country.

(s) **"Place of business"** means any place where tobacco products are sold or where tobacco products are manufactured, stored, or kept for the purpose of sale, including any vessel, vehicle, airplane, train, or vending machine.

(t) **"Retailer"** means any person engaged in the business of selling tobacco products to ultimate consumers.

(u) **"Retail outlet"** means each place of business from which tobacco products are sold to consumers.

(v) **"Sale"** means:

(i) Any transfer, exchange, or barter, in any manner or by any means whatsoever, for a consideration, and includes and means all sales made by any person.

(ii) The term "sale" includes a gift by a person engaged in the business of selling tobacco products, for advertising, promoting, or as a means of evading the provisions of this chapter.

(w) **"Store," "stores,"** or **"storing"** means the holding of tobacco products for later sale or delivery inside or outside this state. For example:

(i) Wilderness Enterprises ships products from out-of-state to its Kent warehouse. All products are intended for future sale to Alaska. Wilderness Enterprises is a distributor that stores tobacco products in this state. Wilderness Enterprises is liable for tobacco products tax on the products stored in this state. (However, see subsection (501)(a) of this rule for credits that may be available to Wilderness Enterprises for out-of-state sales.)

(ii) Cooper Enterprises brings tobacco products into this state for sale. It rents storage space from a third party, Easy Storage. Cooper Enterprises (the distributor), not Easy Storage, is responsible for the tax and reporting requirements on the stored tobacco products.

(x) **"Taxable sales price"** means:

(i) In the case of a taxpayer that is not affiliated with the manufacturer, distributor, or other person from whom the taxpayer purchased tobacco products, the actual price for which the taxpayer purchased the tobacco products. For purposes of this subsection, "person" includes both persons as defined in (r) of this subsection and any person immune from state taxation, including the United States or its instrumentalities, and federally recognized Indian tribes and enrolled tribal members, conducting business within Indian country;

(ii) In the case of a taxpayer that purchases tobacco products from an affiliated manufacturer, affiliated distributor, or other affiliated person, and that sells those tobacco products to unaffiliated distributors, unaffiliated retailers, or ultimate consumers, the actual price for which that taxpayer sells those tobacco products to unaffiliated distributors, unaffiliated retailers, or ultimate consumers. For purposes of this subsection, "person" includes both persons as defined in (r) of this subsection and any person immune from state taxation, including the United States or its instrumentalities, and federally recognized Indian tribes and enrolled tribal members, conducting business within Indian country;

(iii) In the case of a taxpayer that sells tobacco products only to affiliated distributors or affiliated retailers, the price, determined as nearly as possible according to the actual price for which other distributors sell similar tobacco products of like quality and character to unaffiliated distributors, unaffiliated retailers, or ultimate consumers;

(iv) In the case of a taxpayer that is a manufacturer selling tobacco products directly to ultimate consumers, the actual price for which the taxpayer sells those tobacco products to ultimate consumers;

(v) In the case of a taxpayer that has acquired tobacco products under a sale as defined in (v)(ii) of this subsection, the price, determined as nearly as possible according to the actual price for which the taxpayer or other distributors sell the same tobacco products or similar tobacco products of like quality and character to unaffiliated distributors, unaffiliated retailers, or ultimate consumers; or

(vi) In any case where (x)(i) through (v) of this subsection do not apply, the price, determined as nearly as possible according to the actual price for which the taxpayer or other distributors sell the same tobacco products or similar tobacco products of like quality and character to unaffiliated distributors, unaffiliated retailers, or ultimate consumers.

(y) **"Taxpayer"** means a person liable for the tax imposed by chapter 82.26 RCW.

(z) **"Tobacco products"** means cigars, cheroots, stogies, periques, granulated, plug cut, crimp cut, ready rubbed, and other smoking tobacco, snuff, snuff flour, cavendish, plug and twist tobacco, fine-cut and other chewing tobaccos, shorts, refuse scraps, clippings, cuttings and sweepings of tobacco, and other kinds and forms of tobacco, prepared in such manner as to be suitable for chewing or smoking in a pipe or otherwise, or both for chewing and smoking, and any other product, regardless of form, that contains tobacco and is intended for human consumption or placement in the oral or nasal cavity or absorption into the human body by any other means, but does not include cigarettes as defined in RCW 82.24.010.

(aa) **"Unaffiliated distributor"** means a distributor that is not affiliated with the manufacturer, distributor, or other person from whom the distributor has purchased tobacco products.

(bb) **"Unaffiliated retailer"** means a retailer that is not affiliated with the manufacturer, distributor, or other person from whom the retailer has purchased tobacco products.

(102) **Imposition of tax.** The tobacco tax is imposed upon the sale, handling, or distribution of all tobacco products in this state. Taxes are imposed at the time the distributor (a) brings, or causes to be brought, into this state from without the state tobacco products for sale; (b) makes, manufactures, fabricates, or stores tobacco products in this state for

sale in this state; (c) ships or transports tobacco products to retailers in this state, to be sold by those retailers; or (d) handles for sale any tobacco products that are within this state but upon which tax has not been imposed. RCW 82.26.020(2). The distributor who first possesses the tobacco product for sale in this state is the distributor liable for the tax. RCW 82.26.030.

Examples. The following examples, while not exhaustive, illustrate some of the circumstances in which the tax is imposed. These examples should be used only as a general guide. The status of each situation must be determined after a review of all of the facts and circumstances.

(a) BET Distributors sells and ships tobacco products from Kentucky via common carrier to Surprise Enterprises in Washington. The tax is due from Surprise Enterprises, a licensed distributor, because it is the first possessor in Washington that holds the product for sale. However, BET Distributors must give the board notice of its intent to ship tobacco products into this state.

(b) BET Distributors sells and ships tobacco products in its own trucks from Kentucky to Jamie's Enterprises, a licensed distributor in Washington. The tax is due from BET Distributors, because it is the first possessor in Washington that holds the product for sale.

(c) Garden State Cigars is located in New Jersey. It ships its products to Washington retailers via common carrier. The retailers must be licensed as distributors and are liable for the tax. However, Garden State Cigars must give the board notice of its intent to ship tobacco products into this state.

(d) An Indian retailer located in Indian Country in Washington State sells tobacco products to Washington retailers who pick up the products in Indian Country and take it back to their retail outlets. The Washington retailers must be licensed as distributors and are liable for the tax. The Indian retailer is not required to hold a state tobacco products retailer or distributor license. State-licensed distributors making retail sales to Indian retailers may claim a credit against the tax under RCW 82.26.110.

(103) **Rates.** The rate of the Washington state tobacco tax depends upon the tobacco product sold (cigars, other tobacco products, moist snuff, or little cigars) and is found in RCW 82.26.020.

(104) **Promotions.** Tobacco products sold, provided at a reduced cost, or given away for advertising or any other purpose are taxed in the same manner as if they were sold, used, consumed, handled, possessed, or distributed in this state. RCW 82.26.010 (18)(b).

Part II - Wholesale and Retail Tobacco Products Vendor Licensing Requirements and Responsibilities

(201) **License required.** No person may engage in the retail or wholesale distribution of tobacco products in this state without a license, except for any person immune from state taxation, including federally recognized Indian tribes and enrolled tribal members, conducting business within Indian country, and the United States or its instrumentalities.

(202) **Tobacco distributor license.** Prior to selling or distributing tobacco products from a stock of goods in Washington or to retailers in Washington, each distributor must first obtain a tobacco distributor license from the department through its business licensing service.

(a) Background check. Each distributor must undergo a criminal background check by the board before a license will be issued. RCW 82.26.150(3). See chapter 314-33 WAC for board standards. Failure to provide information sufficient to complete the background check may result in denial of the license.

(b) Application. Application for a license or renewal of a license is made on forms supplied by the department and must be accompanied by the annual license fee as provided in chapter 82.26 RCW. A tobacco distributor license is valid for one year from the date it is issued. The annual license fee is waived if the licensee has applied for or already has a cigarette wholesaler license.

(c) Multiple locations. If the distributor sells, intends to sell, or stores tobacco products at more than one place of business, whether temporary or permanent, a separate license with a license fee as provided in chapter 82.26 RCW is required for each additional place of business. Each license must be exhibited in the place of business for which it is issued.

(203) **Duties and responsibilities of licensed distributors.**

(a) Sales restricted. Distributors selling tobacco products in this state may sell tobacco products only to Washington retailers or distributors who have a current tobacco license, to other licensed distributors, the federal government or its instrumentalities, or to Indian tribal organizations.

(b) Manufacturer's representatives. Manufacturers selling tobacco products through manufacturer's representatives must provide the board a current list of the names and addresses of all such representatives and must ensure that the list provided to the board is kept current. RCW 82.26.210.

(204) **Tobacco products retailer license.** Prior to the retail sale or distribution of tobacco products, each retailer must first be issued a tobacco products retailer license from the department through its business licensing service.

(a) Background check. Each retailer must undergo a criminal background check by the board before a license will be issued. RCW 82.26.150(3). See chapter 314-33 WAC for board standards. Failure to provide information sufficient to complete the background check may result in denial of the license.

(b) Application. Application for a license or renewal of a license is made on forms supplied by the department and must be accompanied by the annual license fee as provided in chapter 82.26 RCW. A tobacco products retailer license is valid for one year from the date it is issued. The annual license fee is waived if the licensee has already applied for or already has a cigarette retailer license at the same business location.

(c) Multiple locations. If the retailer sells tobacco products at more than one place of business, whether temporary or permanent, a separate license with a license fee as provided in chapter 82.26 RCW is required for each additional place of business. Each license must be exhibited in the place of business for which it is issued.

(205) **Duties and responsibilities of retailers.** A retailer that obtains tobacco products from an unlicensed distributor or any other person that is not licensed under this chapter must be licensed both as a retailer and a distributor and is liable for the tax imposed under RCW 82.26.020 with respect to

the tobacco products acquired from the unlicensed person that are held for sale, handling, or distribution in this state. For example, if a retailer buys tobacco products from an Indian retailer or an out-of-state wholesaler who does not have a tobacco distributor license, the retailer must obtain a distributor license and pay the tobacco tax due. An Indian retailer in Indian country is not required to hold a state tobacco products retailer or distributor license.

(206) **Licensing enforcement.** The board assumed the licensing enforcement responsibilities for tobacco products on July 1, 2009. See chapters 314-33 and 314-34 WAC for the board's enforcement provisions on tobacco products.

Part III - Transporting Tobacco Products in Washington

(301) **Transportation of tobacco products restricted.**

(a) Other than as provided in (b) of this subsection, only licensed distributors or retailers in their own vehicles, or manufacturer's representatives authorized to sell or distribute tobacco products in this state, can transport tobacco products in this state. Individuals transporting the product must have a copy of a valid retailer's or distributor's license in their possession and evidence that they are representatives of the licensees. Individuals transporting tobacco products for sale must also have in their possession invoices or delivery tickets for the tobacco products that show the name and address of the consignor or seller, the name and address of the consignee or purchaser, and the quantity and brands of the tobacco products being transported. It is the duty of the distributor, retailer, or manufacturer responsible for the delivery or transportation of the tobacco products to ensure that all drivers, agents, representatives, or employees have the delivery tickets or invoices in their possession for all such shipments.

(b) All other persons must give notice to the board in advance of transporting or causing tobacco products to be transported in this state for sale. This includes those transporting tobacco products in this state via common carrier. For example: Peg's Primo Cigars (PPC), a small out-of-state distributor, sells tobacco products to retailers in Washington. PPC ships the products via common carrier. Before placing the product in shipment to Washington, PPC must give notice to the board of the pending shipment. The notice must include the name and address of the consignor or seller, the name and address of the consignee or purchaser, the quantity and brands of the tobacco products being transported, and the shipment date.

Part IV - Recordkeeping and Enforcement

(401) **Books and records.** An accurate set of records showing all transactions related to the purchase, sale, or distribution of tobacco products must be retained. RCW 82.26.060, 82.26.070 and 82.26.080. All records must be preserved for five years from the date of the transaction.

(a) **Distributors.** Distributors must keep at each place of business complete and accurate records for that place of business. The records to be kept by distributors include itemized invoices of tobacco products held, purchased, manufactured, brought in or caused to be brought in from without the state or shipped or transported to retailers in this state, and of all sales of tobacco products. The itemized invoice for each purchase or sale must be legible and must show the seller's name and address, the purchaser's name and address, the date of sale, and all prices and discounts. Itemized invoices must be preserved for five years from the date of sale.

(b) **Retailers.** Retailers must secure itemized invoices of all tobacco products purchased. The itemized invoice for each purchase must be legible and must show the seller's name and address, the purchaser's name and address, the date of sale, and all prices and discounts. Itemized invoices must be preserved for five years from the date of sale. Retailers are responsible for the tax on any tobacco products for which they do not have invoices.

(402) **Reports and returns.** The department may require any person dealing in tobacco products in this state to complete and return forms, as furnished by the department, setting forth sales, inventory, shipments, and other data required by the department to maintain control over trade in tobacco.

(a) **Tax returns.** The tax is reported on the combined excise tax return that must be filed according to the reporting frequency assigned by the department. Detailed instructions for preparation of these returns may be obtained from the department.

(b) **Reports.**

(i) Retailers and distributors of tobacco products may be required to file a report with the department in compliance with the provisions of the National Uniform Tobacco Settlement when purchasing tobacco products (e.g., "roll your own tobacco") from certain manufacturers. See WAC 458-20-264 and chapter 70.157 RCW.

(ii) A person who sells, transfers, or ships for profit smokeless tobacco (as such term is defined in 15 U.S.C. Sec. 375) in interstate commerce, whereby such smokeless tobacco is shipped into Washington, or who advertises or offers such smokeless tobacco for sale, transfer, or shipment in this state, must file a report as required under 15 U.S.C. Sec. 376. This report is due no later than the tenth day of each calendar month and must include a memorandum or invoice covering all transactions and shipments of smokeless tobacco made into Washington during the previous calendar month.

(c) **Access to premises and records.** Retailers and distributors must allow department personnel free access to their premises to inspect the tobacco products on the premises and to examine the books and records for the business. For further details, see subsection (405) of this section.

(403) **Criminal provisions.** Chapter 82.26 RCW prohibits certain activities with respect to tobacco products. Persons handling tobacco within this state must refer to these statutes.

(404) **Search, seizure, and forfeiture.** Any tobacco products in the possession of a person selling tobacco in this state without a license or transporting tobacco products without the proper invoices or delivery tickets may be seized without a warrant by any agent of the department, agent of the board, or law enforcement officer of this state. In addition, all conveyances, including aircraft, vehicles, or vessels used to transport the illegal tobacco product may be seized and forfeited.

(405) **Enforcement.** Pursuant to RCW 82.26.121 and 66.44.010, enforcement officers of the board may enforce all provisions of the law with respect to the tax on tobacco products. Retailers and distributors must allow department personnel and enforcement officers of the board free access to their premises to inspect the tobacco products on the prem-

ises and to examine the books and records of the business. If a retailer fails to allow free access, or hinders, or interferes with department personnel and/or enforcement officers of the board, that retailer's registration certificate issued under RCW 82.32.030 is subject to revocation. Additionally, any licenses issued under chapter 82.26 or 82.24 RCW are subject to suspension or revocation by the department or board.

(406) **Penalties.** Penalties and interest may be assessed in accordance with chapter 82.32 RCW for nonpayment of tobacco tax.

Part V - Credits

(501) **Credits.**

(a) **Interstate and foreign sales.** A credit is available to distributors for tobacco products sold to retailers and wholesalers outside the state for resale. This credit may be taken only for the amount of tobacco products tax reported and previously paid on such products. RCW 82.26.110. No credit may be taken for a sale of tobacco products from a stock of goods in this state to a consumer outside the state.

(b) **Returned or destroyed goods.** A credit may be taken for tax previously paid when tobacco products are destroyed or returned to the manufacturer. Credits claimed against tax owed or as a refund of tax paid, must be supported by documentation.

(c) **Sales to the United States.** A credit is available to distributors for tobacco products sold to the United States or any of its agencies or instrumentalities.

(d) **Sales to Indian tribal organizations.** A credit is available to distributors for tobacco products sold to any Indian tribal organization.

(e) **Documentation.** Credits claimed against tax owed or as a refund of tax paid, must be supported by documentation. The department provides two documents to assist taxpayers in determining the amount of credits available – The Tobacco Products Tax Credit Worksheet and Claim for Credit of Tobacco Product Tax. See the department's web site (dor.wa.gov) for more information.

[Statutory Authority: RCW 82.32.300, 82.01.060(2), 82.24.550(2), and 82.26.220(2). WSR 15-01-107, § 458-20-185, filed 12/18/14, effective 1/18/15. Statutory Authority: RCW 82.32.300 and 82.01.060(2). WSR 10-10-032, § 458-20-185, filed 4/26/10, effective 5/27/10; WSR 07-04-119, § 458-20-185, filed 2/7/07, effective 3/10/07; WSR 03-12-058, § 458-20-185, filed 6/2/03, effective 7/3/03. Statutory Authority: RCW 82.32.300. WSR 94-10-061, § 458-20-185, filed 5/3/94, effective 6/3/94; WSR 90-04-038, § 458-20-185, filed 1/31/90, effective 3/3/90; WSR 83-07-032 (Order ET 83-15), § 458-20-185, filed 3/15/83; Order ET 71-1, § 458-20-185, filed 7/22/71; Order ET 70-3, § 458-20-185 (Rule 185), filed 5/29/70, effective 7/1/70.]

WAC 458-20-186 Tax on cigarettes. (1) **Introduction.** This rule explains the tax liabilities of persons who sell, use, consume, handle, possess, or distribute cigarettes in Washington. The tax on cigarettes (also called the "cigarette tax") is in addition to all other taxes owed, such as retailing or wholesaling business and occupation tax, retail sales tax, use tax, and litter tax. See WAC 458-20-185 for tax liabilities associated with taxes that apply to tobacco products other than cigarettes.

(2) **Organization of rule.** The information provided in this rule is divided into eight parts:

(a) Part I explains the tax liabilities of persons who sell, use, consume, handle, possess, or distribute cigarettes in this state.

(b) Part II explains wholesale and retail cigarette vendor licensing requirements and responsibilities.

(c) Part III explains stamping requirements, cigarette tax rates, and refunds.

(d) Part IV describes the roll-your-own cigarette provisions.

(e) Part V describes the exemptions from the tax and the procedures that must be followed to qualify for exemption.

(f) Part VI explains the requirements and responsibilities for persons transporting cigarettes in Washington.

(g) Part VII explains the enforcement and administration of the cigarette tax.

(h) Part VIII explains requirements and responsibilities related to making sales or purchases of cigarettes in Indian country.

Part I - Tax on Cigarettes

(101) **In general.** Except as otherwise provided in chapter 82.24 RCW and this rule, the Washington state cigarette tax is due and payable by the first person who sells, uses, consumes, handles, possesses, or distributes the cigarettes in this state.

(102) **Definitions.** For the purposes of this rule, the following definitions apply:

(a) "Board" means the liquor control board.

(b) "Business" includes all activities engaged in with the object of gain, benefit, or advantage to the taxpayer or to another person or class, directly or indirectly, including any trade, occupation, activity, or enterprise engaged in for the purpose of selling or distributing cigarettes in this state.

(c) "Cigarette" means any roll for smoking made wholly or in part of tobacco, irrespective of size or shape and irrespective of the tobacco being flavored, adulterated, or mixed with any other ingredient, where such roll has a wrapper or cover made of paper or any material, except where such wrapper is wholly or in the greater part made of natural leaf tobacco in its natural state. Cigarette includes a roll-your-own cigarette.

(d) "Cigarette paper" means any paper or any other material except tobacco, prepared for use as a cigarette wrapper.

(e) "Cigarette tube" means cigarette paper made into a hollow cylinder for use in making cigarettes.

(f) "Commercial cigarette-making machine" means a machine that is operated in a retail establishment and that is capable of being loaded with loose tobacco, cigarette paper or tubes, and any other components related to the production of roll-your-own cigarettes, including filters.

(g) "Department" means the department of revenue.

(h) "Governmental entity" means:

(i) The United States;

(ii) The state of Washington (state) including, its departments and institutions, as distinct from its corporate agencies or instrumentalities; and

(iii) Any municipal corporation or political subdivision of the state of Washington.

(i) "Indian tribal organization" means a federally recognized Indian tribe, or tribal entity, and includes an Indian wholesaler or retailer that is owned by an Indian who is an

enrolled tribal member conducting business under tribal license or similar tribal approval within Indian country. For purposes of this rule, the terms "Indian," "Indian country," and "Indian tribe" have the same meaning as defined in WAC 458-20-192.

(j) "Manufacture" means the production, assembly, or creation of new cigarettes. For the purposes of this rule, "manufacture" does not necessarily have the same meaning as provided in RCW 82.04.120.

(k) "Manufacturer" means a person who manufactures and sells cigarettes.

(l) "Municipal corporation or political subdivision of the state of Washington" means any county, city, town, school district, fire protection district, or other authority identified as a municipal corporation or political subdivision of the state of Washington by statute and that qualifies for the property tax exemption provided by Article VII of the Washington state Constitution.

(m) "Person" means any individual, receiver, administrator, executor, assignee, trustee in bankruptcy, trust, estate, firm, copartnership, joint venture, club, company, joint stock company, business trust, municipal corporation, political subdivision of the state of Washington, corporation, limited liability company, association, society, or any group of individuals acting as a unit, whether mutual, cooperative, fraternal, nonprofit, or otherwise and the United States or any instrumentality thereof.

(n) "Place of business" means any location where business is transacted with, or sales are made to, customers. The term includes, but is not limited to, any vending machine and any vehicle, truck, vessel or the like at which sales are made.

(o) "Possession" means both:

(i) Physical possession by the purchaser; and

(ii) When cigarettes are being transported to or held for the purchaser or his or her designee by a person other than the purchaser, constructive possession by the purchaser or his or her designee, which constructive possession is deemed to occur at the location of the cigarettes being so transported or held.

(p) "Retailer" means every person, other than a wholesaler, who purchases, sells, offers for sale or distributes any one or more of the articles taxed herein, irrespective of quantity or amount, or the number of sales, and all persons operating under a retailer's registration certificate.

(q) "Roll-your-own cigarettes" means cigarettes produced by a commercial cigarette-making machine.

(r) "Sale" means any transfer of the ownership of, title to, or possession of property for a valuable consideration.

(s) "Stamp" means any stamp authorized by the state of Washington, including the stamp or stamps by use of which the cigarette tax is paid or identification is made of those cigarettes with respect to which no tax is imposed.

(t) "United States" means:

(i) The federal government, including the executive, legislative, and judicial branches, its departments, and federal entities exempt from state or local taxation by reason of specific federal statutory exemption.

The mere fact that an entity is a federal entity, such as an instrumentality of the federal government or a federal corporation, does not mean that the entity is immune from tax. The taxability of a federal entity depends on the benefits and immunities conferred upon it by Congress. Thus, to determine the current taxable status of federal entities, the relevant portion of the federal law should be examined.

(ii) "United States" does not include entities associated with, but not a part of the United States, such as the National Guard (an instrumentality of the state of Washington). Nor does it include entities contracting with the United States government to administer its programs.

(u) "Wholesaler" means every person who purchases, sells, or distributes cigarettes to retailers for the purpose of resale only.

(103) **Imposition of tax.** The cigarette tax is imposed on the first person to sell, use, consume, handle, possess, or distribute cigarettes in Washington. Please refer to subsection (302) of this rule for an explanation of the measure and rate of the tax.

(a) **Payment.** Payment of the cigarette tax is made through the purchase of stamps from banks authorized by the department to sell the stamps. Please refer to subsection (301) of this rule for an explanation of stamping requirements.

(b) **Possession of cigarettes in Washington state.**

(i) Every person (A) in possession of unstamped cigarettes in this state, and (B) not specifically exempt by law, is liable for payment of the cigarette tax as provided in chapter 82.24 RCW and this rule.

(ii) Active duty or retired military personnel, and their dependents, may purchase cigarettes for their own consumption on military reservations without paying the state tax (see Part V). However, such persons are not permitted to give or resell those cigarettes to others.

(iii) Possession of unstamped and untaxed cigarettes, and possession of counterfeit cigarettes, are criminal offenses in this state. See Part VII.

Part II - Wholesale and Retail Cigarette Vendor Licensing Requirements and Responsibilities

(201) **License required.** No person, other than a governmental entity or an Indian tribal organization, may engage in the retail or wholesale distribution of cigarettes in this state without a license. Failure to obtain the required license prior to selling cigarettes at wholesale or retail is a criminal act. RCW 82.24.500.

(202) **Cigarette wholesaler license.** Prior to the sale or distribution of cigarettes at wholesale, each wholesaler must first obtain a cigarette wholesaler license from the department through its business licensing service.

(a) Background check. Each wholesaler must undergo a criminal background check by the board before a license will be issued. RCW 82.24.510. See chapter 314-33 WAC for board standards. Failure to provide information sufficient to complete the background check may result in denial of the license by the department.

(b) Application. Application for a license or renewal of a license is made on forms supplied by the department and must be accompanied by the annual license fee as provided in chapter 82.24 RCW. A cigarette wholesaler license is valid for one year from the date it is issued.

(c) Multiple locations. If the wholesaler sells, stores, or intends to sell, cigarettes at more than one place of business, whether temporary or permanent, a separate license with a license fee as provided in chapter 82.24 RCW is required for

each additional place of business. Each license must be exhibited in the place of business for which it is issued.

(d) Bond required. Each licensed wholesaler must file a bond with the department in an amount determined by the department, but not less than five thousand dollars. The bond must be executed by the wholesaler as principal, and by a corporation approved by the department and authorized to engage in business as a surety company in this state, as surety. The bond must run concurrently with the cigarette wholesaler license.

(203) **Duties and responsibilities of licensed wholesalers.**

(a) Stamps. Except as provided in Parts IV and VIII of this rule, only licensed wholesalers may purchase or obtain cigarette stamps. Wholesalers are prohibited by law from selling or providing stamps to any other wholesaler or person.

(b) Numbering. Each roll of stamps, or group of sheets, has a separate serial number. The department keeps records of which wholesaler purchases each roll or group of sheets. Wholesalers and retailers of roll-your-own cigarettes are prohibited from possessing stamps other than those specifically issued to them.

(c) Sales restricted. Wholesalers selling cigarettes in this state may sell:

(i) Stamped or unstamped cigarettes to other Washington licensed cigarette wholesalers;

(ii) State tax stamped cigarettes only to Washington retailers who have a current cigarette retailer license or to an Indian tribal organization;

(iii) Tribal tax stamped cigarettes to Indian tribal organizations if the Indian tribal organization is subject to a cigarette compact between the state of Washington and the Indian tribe; or

(iv) Tax-exempt stamped cigarettes to an Indian tribal organization if the Indian tribe does not have a cigarette compact and is subject to the cigarette allocation per WAC 458-20-192.

(d) Unstamped cigarettes. Except as provided in Parts IV, V, and VIII of this rule, no person other than a licensed wholesaler may possess unstamped cigarettes in this state. Cigarettes are "unstamped" if they do not have a "stamp" as the term is defined in subsection (102)(s). Licensed wholesalers may possess unstamped cigarettes in this state only in the following circumstances:

(i) Licensed wholesalers may possess unstamped cigarettes for up to seventy-two hours after receipt; however, the cigarettes must be stamped on or before sale or transfer to any other party other than another licensed wholesaler. Licensed wholesalers may possess unstamped cigarettes for more than seventy-two hours after receipt if they receive prior written permission from the department to do so.

(ii) Licensed wholesalers may set aside, without stamping, that portion of their stock reasonably necessary for conducting sales to persons outside this state or to instrumentalities of the federal government, so long as the licensed wholesalers have furnished a surety bond in a sum equal to eighty percent of the amount of tax that would be affixed to the cigarettes that are set aside for the conduct of such business without affixing the stamps. All unstamped stock must be kept separate and apart from stamped stock.

(e) Transfers. Wholesalers in possession of unstamped cigarettes under subsection (204)(d) of this rule that are transferred by the wholesaler to another facility within this state must be transferred in compliance with RCW 82.24.250.

(204) **Cigarette retailer license.** Prior to the retail sale or distribution of cigarettes, each retailer must first be issued a cigarette retailer license from the department through its business licensing service. A license is required for each location at which cigarettes are sold at retail. Each license must be exhibited at the place of business for which it is issued.

(a) Background check. Each retailer must undergo a criminal background check by the board before a license will be issued. RCW 82.24.510. See chapter 314-33 WAC for board standards. Failure to provide information sufficient to complete the background check may result in denial of the license by the department.

(b) Application. Applications for a license or renewal of a license are made on forms supplied by the department and must be accompanied by the annual license fee as provided in chapter 82.24 RCW. A retail cigarette license is valid for one year from the date it is issued.

(c) Multiple locations. A separate license with a license fee as provided in chapter 82.24 RCW is required for each additional place of business at which the retailer operates. Each license must be exhibited in the place of business for which it is issued.

(d) **Cigarette vending machine license.** Retailers who have received a cigarette retailer license and operate cigarette vending machines must obtain a cigarette vending machine license from the department and are required to pay an additional annual fee as set forth in chapter 82.24 RCW for each vending machine.

(e) **Commercial cigarette making machine license.** Retailers who have received a cigarette retailer license and tobacco products retailer license (see WAC 458-20-185) and operate commercial cigarette making machines must obtain a commercial cigarette making machine license from the department and are required to pay an additional annual fee as set forth in chapter 82.24 RCW for each location with a machine. Each license must be exhibited in the place of business for which it is issued.

Persons operating a commercial cigarette making machine are also subject to federal licensing requirements as a cigarette manufacturer. Please contact the Alcohol and Tobacco Tax and Trade Bureau of the United States Department of the Treasury.

(205) **Duties and responsibilities of retailers.**

(a) No retailer in this state may possess unstamped cigarettes unless he or she is also a licensed wholesaler.

(b) Retailers may obtain cigarettes only from cigarette wholesalers licensed by this state.

(206) **Additional requirements for manufacturers, wholesalers, and retailers.** Persons making wholesale or retail sales of cigarettes or manufacturing cigarettes must comply with all the provisions of chapters 70.155 and 70.158 RCW.

(207) **Licensing enforcement.** The board has the licensing enforcement responsibilities for cigarettes. See chapters 314-33 and 314-34 WAC for rules related to the board's enforcement of cigarette licensing.

Part III - Stamping, Rates, and Refunds

(301) **Cigarette stamps.**

(a) Stamps indicating payment of the cigarette tax must be affixed prior to any sale, use, consumption, handling, possession, or distribution of all cigarettes other than those specifically exempted as explained in Part V of this rule. The stamp must be affixed securely and applied one time (not to be reused) to the smallest container or package (such as a pack of cigarettes rather than a carton of cigarettes), unless the department, in its sole discretion, determines that it is impractical to do so. Stamps must be of the type authorized by the department and affixed in such a manner that they cannot be removed from the package or container without being mutilated or destroyed. Further, the stamps must be affixed in such manner as to permit the department to readily ascertain by inspection whether or not such tax has been paid. RCW 82.24.030(1). To that end, any package that is missing more than fifty percent of the stamp will be considered unstamped and untaxed.

(b) Licensed wholesalers may purchase state-approved cigarette stamps from authorized banks. Payment for stamps must be made at the time of purchase unless the wholesaler has prior approval of the department to defer payment and furnishes a surety bond equal to the proposed monthly credit limit. Payments under a deferred plan are due within thirty days following purchase. Licensed wholesalers are compensated for affixing the stamps at the rate of $6.00 per thousand stamps affixed (the "stamping allowance").

(302) **Rates.**

(a) The Washington state cigarette tax is imposed on a per cigarette basis. The rate of the tax is a combination of statutory rates found in chapter 82.24 RCW.

(b) When the rate of tax increases, the first person who sells, uses, consumes, handles, possesses, or distributes previously taxed cigarettes after the rate increase is liable for the additional tax.

(303) **Refunds.** Any person may request a refund of the face value of the stamps when the tax is not applicable and the stamps are returned to the department.

(a) Forms. The claim for refund must be filed on a form provided by the department. Documentation supporting the claim must be provided at the time the claim for refund is made as specified on the form. The department has the following forms for cigarette tax refund claims:

(i) Cigarette Tax Claim for Refund form. The form is for wholesalers who have returned stamped cigarettes to the manufacturer or are returning damaged or unused stamps to the department. An affidavit or certificate from the manufacturer for stamped cigarettes returned to the manufacturer for destruction or by an agent of the department verifying the voiding of stamps and authorizing the refund must accompany the claim for refund.

(ii) Tribal Member Claim for Refund form. This refund form is for Indian tribal members who purchase state stamped cigarettes as consumers within their own Indian country.

(b) Refunds may be claimed for stamped cigarettes if the stamps are:

(i) Damaged, or unfit for sale, and as a result are destroyed or returned to the manufacturer or distributor; or

(ii) Improperly or partially affixed through burns, jams, double stamps, stamped on carton flaps, or improperly removed from the stamp roll.

Refunds for stamped cigarettes will not include the stamping allowance.

Part IV - Roll-Your-Own Cigarettes

(401) **Retailers.**

(a) Licenses required. Only retailers licensed to sell cigarettes in Washington may provide consumers with access to a commercial cigarette making machine to make roll-your-own cigarettes. Retailers must also be licensed to sell tobacco products in Washington in order to sell the tobacco to make roll-your-own cigarettes.

(b) Stamped containers. A retailer may not allow consumers to use a commercial cigarette making machine unless the retailer provides the consumer with a box or similar container to transport the roll-your-own cigarettes affixed with cigarette stamps, and the consumer transports the cigarettes from the retailer only in such box or similar container. A retailer must provide cigarette tubes to a consumer in one or more twenty unit denominations. For purposes of this rule, a "similar container" to a box is any package used to transport roll-your-own cigarettes.

(402) **Stamps.** Retailers of roll-your-own cigarettes must purchase and affix roll-your-own cigarette tax stamps for the cigarettes produced through the cigarette making machine. Retailers must contact the department's special programs division to purchase the stamps. Stamps affixed must be for an amount equaling the cigarette tax due. Each cigarette tube or paper provided to the consumer is deemed a cigarette for purposes of imposing and collecting the cigarette tax. Stamps must be of the type authorized by the department and affixed in the manner provided for wholesalers in subsection (301)(a) of this rule. Retailers purchasing stamps for roll-your-own cigarettes are compensated for affixing the stamps with the stamping allowance provided under subsection (301)(b) of this rule, as well as an additional amount of five cents per cigarette to offset the cost of the tobacco products tax under chapter 82.26 RCW and WAC 458-20-185. See RCW 82.24.030(6) for additional rules relating to the affixing of stamps for roll-your-own cigarettes.

Part V - Exemptions

(501) **In general.** There are limited exemptions from the cigarette tax provided by law. This part discusses exemptions and the procedures that must be followed to qualify for an exemption for certain government sales and sales in interstate commerce. For exemptions for sales in Indian country, please see Part VIII of this rule.

(502) **Government sales.** The cigarette tax does not apply to the sale of cigarettes to:

(a) The United States Army, Navy, Air Force, Marine Corps, or Coast Guard exchanges and commissaries and Navy or Coast Guard ships' stores;

(b) The United States Veteran's Administration; or

(c) Any person authorized to purchase from the federal instrumentalities named in (a) or (b) above, if the cigarettes are purchased from the instrumentality for personal consumption.

(503) **Interstate commerce.** The cigarette tax does not apply to cigarettes sold to persons licensed as cigarette wholesalers in other states when, as a condition of the sale, the seller either delivers the cigarettes to the buyer at a point outside this state, or delivers the same to a common carrier with the shipment consigned by the seller to the buyer at a location outside this state.

Part VI - Transporting Cigarettes in Washington

(601) **Transportation of cigarettes restricted.** No person other than a licensed wholesaler may transport unstamped cigarettes in this state except as specifically set forth in RCW 82.24.250 and this rule, or as may be allowed under a cigarette compact under RCW 43.06.450 through 43.06.466. Licensed wholesalers transporting unstamped cigarettes in this state must do so only in their own vehicles unless they have given prior notice to the board of their intent to transport unstamped cigarettes in a vehicle belonging to another person.

(602) **Notice required.** Persons other than licensed wholesalers using their own vehicles intending to transport unstamped cigarettes in this state must first give notice to the board of their intent to do so, except as provided under RCW 82.24.250(5), or other applicable law.

(603) **Transportation of unstamped cigarettes.** All persons transporting unstamped cigarettes must have in their actual possession invoices or delivery tickets for such cigarettes. The invoices or delivery tickets must show the true name and address of the consignor or seller, the true name and address of the consignee or purchaser, and the quantity and brands of the cigarettes transported. It is the duty of the person responsible for the delivery or transport of the cigarettes to ensure that all drivers, agents, or employees have the delivery tickets or invoices in their actual possession for all such shipments.

(604) **Purchase or consignment.** If the unstamped cigarettes transported pursuant to subsection (601), (602), or (603) of this rule are consigned to or purchased by any person in this state, that purchaser or consignee must be a person who is authorized by chapter 82.24 RCW to possess unstamped cigarettes in this state. As provided in RCW 82.24.250, the following persons are "authorized by chapter 82.24 RCW to possess unstamped cigarettes in this state":

(a) A wholesaler, licensed under Washington state law;

(b) The United States or an agency thereof;

(c) Any person, including an Indian tribal organization, who, after notice has been given to the board as provided in subsection (602) of this rule, brings or causes to be brought in the state unstamped cigarettes, if within seventy-two hours after receipt of the cigarettes the person has caused stamps to be affixed in accordance with subsection (301) of this rule;

(d) Any purchaser or consignee of unstamped cigarettes, including an Indian tribal organization, who has given notice to the board in advance of receiving unstamped cigarettes and who within seventy-two hours after receipt of the cigarettes has caused the stamps to be affixed in accordance with subsection (301) of this rule.

(605) **Compliance required.** No person may possess or transport cigarettes in this state unless the cigarettes have been properly stamped or that person has fully complied with the requirements of RCW 82.24.250 and this rule. Failure to comply with the requirements of RCW 82.24.250 is a criminal act. Cigarettes in the possession of persons who have failed to comply are deemed contraband and are subject to seizure and forfeiture under RCW 82.24.130.

Part VII - Enforcement and Administration

(701) **Books and records.** An accurate set of records showing all transactions related to the purchase, sale, or distribution of cigarettes must be retained. RCW 82.24.090. These records may be combined with those required in connection with the tobacco products tax (see WAC 458-20-185), if there is a segregation therein of the amounts involved. All records must be preserved for five years from the date of the transaction.

(702) **Reports and returns.** The department may require any person dealing with cigarettes in this state to complete and return forms, as furnished by the department, setting forth sales, inventory, and other data required by the department to maintain control over trade in cigarettes.

(a) Manufacturers and wholesalers selling stamped, unstamped, or untaxed cigarettes must submit a complete record of sales of cigarettes in this state monthly. This report is due no later than the fifteenth day of the calendar month and must include all transactions occurring in the previous month.

(b) Persons making sales of tax-exempt cigarettes to Indian tribes or Indian retailers pursuant to WAC 458-20-192 (9)(a) must transmit a copy of the invoice for each such sale to the special programs division of the department prior to shipment.

(c) Wholesalers selling stamped cigarettes manufactured by nonparticipating manufacturers as defined in WAC 458-20-264 must report all such sales to the special programs division no later than the twenty-fifth day of the calendar month and must include all transactions occurring in the previous month. See WAC 458-20-264, National Uniform Tobacco Settlement, for more details on this report.

(d) A person who sells, transfers, or ships for profit cigarettes (as such term is defined in 15 U.S.C. Sec. 375) in interstate commerce, whereby such cigarettes are shipped into Washington, or who advertises or offers such cigarettes for sale, transfer, or shipment in this state, must file a report as required under 15 U.S.C. Sec. 376. This report is due no later than the 10th day of each calendar month and must include a memorandum or invoice covering all shipments of cigarettes made into Washington during the previous calendar month.

(e) Washington consumers who purchase cigarettes outside Washington state, or from some other source without paying Washington taxes, must pay both the cigarette tax and the use tax directly to the department of revenue within seventy-two hours of first possessing them in this state using a "Tax Declaration for Cigarettes" form, which may be obtained from the department.

(703) **Criminal provisions.** Chapter 82.24 RCW prohibits certain activities with respect to cigarettes. Persons handling cigarettes within this state must refer to these statutes. The prohibited activities include, but are not limited to, the following:

(a) **Transportation, possession, or receiving 10,000 or fewer cigarettes.** Transportation, possession or receiving

10,000 or fewer unstamped cigarettes is prohibited unless the notice requirements set forth in RCW 82.24.250 have been met; failure to meet those notice requirements is a gross misdemeanor. RCW 82.24.110 (1)(n) and (o).

(b) **Transportation, possession, or receiving more than 10,000 cigarettes.** Transportation, possession, or receiving more than 10,000 unstamped cigarettes is prohibited unless the notice requirements set forth in RCW 82.24.250 have been met; failure to meet those notice requirements is a felony. RCW 82.24.110(2).

(c) **Forgery or counterfeiting of stamps.** Alteration, fabrication, forgery, and counterfeiting of stamps are felonies. RCW 82.24.100.

(d) **Counterfeit cigarettes.** The manufacture, sale, or possession of counterfeit cigarettes in this state is a felony. RCW 82.24.570.

(704) **Search, seizure, and forfeiture.** Any collection agent of the department, enforcement officer of the board, or law enforcement officer of this state may search for, seize, and subsequently dispose of unstamped cigarette packages and containers, counterfeit cigarettes, conveyances of all kinds (including aircraft, vehicles, and vessels) used for the transportation of unstamped and/or counterfeit cigarettes, and vending machines used for the sale of unstamped and/or counterfeit cigarettes. See RCW 82.24.130, et seq., for provisions relating to search, seizure, and forfeiture of property, possible redemption of property, and for treatment of such property in the absence of redemption.

(705) **Penalties.** RCW 82.24.120 provides a penalty for failure to affix the cigarette stamps or to cause the stamps to be affixed as required, or to pay any tax due under chapter 82.24 RCW. In addition to the tax deemed due, a penalty equal to the greater of $10.00 per package of unstamped cigarettes or $250.00 will be assessed. Interest is also assessed on the amount of the tax at the rate as computed under RCW 82.32.050(2) from the date the tax became due until the date of payment. The department may, in its sole discretion, cancel all or part of the penalty for good cause.

Part VIII – Sales in Indian Country

(801) **Definitions.** The definitions of "Indian," "Indian country," and "Indian tribe" in WAC 458-20-192 apply to this rule.

(802) **Cigarette compacts.** The state cigarette tax does not apply to cigarettes taxed by an Indian tribe in accordance with a cigarette compact under RCW 43.06.450 through 43.06.466. Cigarette wholesalers making sales in conformance with such compact will be required to obtain and affix a unique tribal stamp prior to sale. For additional information, wholesalers should contact the Indian tribe in question and the department.

(803) **Sales to Indians in Indian country.** The state cigarette tax does not apply to cigarettes sold in Indian country to tribal members of the particular tribe where the cigarettes are purchased for personal consumption. Sales of cigarettes to nonmembers are subject to the tax. Licensed wholesalers may sell exempt stamped cigarettes to tribal retailers in accordance with the requirements of WAC 458-20-192 and the instructions of the department. For reporting such sales, see subsection (702)(b) of this rule.

(804) **Refunds.** Indians who purchase, in their own Indian country, cigarettes to which state stamps have been affixed may apply for a refund under subsection (303) of this rule.

(805) **Licenses.** Indians and Indian tribes engaged in business in Indian country are not required to obtain a cigarette wholesaler or state-issued retailer license in order to purchase cigarettes from state-licensed wholesalers.

(806) **Preemption.** Application of the state cigarette tax may be preempted by tribal, federal, or state law, depending on the circumstance. For additional information, please consult WAC 458-20-192.

[Statutory Authority: RCW 82.32.300, 82.01.060(2), 82.24.550(2), and 82.26.220(2). WSR 15-01-107, § 458-20-186, filed 12/18/14, effective 1/18/15. Statutory Authority: RCW 82.32.300 and 82.01.060(2). WSR 10-10-033, § 458-20-186, filed 4/26/10, effective 5/27/10; WSR 07-04-119, § 458-20-186, filed 2/7/07, effective 3/10/07. Statutory Authority: RCW 82.24.235, 82.32.300, and 82.01.060(1). WSR 05-02-035, § 458-20-186, filed 12/30/04, effective 1/30/05. Statutory Authority: RCW 82.32.300. WSR 94-10-062, § 458-20-186, filed 5/3/94, effective 6/3/94; WSR 90-24-036, § 458-20-186, filed 11/30/90, effective 1/1/91; WSR 90-04-039, § 458-20-186, filed 1/31/90, effective 3/3/90; WSR 87-19-007 (Order ET 87-5), § 458-20-186, filed 9/8/87; WSR 83-07-032 (Order ET 83-15), § 458-20-186, filed 3/15/83; Order ET 75-1, § 458-20-186, filed 5/2/75; Order ET 73-2, § 458-20-186, filed 11/9/73; Order ET 71-1, § 458-20-186, filed 7/22/71; Order ET 70-3, § 458-20-186 (Rule 186), filed 5/29/70, effective 7/1/70.]

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