

Washington State Liquor Control Board

Issue Paper

Rule Making on Chapters 314-02, 314-07, 314-11, and 314-12 WACs

Date: March 22, 2017

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Description of the Issue

The purpose of this Issue Paper is to request approval from the Board to file revised proposed rules (Supplemental CR 102) to review several chapters in **314 WAC**.

Why is rule making necessary?

As part of the Liquor and Cannabis Board's on-going rules review process, rules in the following WAC Chapters are being reviewed for relevance, clarity, and accuracy:

- Chapter 314-02 Requirements for retail liquor licenses.
- Chapter 314-07 How to apply for a liquor license.
- Chapter 314-11 General requirements for licensees.
- Chapter 314-12 General – Applicable to all licensees.

Why is rulemaking necessary?

As part of the Liquor Control Board's on-going rules review process, Chapters 314-02, 314-07, 314-11, and 314-12 WAC are being reviewed for relevance, clarity, and accuracy.

What changes are being made?

Amended Section. WAC 314-02-005 What is the purpose of chapter 314-02 WAC? Updated the license types covered in this chapter.

Amended Section. WAC 314-02-010 Definitions. Clarified the definition of "dedicated dining area".

Amended Section. WAC 314-02-015 What is a spirits, beer, and wine restaurant license? Defined "bona fide restaurant".

Amended Section. WAC 314-02-020 What are the fee categories for a spirits, beer, and wine restaurant license? Clarified designated dining area must be inside of a restaurant.

Amended Section. WAC 314-02-025 What are the floor space requirements to obtain and maintain a spirits, beer, and wine restaurant or a beer and wine restaurant? Corrected the name of the board. Clarified structures where customers can sit or stand and consume food or liquor is not acceptable as a barrier. Added qualifications for floor space in at a convention center.

Amended Section. WAC 314-02-035 What are the food service requirements for a spirits, beer, and wine restaurant license? Clarified garnishes do not qualify as a side dish.

Amended Section. WAC 314-02-037 What are the floor space requirements for a spirits, beer, and wine nightclub license? Corrected the name of the board.

Amended Section. WAC 314-02-043 What is a VIP airport lounge license? Corrected the RCW reference.

Amended Section. WAC 314-02-044 Application process and guidelines for a VIP airport lounge liquor license. Removed reference that alcohol must be purchased from the board.

Amended Section. WAC 314-02-056 Sport/entertainment facility license – Purpose. Corrected the name of the board. Added information on amateur sports organizations and racetracks.

Amended Section. WAC 314-02-057 Definitions. Added to the definition of “hawking”.

Amended Section. WAC 314-02-058 Sports/entertainment facility licenses – Operating plans. Clarified changes to an operating plan must be submitted to licensing division for approval. Added site plan requirements. Corrected the name of the board. Clarified that self-service alcohol is prohibited. Added darkened house events to the matrix. Added requirements to request alcohol consumption at darkened house events.

Amended Section. WAC 314-02-060 What is a caterer’s endorsement? Clarified where catered events may be held.

Amended Section. WAC 314-02-070 What is a tavern license? Clarified requirements for the sale of growlers of beer.

Amended Section. WAC 314-02-097 What is a spirits, beer, and wine theater license? Clarified the required number of seats is per theater room. Clarified garnished do not qualify as a side dish.

Amended Section. WAC 314-02-105 What is a beer and/or specialty shop? Clarified that a sketch must be submitted showing the area that sampling will be conducted.

Amended Section. WAC 314-02-106 What is a spirits retailer license? Removed language that limited sales to on-premises licensees to one per day.

Amended Section. WAC 314-02-109 What are the quarterly reporting and payment requirements for a spirits retailer license? Added language that failure of a spirits retailer licensee to submit its quarterly reports and payment for two consecutive quarters will be sufficient grounds for the board to revoke the liquor license.

Amended Section. WAC 314-02-112 What is a caterer's license? Added language allowing the caterer's licensees to share a commissary kitchen under certain conditions. Corrected the name of the board.

Amended Section. WAC 314-02-120 How do licensees get keg registration forms? Corrected the name of the board.

Repealed Section. WAC 314-02-125 What types of activities on a licensed premises require notice to the board? Moved this section to WAC 314-03.

Repealed Section. WAC 314-02-130 What types of changes to a licensed premises require board approval. Moved this section to WAC 314-03.

New Section. WAC 314-03-100 What types of activities on a licensed premises require notice to the board. Moved from WAC 314-02-125.

New Section. WAC 314-03-200 Outside or extended alcohol service. Moved from WAC 314-02-130.

New Section. WAC 314-03-300 Alterations to a licensed premises. Moved from WAC 314-02-130.

Amended Title. Chapter 314-07 WAC How to apply for and maintain a liquor license.

Amended Section. WAC 314-07-005 What is the purpose of this chapter. Added the purpose was to outline the qualifications and steps necessary to receive and maintain a liquor license or permit.

Amended Section. WAC 314-07-010 Definitions. Clarified the definition of "building". Clarified the definition of "financier".

Amended Section. WAC 314-07-015 General information about liquor licenses. Clarified language that required qualifications to receive a license must be continued. Added conditions for issuance of a liquor license at a personal residence.

Amended Section. WAC 314-07-035 What persons or entities have to qualify for a liquor license. Clarified the board reserves the right to investigate any person or entity in a liquor license application or current liquor license where hidden ownership or misrepresentation of fact is suspected. Added clarifying language on who is considered a true party of interest.

Amended Section. WAC 314-07-040 What criminal history might prevent a liquor license applicant or licensee from receiving or keeping a liquor license? Added the word "licensee" in the title of the WAC. Changed the name in the rule from "an applicant" to "a true party of interest". Added language that current liquor licensees are required to notify the board within 30 days of any arrests or criminal convictions. Failure to do so may result in revocation of the liquor license.

Amended Section. WAC 314-07-055 Temporary retail license. Clarified the qualifications and process to receive a temporary retail license.

Amended Section. WAC 314-07-060 Reasons for denial or revocation of a temporary license. Changed the word "cancellation" to "revocation" in the WAC title.

Amended Section. WAC 314-07-065 Reasons the board may deny a liquor license application. Changed the words "applicant or financier" to "person or entity associated with the application".

Amended Section. WAC 314-11-065 What type of liquor is allowed on a licensed premises? Corrected the RCW reference. Added language "under the authority of a special occasion license".

Amended Section. WAC 314-12-020 Continuing conditions to hold a liquor license. Changed the title of the WAC. Repealed most of the WAC and added minimum required qualifications to receive a license must be continued in order to maintain the liquor license.

Amended Section. WAC 314-12-030 Display of license. Revised title of WAC. Repealed most of section with the exception of requiring licenses be prominently displayed.

Repealed Section. Limited partnerships. This rule was no longer needed.

Amended Section. WAC 314-12-050 Loss or destruction of licenses, permits, etc. – Fee. Clarified how to replace a license or permit issued by the board.

Amended Section. WAC 314-12-070 Applications for currently licensed locations. Removed RCW reference. Repealed most of the section

Repealed Section. WAC 314-12-200 Converting a public house license to a domestic brewery, microbrewery or domestic winery license. This section was no longer needed.

AMENDATORY SECTION (Amending WSR 11-01-133, filed 12/21/10, effective 1/21/11)

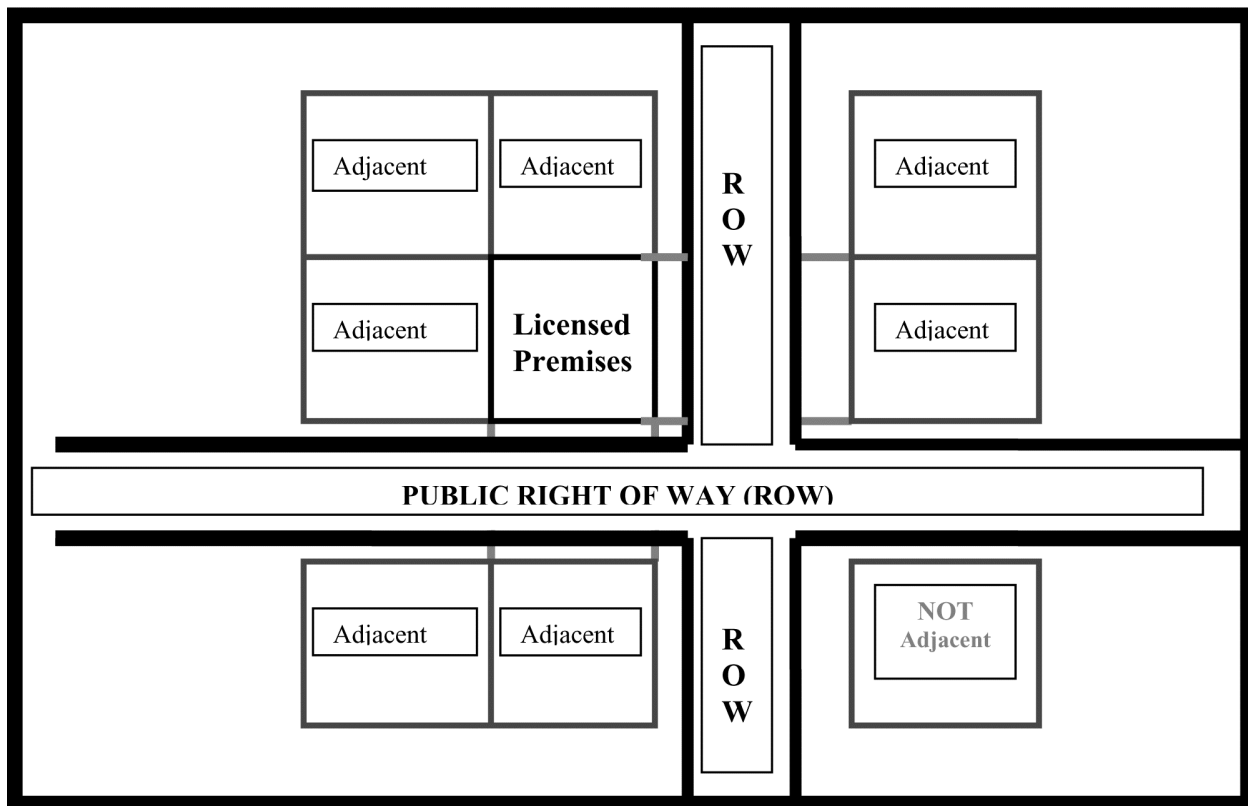
WAC 314-02-005 What is the purpose of chapter 314-02 WAC? Chapter 314-02 WAC outlines the qualifications for the following liquor licenses:

- (1) Spirits, beer, and wine restaurants;
- (2) Nightclubs;
- (3) Spirits, beer, and wine restaurant restricted;
- (4) Hotels;
- (5) Spirits, beer, and wine theater;
- (6) Beer and wine theater;
- (7) VIP airport lounge;
- (8) Beer and/or wine restaurants;
- ~~((6))~~ (9) Sports/entertainment facilities;
- ~~((7))~~ (10) Snack bars;
- ~~((8))~~ (11) Taverns;
- ~~((9))~~ (12) Motels;
- ~~((10))~~ (13) Nonprofit arts organizations;
- ~~((11))~~ (14) Grocery stores;
- ~~((12))~~ (15) Beer/wine specialty shops; ~~((and~~
- ~~(13))~~ (16) Beer/wine gift delivery businesses;
- (17) Spirits retailer;
- (18) Caterers; and
- (19) Senior center.

AMENDATORY SECTION (Amending WSR 11-01-133, filed 12/21/10, effective 1/21/11)

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 inside 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.

AMENDATORY SECTION (Amending WSR 15-01-001, filed 12/3/14, effective 1/3/15)

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)))~~ means a business where the board can clearly determine that the primary purpose of the business is the service of complete meals. "Complete meals" is defined in WAC 314-02-035.

AMENDATORY SECTION (Amending WSR 11-23-045, filed 11/9/11, effective 12/10/11)

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 inside 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

AMENDATORY SECTION (Amending WSR 11-01-133, filed 12/21/10, effective 1/21/11)

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~~) and cannabis 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 (~~moveable~~) moveable 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)).~~) Structures where customers can sit or stand and consume food or liquor are not acceptable as a barrier.

(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.

(6) **Convention centers** - To qualify for a convention center there must be two or more rooms that provide space and accommodations for private events only. Licensees holding a convention center may only sell alcohol for private events at the licensed premises.

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. Garnishes such as, but not limited to, pickles, salsa, and dips do not qualify as a side dish.

(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))~~ three 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.

AMENDATORY SECTION (Amending WSR 10-01-091, 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))~~ and cannabis 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))~~ (d) "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.

AMENDATORY SECTION (Amending WSR 11-23-045, filed 11/9/11, effective 12/10/11)

WAC 314-02-043 What is a VIP airport lounge license? (1) Per RCW ~~((66.24.XXX))~~ 66.24.610, 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.

AMENDATORY SECTION (Amending WSR 11-23-045, 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))~~ (5) 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))~~ (6) 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 govern-

ment subdivision's jurisdiction. See WAC 314-12-215(3) for exceptions when a premises is in a board recognized alcohol impact area.

AMENDATORY SECTION (Amending WSR 11-01-133, filed 12/21/10, effective 1/21/11)

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)) and cannabis board recognize the differences between types of sports/entertainment facilities; professional sports/entertainment facilities, amateur sporting facilities, and racetracks?** 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. The board will allow proration of the sports/entertainment license fees under certain conditions:

(a) The licensee is an amateur sports organization; or

(b) The licensee is a racetrack that meets specific criteria.

(3) **Amateur sports organizations** must meet the following criteria:

(a) Season length must not be more than three months, with an additional month allowed for playoffs if applicable (requests/approval for any additional months must be made on a case-by-case basis). The venue must remain closed for the remainder of the year.

(b) Must comply with all elements contained in WAC 314-02-056 through 314-02-059.

(c) Must provide proof of amateur status.

(d) Must provide a statement regarding removal/disposal of alcohol inventory at the end of the season.

(e) Seating capacity of the venue may not exceed five thousand.

(4) **Racetracks** must meet the following criteria:

(a) Must be a seasonal operation of two quarters or less (requests/approval for any additional quarters must be made on a case-by-case basis).

(b) Seating capacity of the venue may not exceed five thousand.

(c) Maximum number of race days allowed per week is two.

(d) Per RCW 66.24.010(9) a motor sports facility is required to enforce a program reasonably calculated to prevent alcohol or alcoholic beverages not purchased within the facility from entering the fa-

cility and such program must be approved by the local law enforcement agency. A copy of this program showing the local law enforcement approval must be submitted to the board's licensing division.

AMENDATORY SECTION (Amending WSR 15-18-040, filed 8/26/15, effective 9/26/15)

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.

(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 involving a live musician, a live comedy act, or similar event intended for the entertainment of the audience. Broadcast television or background videos or music does not qualify as live entertainment.

(d) **Special event** - A convention, trade show, or other like public event with prior approval.

(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. Hawking is only allowed at professional sporting events.

(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.

AMENDATORY SECTION (Amending WSR 15-18-040, filed 8/26/15, effective 9/26/15)

WAC 314-02-058 Sports/entertainment facility licenses—Operating plans. (1) **What requirements 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. Changes to an operating plan must be submitted to the board's licensing division for approval.

(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. The minimum ratio allowed is one staff person to fifty attendees at the event.

(iii) Training provided to staff who serve, regulate, or supervise the service of alcohol. Mandatory alcohol server training is required for all staff.

(iv) The facility's policy on the number of alcoholic beverages that will be served to an individual patron during one transaction. Two alcoholic beverages is the maximum number allowed to be sold and served to an individual patron during one transaction.

(v) An explanation of the alcoholic beverage containers that will be used to ensure they are significantly different from containers utilized from nonalcoholic beverages.

(vi) 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.

(vii) The date must be included in the operating plan.

(viii) The pages must be numbered in the operating plan.

(ix) A site plan designating all alcohol service areas. Identify all beer garden areas to include dimensions of the area, capacity, number of alcohol service/security employees staffing the area, and what type/size of barrier will surround the alcohol service area.

(x) 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~~) and cannabis 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 estab-

lishing 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) Self-service of alcohol is prohibited.

(b) 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	Spirits, beer, and 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
All other professional sporting events including WWE, UFC, rodeo, motorcross, national auto racing, and monster truck 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 (nonpaid athletes)	x	x		x	
Entertainment events	x	x			
Special events (trade shows, conventions)	x	x			
<u>Darkened house events</u>	x	x	x	x	

~~((b))~~ (c) 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.

~~((e))~~ (d) 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))~~ (e) To request approval for walk around beer and/or wine consumption at special events, the licensee must provide the board the following information about the event:

(i) Type of event;

(ii) Demographics of the event;

(iii) Lighting at the event; and

(iv) If the event is located indoors or outdoors.

(4) **Darkened house.** Consumption of alcohol within the darkened seating portions of the venue during entertainment activities are subject to the following conditions:

(a) Request for darkened house activities will be part of the operating plan.

(b) The board will only approve darkened house events after notification to the local authority as identified by the licensing division and approval by the designated local authority. The notification will clearly state:

(i) Primary responsibility for the control of the darkened area of the establishment will rest with the licensee and local law enforcement authorities; and

(ii) The board will not entertain contradictory recommendations from subdivisions of the local jurisdictions.

(c) Violation of the darkened house addendum to the operating plan will be viewed as an aggravating factor to a violation rather than a primary enforcement issue.

(5) **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.

AMENDATORY SECTION (Amending WSR 11-23-045, filed 11/9/11, effective 12/10/11)

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)) liquor 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.

AMENDATORY SECTION (Amending WSR 15-01-001, filed 12/3/14, effective 1/3/15)

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)) <u>provided by the purchaser, licensee, or manufacturer and filled by an employee at the time of purchase.</u>	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).

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))~~ theater room.

(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. Garnishes such as, but not limited to, pickles, salsa, and dips do not qualify as a side dish.

(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.

AMENDATORY SECTION (Amending WSR 15-01-001, filed 12/3/14, effective 1/3/15)

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. The licensee must provide a sketch of the sampling area.

(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.

AMENDATORY SECTION (Amending WSR 16-01-102, filed 12/16/15, effective 1/16/16)

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.

Failure of a spirits retailer licensee to submit its quarterly reports and payment to the board for two consecutive quarters will be sufficient grounds for the board to revoke the liquor license.

A penalty of one 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~~) and cannabis board, or designee, will be used to determine if penalties are to be assessed.

AMENDATORY SECTION (Amending WSR 14-24-128, filed 12/3/14, effective 1/3/15)

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.

Licensees holding a caterer's license may share a commissary kitchen under the following conditions:

(a) Each licensee has their own secure area for their own liquor stock. Liquor stock cannot be shared.

(b) If using a shared commissary kitchen, each applicant/licensee must provide a sketch of the commissary kitchen to licensing indicating the separate secured area for each licensee.

(7) The applicant must provide the liquor (~~control~~) and cannabis 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 provi-

ded 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.

AMENDATORY SECTION (Amending WSR 11-01-133, filed 12/21/10, effective 1/21/11)

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~~) and cannabis board web site or from the enforcement customer service line for four dollars per book of twenty-five forms.

REPEALER

The following sections of the Washington Administrative Code are repealed:

WAC 314-02-125 What types of activities on a licensed premises require notice to the board?

WAC 314-02-130 What types of changes to a licensed premises require board approval?

Chapter 314-07 WAC
HOW TO APPLY FOR AND MAINTAIN A LIQUOR LICENSE

AMENDATORY SECTION (Amending WSR 05-07-012, filed 3/4/05, effective 4/4/05)

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 and maintain a liquor license or permit.

AMENDATORY SECTION (Amending WSR 15-11-106, filed 5/20/15, effective 6/20/15)

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) "Building" means a stationary structure with floor to ceiling solid walls and a roof. A food truck is not a "building."

(3) "Business name" or "trade name" means the name of a licensed business as used by the licensee on signs, advertising, etc.

(4) "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.

(5) "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.

(6) "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.)

AMENDATORY SECTION (Amending WSR 15-11-106, filed 5/20/15, effective 6/20/15)

WAC 314-07-015 General information about liquor licenses. (1) A person or entity must meet required qualifications to receive a liquor license, ~~((which are continuing))~~ and must continue to meet the qualifications in order to maintain the license.

(2) A liquor license may be approved at a personal residence under the following conditions:

(a) The proposed licensed premises is either separate from or walled off from personal living quarters.

(b) The proposed licensed premises has its own entrance separate from the entrance to the personal living quarters.

(c) Any access from the proposed licensed premises into the personal living quarters is permanently secured.

(d) Any and all items related to the operation of the proposed licensed business are contained within the licensed premises. This includes, but is not limited to, liquor inventory, business records, computers, equipment and anything else needed for the operation of the licensed business.

(3) 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))~~ (4) 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.

AMENDATORY SECTION (Amending WSR 15-11-106, filed 5/20/15, effective 6/20/15)

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	<ul style="list-style-type: none">• All general partners and spouses;• All limited partners that have more than 10% interest in the partnership and their spouses.

True party of interest	Persons to be qualified
Limited liability company	<ul style="list-style-type: none"> • All members (or persons with equivalent title) 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 (or persons with equivalent title) and their spouses.
Privately held corporation	<ul style="list-style-type: none"> • All corporate officers (or persons with equivalent title) and their spouses. • All stockholders (or persons with equivalent title) and their spouses 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	<p>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:</p> <ul style="list-style-type: none"> • "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 (as determined by the board) 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 payment of franchise fees exercises control over or participates in the management of the licensed business.

(e) A 401K, IRA, or nonfamilial trust.

(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.

In cases where there is an entity who is in control of the day-to-day business operation (other than the owner) because of an agreement between the owner and the operator, the operating party becomes a true party of interest. The operator must meet all the qualifications of any other true party of interest and if approved, must be the licensee. The owner may be required to be named on the license as a party of interest based on the terms of the agreement, but will not normally be required to meet all the qualifications of a true party of interest.

(5) The board reserves the right to investigate any person or entity in a liquor license application or current liquor license where hidden ownership or misrepresentation of fact is suspected.

(6) For purposes of this section, a person or entity who takes more than ten percent of the profits and/or exercises control over the licensed business in a given agreement may be named on the license as a party of interest per this rule. Examples of this are lease, operating plan, concession or management agreement.

AMENDATORY SECTION (Amending WSR 15-11-106, filed 5/20/15, effective 6/20/15)

WAC 314-07-040 What criminal history might prevent a liquor license applicant or licensee from receiving or keeping a liquor license? (1) When the board processes a criminal history check on ((an applicant)) a true party of interest, 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

Description	Time period during which points will be assigned	Points assigned
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 may administratively close the application.

(3) The board will not normally issue a liquor license to any person who has demonstrated a pattern of disregard for laws and rules. A pattern or disregard for laws and rules is inclusive of violation history outside of the liquor and cannabis board, to include other regulatory agencies and other states.

(4) Current liquor licensees are required to notify the board within thirty days of any arrests or criminal convictions. Failure to do so may result in revocation of the liquor license.

AMENDATORY SECTION (Amending WSR 15-11-106, filed 5/20/15, effective 6/20/15)

WAC 314-07-060 Reasons for denial or (~~cancellation~~) revocation 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 an administrative 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) An objection is received from a privately or publicly funded elementary or secondary school within five hundred feet of the proposed location.

(8) Violation history of the applicant is found to be sufficient to raise the application to threshold decision.

(9) Upon denial of the permanent license, the temporary license will be immediately revoked.

AMENDATORY SECTION (Amending WSR 15-11-106, filed 5/20/15, effective 6/20/15)

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 by any (~~applicant or financier~~) person or entity associated with the application to submit information or documentation requested by the board.

(3) Refusal by any (~~applicant or financier~~) person or entity associated with the application to submit information or documentation requested by the board.

(4) Misrepresentation of fact by any (~~applicant or financier~~) person or entity associated with the application.

(5) Failure to meet the criminal history standards outlined in WAC 314-07-040.

(6) Failure to meet the liquor law or rule violation history standards outlined in WAC 314-07-045.

(7) Source of funds used for the acquisition, startup and operation of the business is questionable or unverified.

(8) Objection from the local authority or from the public (see WAC 314-09-010 and RCW 66.24.010(8)).

(9) 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.

(10) 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.

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]~~),) 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.

(d) Under the authority of a special occasion license.

(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.

WAC 314-12-020 (~~((Applicants—Qualifications—Fingerprinting—Criminal history record information checks—))~~Continuing conditions(~~(—Agreements—Reconsideration of denied applications))~~) to hold a liquor license. ((~~(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 information 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.) A person or entity must meet minimum required qualification to receive a liquor license, and must continue to meet the qualifications in order to maintain the liquor license.

AMENDATORY SECTION (Amending WSR 93-18-094, filed 9/1/93, effective 10/2/93)

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.))~~

AMENDATORY SECTION (Amending WSR 85-24-040, filed 11/27/85)

WAC 314-12-050 Loss or destruction of licenses, permits, etc.—
Fee. Upon the loss or destruction of ~~((any))~~ a license or permit issued by the board to purchase liquor ~~((thereunder))~~, application for a duplicate must be made to the board. Fee: \$5.00.

AMENDATORY SECTION (Amending WSR 96-03-004, filed 1/4/96, effective 2/4/96)

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)).~~

REPEALER

The following sections of the Washington Administrative Code are repealed:

WAC 314-12-033	Limited partnerships.
WAC 314-12-200	Converting a public house license (RCW 66.24.580) to a domestic brewery, microbrewery or domestic winery license.

NEW SECTION

WAC 314-03-100 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 provision 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;

(5) Closing the business to the general public for a private party; and

(6) 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.

NEW SECTION

WAC 314-03-200 Outside or extended alcohol service. A licensee must request approval from the board's licensing division for ongoing outside or extended alcohol service. The following conditions must be met:

(1) The area must be enclosed with a permanent or movable barrier a minimum of forty-two inches in height; and

(2) There must be an interior access to the licensed premises. If the interior access is from a minor restricted area of the premises, minors are prohibited in the outside or extended alcohol service area.

(3) There must be an attendant, wait staff, or server dedicated to the outside service area when patrons are present.

(4) Must have leasehold rights to the area and have and be connected to the licensed premises.

(5) Openings into and out of the outside area cannot exceed ten feet. If there is more than one opening along one side, the total combined opening may not exceed ten feet.

(6) **Exception.** For sidewalk cafe outside service, the board allows local regulations that, in conjunction with a local sidewalk cafe permit, requires a forty-two inch barrier or permanent demarcation of the designated alcohol service areas for continued enforcement of the boundaries.

(a) The permanent demarcation must be at all boundaries of the outside service area;

(b) The permanent demarcation must be at least six inches in diameter;

(c) The permanent demarcation must be placed at a minimum of ten feet apart;

(d) There must be an attendant, wait staff, or server dedicated to the outside service area when patrons are present;

(e) This exception only applies to restaurant liquor licenses with sidewalk cafe service areas contiguous to the liquor licensed premises. "Contiguous" means touching along a boundary or at a point;

(f) This exception does not apply to beer gardens, standing room only venues, and permitted special events. Board approval is still required with respect to sidewalk cafe barrier requirements.

(7) **Limited exception.** The board may grant limited exceptions to the required forty-two inch high barrier for outside alcohol service areas.

(a) The licensee must have exclusive leasehold rights to the outside service area.

(b) There must be permanent demarcations at all boundaries of the outside service area for continued enforcement of the boundaries.

NEW SECTION

WAC 314-03-300 Alterations to a licensed premises. The following changes to a licensed premises require approval from the board's licensing division:

(1) Any alteration that affects the size of a premises' customer service area.

(a) The licensee must submit two sets of floor plans showing the changes.

(b) The board's licensing division will make an initial response on the licensee's request for alterations within five business days.

(c) The licensee must contact their local liquor enforcement officer when the alteration is completed.

(d) The licensee may begin liquor service in conjunction with the alteration after the completed alteration is inspected by the liquor enforcement officer.

(2) Excluding persons under twenty-one years of age from a spirits, beer, and wine restaurant or a spirits, beer, and wine nightclub.

The licensee must submit their request to the board's licensing division for an approval.

(3) Excluding persons under twenty-one years of age from the dining area of a beer and/or wine restaurant.

The licensee must submit their request to the board's licensing division for an approval.

(4) Reclassifying a lounge as open to persons under twenty-one years of age for a special event.

The licensee must submit their request to the board's licensing division for an approval.

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 may be altered with mixers, water, and/or ice.

(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.

WAC 314-07-055 Temporary retail license. Applicants may request 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 one hundred twenty days while the annual license application is being processed.

Type of Application	Qualification and process to receive a temporary retail license
<p>(1) New business, existing licensed business, or new license type:</p> <ul style="list-style-type: none"> • Applicant is applying for a license at a business location that does not hold a current, valid liquor license. • Applicant is applying for the same license privilege at a location that has a valid license that has not expired. • 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). 	<p>In order to receive a temporary license, the applicant(s) must:</p> <ul style="list-style-type: none"> ((• Sign the acknowledgment form.)) ((• Clear a criminal history check, per WAC 314-07-040.)) • Complete ((a briefing on liquor laws and regulations, per WAC 314-07-020(7))) <u>licensing requirements as determined by the board.</u> • 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.



Washington State
Liquor and Cannabis Board

Date: May 17, 2017

To: Jane Rushford, Board Chair
 Ollie Garrett, Board Member
 Russ Hauge, Board Member

From: Karen McCall, Agency Rules Coordinator

Copy: Rick Garza, Agency Director
 Peter Antolin, Deputy Director
 Justin Nordhorn, Chief of Enforcement
 Becky Smith, Licensing Director

Subject: **Approval for filing proposed rules (CR 102) to revise WAC 314-40-040**

This rulemaking is the result of a petition for rulemaking submitted by the Aberdeen Elks Lodge #593. They are requesting the board increase the number of club membership drives allowed per calendar year.

Process

The Rules Coordinator requests approval to file proposed rules (CR 102) for the rule making described above. An issue paper on this rule was presented at the Board meeting on May 17, 2017, and is attached to this order.

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

May 17, 2017	Board is asked to approve filing the proposed rules (CR 102 filing)
June 7, 2017	Code Reviser publishes notice, LCB sends notice to rules distribution list
June 28, 2017	Public Hearing held
June 28, 2017	End of written comment period
July 12, 2017	Board is asked to adopt rules
July 12, 2017	Agency sends notice to those who commented both at the public hearing and in writing.
July 12, 2017	Agency files adopted rules with the Code Reviser (CR 103)
August 12, 2017	Rules are effective (31 days after filing)

_____ Approve _____ Disapprove _____
Jane Rushford, Chair Date

_____ Approve _____ Disapprove _____
Ollie Garrett, Board Member Date

_____ Approve _____ Disapprove _____
Russ Hauge, Board Member Date

Attachment: Issue Paper

Washington State Liquor Control Board

Issue Paper

Rule Making on WAC 314-40-040

Date: May 17, 2017

Presented by: Karen McCall, Agency Rules Coordinator

Description of the Issue

The purpose of this Issue Paper is to request approval from the Board to file proposed rules (CR 102) to revise WAC 314-40-040.

Why is rule making necessary?

This rulemaking is the result of a petition for rulemaking submitted by the Aberdeen Elks Lodge #593. They are requesting the board increase the number of club membership drives allowed per calendar year.

What changes are being made?

Amended Section. WAC 314-40-040 Guest and courtesy cards – Visitors.

The number of membership drives was changed to 1 per quarter instead of 2 per year.

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))~~ one day~~((s))~~ per calendar ~~((year))~~ quarter 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.

(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, or distilleries.

(4) A temporary license under subsection (1) ~~((above))~~ of this section may be issued for a distributor license applicant.



**Topic: Petition for Rulemaking to Ban Off-Premises Marijuana
Advertisement Signage**

Date: May 17, 2017

Presented by: Joanna Eide, Policy and Rules Coordinator

Problem or Opportunity

A petition for rulemaking was submitted to the WSLCB by Jim McCune, Pierce County Councilman. Councilman McCune requests the WSLCB adopt a new rule regarding banning off-premises signs advertising marijuana, particularly focused on billboards. Councilman McCune states in the petition that the public is complaining to Pierce County Council members about marijuana billboards advertising marijuana products. Complaining parties typically reference the effect of these signs on children.

Background

Advertising has been an increasingly controversial issue since the passage of I-502 and the launch of the regulated marijuana industry in Washington State. After the passage of I-502, the WSLCB promulgated rules related to advertising as required by RCW 69.50.345(9) and consistent with the advertising provisions in RCW 69.50.369. It should be noted that RCW 69.50.345(9) focuses on the advertising of marijuana, marijuana concentrates, useable marijuana, and marijuana-infused products, and does not mention advertising of a business itself. While the WSLCB has the authority to regulate the advertising for marijuana businesses statewide, local jurisdictions may enact more restrictive advertising regulations for local marijuana businesses which they then could enforce.

Advertising continues to be the subject of the largest amount of complaints received by Enforcement. The WSLCB has received numerous informal requests to address multiple components of advertising through new or adjusted rules from the public, local jurisdictions, and licensees.

During the 2017 Legislative Session, the Legislature passed ESSB 5131 which contains new, additional restrictions for advertising, including many limitations on outdoor advertising and billboards. See ESSB 5131 Section 14. These provisions also direct the WSLCB to adopt rules implementing these new restrictions and specifically including provisions regulating the billboards and outdoor signs authorized by the new provisions. ESSB 5131 also directs the WSLCB to create rules for violations of advertising restrictions. Lastly, the bill reiterates that a city, town, or county may adopt rules of outdoor advertising by licensed marijuana retailers that are more restrictive than the advertising restrictions imposed under Chapter 69.50 RCW. Enforcement of restrictions to advertising by a city, town, or county is the responsibility of the city, town, or county.

Recommendation

Director's Office staff recommends the Board approve rulemaking to consider the recommendations of Councilman McCune as part of the rulemaking already scheduled and required of the WSLCB as a result of the new advertising provisions and legislative direction in ESSB 5131.

_____ Approve _____ Disapprove _____
Jane Rushford, Chair _____
Date

_____ Approve _____ Disapprove _____
Ollie Garrett, Board Member _____
Date

_____ Approve _____ Disapprove _____
Russ Hauge, Board Member _____
Date

Attachments:

Petition from Pierce County Councilman McCune
ESSB 5131 Section 14 Excerpt
RCW 69.50.345
RCW 69.50.369



Pierce County

Office of the County Council
930 Tacoma Avenue South, Room 1046
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Karen McCall

Jim McCune

Council Member, District No 3

STANDING COMMITTEES

Performance Audit Committee, Chair (PAC)
Public Safety & Human Services (PSHS)
Economic and Infrastructure Development (EID)
Community Development Committee (CDC)

BOARDS & COMMISSIONS

Flood Control Zone District (FCZD)
Nisqually River Council (NRC)
Zoo & Trek Authority (ZTA)
Law and Justice Community Oversight Committee (LJC)
Transportation Benefit District (TBD)
WA State Association of Counties Board of Directors (WSAC)

April 20, 2017

Karen McCall
WA State Liquor and Cannabis Board
Agency Rules Coordinator
3000 Pacific Ave SE
Olympia, WA 98504

Dear Karen,

Per the instructions of state code, I am sending to you a petition requesting the Liquor and Cannabis Board to develop rules regarding marijuana advertising. Enclosed is the filled-out form required for the request. I would appreciate your prompt attention. Should you have further questions, please call.

Sincerely,

Jim McCune
Pierce County Councilman
3rd Council District

cc: Senator Randi Becker
Senator Steve O'Ban
Senator Mike Padden
Rep. JT Wilcox
Rep. Andrew Barkis

Enc.

RECEIVED

APR 26 2017

LICENSING DIVISION



PETITION FOR ADOPTION, AMENDMENT, OR REPEAL OF A STATE ADMINISTRATIVE RULE

Print Form

In accordance with [RCW 34.05.330](#), the Office of Financial Management (OFM) created this form for individuals or groups who wish to petition a state agency or institution of higher education to adopt, amend, or repeal an administrative rule. You may use this form to submit your request. You also may contact agencies using other formats, such as a letter or email.

The agency or institution will give full consideration to your petition and will respond to you within 60 days of receiving your petition. For more information on the rule petition process, see Chapter 82-05 of the Washington Administrative Code (WAC) at <http://apps.leg.wa.gov/wac/default.aspx?cite=82-05>.

CONTACT INFORMATION *(please type or print)*

Petitioner's Name Jim McCune

Name of Organization Councilmember, Pierce County

Mailing Address 930 Tacoma Ave. S.

City Tacoma State WA Zip Code 98402

Telephone 253-798-6626 Email jmccune@co.pierce.wa.us

COMPLETING AND SENDING PETITION FORM

- Check all of the boxes that apply.
- Provide relevant examples.
- Include suggested language for a rule, if possible.
- Attach additional pages, if needed.
- Send your petition to the agency with authority to adopt or administer the rule. Here is a list of agencies and their rules coordinators: <http://www.leg.wa.gov/CodeReviser/Documents/RClst.htm>.

INFORMATION ON RULE PETITION

Agency responsible for adopting or administering the rule: Liquor and Cannabis Board

1. NEW RULE - I am requesting the agency to adopt a new rule.

See attached Ex. A.

The subject (or purpose) of this rule is: _____

See attached Ex. A.

The rule is needed because: _____

See Attached Ex. A.

The new rule would affect the following people or groups: _____

2. AMEND RULE - I am requesting the agency to change an existing rule.

List rule number (WAC), if known: _____

I am requesting the following change: _____

This change is needed because: _____

The effect of this rule change will be: _____

The rule is not clearly or simply stated: _____

3. REPEAL RULE - I am requesting the agency to eliminate an existing rule.

List rule number (WAC), if known: _____

(Check one or more boxes)

It does not do what it was intended to do.

It is no longer needed because: _____

It imposes unreasonable costs: _____

The agency has no authority to make this rule: _____

It is applied differently to public and private parties: _____

It conflicts with another federal, state, or local law or rule. List conflicting law or rule, if known: _____

It duplicates another federal, state or local law or rule. List duplicate law or rule, if known: _____

Other (please explain): _____

Exhibit A

McCune Petition for Adoption of State Administrative Rule
Liquor and Cannabis Board

The subject (or purpose) of this rule is:

To develop rules banning off-premise signs advertising marijuana, marijuana concentrates or marijuana-infused products (marijuana products) as contemplated by *RCW 69.50.345(9)* which provides that:

The state liquor and cannabis board . . . **must** adopt rules . . . [e]stablishing reasonable time, place, and manner restrictions and **requirements regarding advertising of marijuana**, marijuana concentrates, useable marijuana, and marijuana infused products that are not inconsistent with the provisions of this chapter, 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;**
- (c) **The inclusion of medically and scientifically accurate information about the health and safety risks posed by marijuana use** in the advertising; and
- (d) Ensuring that retail outlets with medical marijuana endorsements may advertise themselves as medical retail outlets; (*Emphasis added*)

For purposes of this request, off-premises signs are signs that inform about products or services available at some other location. Such signs are commonly designated 'billboards' and they can be preprinted or hand painted changeable advertising copy sign which direct attention to businesses, commodities, services, or facilities which are not primarily sold, manufactured, or distributed from the property on which the sign is located. The term "billboard" includes both the structural framework which supports a billboard and any billboard faces attached thereto.

The rule is needed because:

Members of the public are complaining to Pierce County Council members about marijuana billboards advertising marijuana products. Complaining parties typically reference the effect of these signs on children.

The use of billboards maximizes the exposure and impact of marijuana product advertising on persons under age twenty-one. Billboards, by their very nature, are intended to increase brand recognition and increase sales to targeted persons, which in the case of billboards, includes many people in the protected age range. Billboards may be located on roads receiving federal grants; may be located on roads **that cross state boundaries**; may be located on roads crossing into tribal, military or other federal lands; may be located in close proximity to federal offices or recipients of federal funding; and may be located in close proximity to apartments housing children or churches providing services to children. Further, off-premises signs advertising marijuana products are likely to be located in areas where ultimate recipients of federal drug abuse recovery funding reside. As a consequence, such signs operate to undermine federal policies related to the control of marijuana and policies related to limiting negative impacts from use of the drug.

The warnings needed to meet the requirements of *RCW 69.50.345(9)(c)* cannot be accommodated on an off-premises billboard in a manner that meets United States Sign Council (USSC) sign legibility standards

Exhibit A

McCune Petition for Adoption of State Administrative Rule
Liquor and Cannabis Board

(see *Sign Legibility Rules of Thumb*, United States Sign Council, Andrew Bertucci (2006); <https://www.usscfoundation.org/USSCSignLegiRulesThumb.pdf>; see also *On Premises Signs Guideline Standards*, United States Sign Council, Andrew Bertucci (2003); <https://www.usscfoundation.org/USSCGuidelineStandards.pdf>). According to the USSC “[i]t is now possible to determine, with a degree of certainty, the size of letters as well as the size of signs necessary to ensure motorist legibility.” Looking at just one element of sign legibility, viewer reaction time, we see that viewer reaction time for a developed town or city commercial area with single or multi-lane travel under 35 mph would equal 1.1 seconds per letter just for detection and message scan (*On Premises Signs Guideline* at pg. 12).

WAC 314-55-155(6) provides that “[a]ll advertising must contain the following warnings:

This product has intoxicating effects and may be habit forming. Marijuana can impair concentration, coordination, and judgment. Do not operate a vehicle or machinery under the influence of this drug. There may be health risks associated with consumption of this product. For use only by adults twenty-one and older. Keep out of the reach of children.

Word Count, a function of Microsoft Word, calculates the number of letters with **no spaces** in the mandated warnings at **295** and **with spaces at 351**. To put this into context, the average legible sign is thought to have 30 characters, one-tenth the number of characters found in the mandatory warning not including the advertising copy.

As a rule-of-thumb for average usage with signs displaying six words of copy (or 30 letters) or less however, VRT for vehicles traveling under 35 miles per hour in simple two to three lane environments can be estimated at eight (8) seconds; for vehicles traveling over 35 miles per hour in more complex four to five lane environments, at ten (10) seconds; and for vehicles traveling over 35 mph in high speed multi-lane environments at eleven to twelve (11-12) seconds. (*Sign Legibility Rules of Thumb* at pg. 3).

Given the previously mentioned scenario, an off-premises sign located adjacent to a single or multi-lane road where speed of travel was under 35 mph would require **6.43 minutes** (scanning all the characters) or **5.4 minutes** for a vehicle passenger to **detect and scan the required health warnings** much less the associated advertising. This is insufficient time to absorb and internalize the intended message unless one is stuck in gridlock, thus making it impossible for a roadside billboard to perform the health warning function anticipated by *RCW 69.50.345(9)(c)* and mandated by WAC 314-55-155(6) for vehicles traveling at normal speeds. Further, calculations included in the above mentioned USSC Guidelines indicate that any legible sign would require impossibly large lettering which further renders the effectiveness of mandated warnings null.

That current mandated warnings have been rendered ineffective by billboard advertisers is readily apparent from a visual investigation of signs (all located in Washington State and all of which contain warnings-just not visible warnings) below:

Exhibit A

McCune Petition for Adoption of State Administrative Rule
Liquor and Cannabis Board

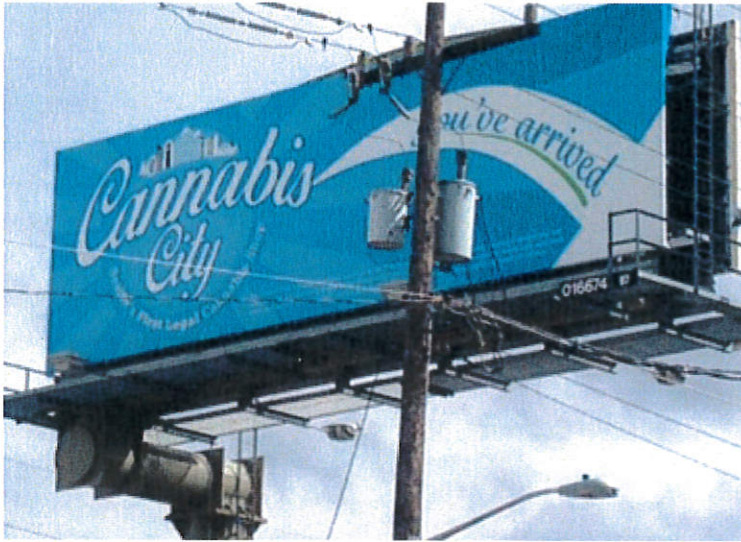


Exhibit A

**McCune Petition for Adoption of State Administrative Rule
Liquor and Cannabis Board**

The new rule would affect the following people or groups:

Children. Federal employees. Veterans. Current servicemen. Tribal members. Residents of other states and countries. Persons unaware of health dangers associated with the consumption of marijuana products. Marijuana producers, processors and retailers.

RCW 69.50.345**State liquor and cannabis board—Rules—Procedures and criteria.**

The state liquor and cannabis board, subject to the provisions of this chapter, must adopt rules 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.

(a) Application forms for marijuana producers must request the applicant to state whether the applicant intends to produce marijuana for sale by marijuana retailers holding medical marijuana endorsements and the amount of or percentage of canopy the applicant intends to commit to growing plants determined by the department under RCW **69.50.375** to be of a THC concentration, CBD concentration, or THC to CBD ratio appropriate for marijuana concentrates, useable marijuana, or marijuana-infused products sold to qualifying patients.

(b) The state liquor and cannabis board must reconsider and increase limits on the amount of square feet permitted to be in production on July 24, 2015, and increase the percentage of production space for those marijuana producers who intend to grow plants for marijuana retailers holding medical marijuana endorsements if the marijuana producer designates the increased production space to plants determined by the department under RCW **69.50.375** to be of a THC concentration, CBD concentration, or THC to CBD ratio appropriate for marijuana concentrates, useable marijuana, or marijuana-infused products to be sold to qualifying patients. If current marijuana producers do not use all the increased production space, the state liquor and cannabis board may reopen the license period for new marijuana producer license applicants but only to those marijuana producers who agree to grow plants for marijuana retailers holding medical marijuana endorsements. Priority in licensing must be given to marijuana producer license applicants who have an application pending on July 24, 2015, but who are not yet licensed and then to new marijuana producer license applicants. After January 1, 2017, any reconsideration of the limits on the amount of square feet permitted to be in production to meet the medical needs of qualifying patients must consider information contained in the medical marijuana authorization database established in RCW **69.51A.230**;

(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;

(c) The provision of adequate access to licensed sources of marijuana concentrates, useable marijuana, and marijuana-infused products to discourage purchases from the illegal market; and

(d) The number of retail outlets holding medical marijuana endorsements necessary to meet the medical needs of qualifying patients. The state liquor and cannabis board must reconsider and increase the maximum number of retail outlets it established before July 24, 2015, and allow for a new license application period and a greater number of retail outlets to be permitted in order to accommodate the medical needs of qualifying patients and designated providers. After January 1, 2017, any reconsideration of the maximum number of retail outlets needed to meet the medical needs of qualifying patients must consider information contained in the medical marijuana authorization database established in RCW **69.51A.230**;

(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, marijuana concentrates, 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 marijuana concentrates, 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 this section, the state liquor and cannabis board shall take into consideration:

(a) Security and safety issues;

(b) The provision of adequate access to licensed sources of marijuana, marijuana concentrates, 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, marijuana concentrates, 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 processed and sold the marijuana, marijuana concentrates, useable marijuana, or marijuana-infused product;

(b) Lot numbers of the marijuana, marijuana concentrates, useable marijuana, or marijuana-infused product;

(c) THC concentration and CBD concentration of the marijuana, marijuana concentrates, 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 and the department, establishing classes of marijuana, marijuana concentrates, useable marijuana, and marijuana-infused products according to grade, condition, cannabinoid profile, THC concentration, CBD concentration, or other qualitative measurements deemed appropriate by the state liquor and cannabis board;

(9) Establishing reasonable time, place, and manner restrictions and requirements regarding advertising of marijuana, marijuana concentrates, useable marijuana, and marijuana-infused products that are not inconsistent with the provisions of this chapter, 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;

(c) The inclusion of medically and scientifically accurate information about the health and safety risks posed by marijuana use in the advertising; and

(d) Ensuring that retail outlets with medical marijuana endorsements may advertise themselves as medical retail outlets;

(10) Specifying and regulating the time and periods when, and the manner, methods, and means by which, licensees shall transport and deliver marijuana, marijuana concentrates, 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 and cannabis board, and prescribing methods of producing, processing, and packaging marijuana, marijuana concentrates, useable marijuana, and marijuana-infused products; conditions of sanitation; and standards of ingredients, quality, and identity of marijuana, marijuana concentrates, 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, marijuana concentrates, 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 this chapter or the rules of the state liquor and cannabis board.

[**2015 c 70 § 8**; 2013 c 3 § 10 (Initiative Measure No. 502, approved November 6, 2012).]

NOTES:

Short title—Findings—Intent—References to Washington state liquor control board—Draft legislation—2015 c 70: See notes following RCW **66.08.012**.

Intent—2013 c 3 (Initiative Measure No. 502): See note following RCW **69.50.101**.

RCW 69.50.369

Marijuana producers, processors, researchers, retailers—Advertisements—Penalty.

(1) No licensed marijuana producer, processor, researcher, or retailer may place or maintain, or cause to be placed or maintained, an advertisement of marijuana, useable marijuana, marijuana concentrates, 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 and cannabis board must 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 account created under RCW **69.50.530**.

[**2015 2nd sp.s. c 4 § 204**; 2013 c 3 § 18 (Initiative Measure No. 502, approved November 6, 2012).]

NOTES:

Findings—Intent—Effective dates—2015 2nd sp.s. c 4: See notes following RCW **69.50.334**.

Intent—2013 c 3 (Initiative Measure No. 502): See note following RCW **69.50.101**.

1 opened or consumed, any marijuana concentrates, useable marijuana, or
2 marijuana-infused product on the outlet premises.

3 ~~((6))~~(5) The state liquor and cannabis board must fine a
4 licensee one thousand dollars for each violation of any subsection of
5 this section. Fines collected under this section must be deposited
6 into the dedicated marijuana account created under RCW 69.50.530.

7 **Sec. 14.** RCW 69.50.369 and 2015 2nd sp.s. c 4 s 204 are each
8 amended to read as follows:

9 (1) No licensed marijuana producer, processor, researcher, or
10 retailer may place or maintain, or cause to be placed or maintained,
11 ~~((a))~~any sign or other advertisement ~~((e))~~for a
12 marijuana~~((r))~~business or marijuana product, including useable
13 marijuana, marijuana concentrates, or ~~((a))~~ marijuana-infused
14 product, in any form or through any medium whatsoever~~((+~~

15 ~~(a))~~within one thousand feet of the perimeter of a school
16 grounds, playground, recreation center or facility, child care
17 center, public park, or library, or any game arcade admission to
18 which is not restricted to persons aged twenty-one years or older~~((+~~

19 ~~(b) On or in a public transit vehicle or public transit shelter;~~
20 ~~or~~

21 ~~(c) On or in a publicly owned or operated property)).~~

22 (2) Except for the use of billboards as authorized under this
23 section, licensed marijuana retailers may not display any signage
24 outside of the licensed premises, other than two signs identifying
25 the retail outlet by the licensee's business or trade name, stating
26 the location of the business, and identifying the nature of the
27 business. Each sign must be no larger than one thousand six hundred
28 square inches and be permanently affixed to a building or other
29 structure. The location and content of the retail marijuana signs
30 authorized under this subsection are subject to all other
31 requirements and restrictions established in this section for indoor
32 signs, outdoor signs, and other marijuana-related advertising
33 methods.

34 (3) A marijuana licensee may not utilize transit advertisements
35 for the purpose of advertising its business or product line. "Transit
36 advertisements" means advertising on or within private or public
37 vehicles and all advertisements placed at, on, or within any bus
38 stop, taxi stand, transportation waiting area, train station,
39 airport, or any similar transit-related location.

1 (4) A marijuana licensee may not engage in advertising or other
2 marketing practice that specifically targets persons residing outside
3 of the state of Washington.

4 (5) All signs, billboards, or other print advertising for
5 marijuana businesses or marijuana products must contain text stating
6 that marijuana products may be purchased or possessed only by persons
7 twenty-one years of age or older.

8 (6) A marijuana licensee may not:

9 (a) Take any action, directly or indirectly, to target youth in
10 the advertising, promotion, or marketing of marijuana and marijuana
11 products, or take any action the primary purpose of which is to
12 initiate, maintain, or increase the incidence of youth use of
13 marijuana or marijuana products;

14 (b) Use objects such as toys or inflatables, movie or cartoon
15 characters, or any other depiction or image likely to be appealing to
16 youth, where such objects, images, or depictions indicate an intent
17 to cause youth to become interested in the purchase or consumption of
18 marijuana products; or

19 (c) Use or employ a commercial mascot outside of, and in
20 proximity to, a licensed marijuana business. A "commercial mascot"
21 means live human being, animal, or mechanical device used for
22 attracting the attention of motorists and passersby so as to make
23 them aware of marijuana products or the presence of a marijuana
24 business. Commercial mascots include, but are not limited to,
25 inflatable tube displays, persons in costume, or wearing, holding, or
26 spinning a sign with a marijuana-related commercial message or image,
27 where the intent is to draw attention to a marijuana business or its
28 products.

29 (7) A marijuana licensee that engages in outdoor advertising is
30 subject to the advertising requirements and restrictions set forth in
31 this subsection (7) and elsewhere in this chapter.

32 (a) All outdoor advertising signs, including billboards, are
33 limited to text that identifies the retail outlet by the licensee's
34 business or trade name, states the location of the business, and
35 identifies the type or nature of the business. Such signs may not
36 contain any depictions of marijuana plants, marijuana products, or
37 images that might be appealing to children. The state liquor and
38 cannabis board is granted rule-making authority to regulate the text
39 and images that are permissible on outdoor advertising. Such rule

1 making must be consistent with other administrative rules generally
2 applicable to the advertising of marijuana businesses and products.

3 (b) Outdoor advertising is prohibited:

4 (i) On signs and placards in arenas, stadiums, shopping malls,
5 fairs that receive state allocations, farmers markets, and video game
6 arcades, whether any of the foregoing are open air or enclosed, but
7 not including any such sign or placard located in an adult only
8 facility; and

9 (ii) Billboards that are visible from any street, road, highway,
10 right-of-way, or public parking area are prohibited, except as
11 provided in (c) of this subsection.

12 (c) Licensed retail outlets may use a billboard or outdoor sign
13 solely for the purpose of identifying the name of the business, the
14 nature of the business, and providing the public with directional
15 information to the licensed retail outlet. Billboard advertising is
16 subject to the same requirements and restrictions as set forth in (a)
17 of this subsection.

18 (d) Advertising signs within the premises of a retail marijuana
19 business outlet that are visible to the public from outside the
20 premises must meet the signage regulations and requirements
21 applicable to outdoor signs as set forth in this section.

22 (e) The restrictions and regulations applicable to outdoor
23 advertising under this section are not applicable to:

24 (i) An advertisement inside a licensed retail establishment that
25 sells marijuana products that is not placed on the inside surface of
26 a window facing outward; or

27 (ii) An outdoor advertisement at the site of an event to be held
28 at an adult only facility that is placed at such site during the
29 period the facility or enclosed area constitutes an adult only
30 facility, but in no event more than fourteen days before the event,
31 and that does not advertise any marijuana product other than by using
32 a brand name to identify the event.

33 (8) Merchandising within a retail outlet is not advertising for
34 the purposes of this section.

35 ((+3))(9) This section does not apply to a noncommercial
36 message.

37 ((+4))(10)(a) The state liquor and cannabis board must:

38 (i) Adopt rules implementing this section and specifically
39 including provisions regulating the billboards and outdoor signs
40 authorized under this section; and

1 (ii) Fine a licensee one thousand dollars for each violation of
2 (~~subsection (1) of~~) this section until the state liquor and
3 cannabis board adopts rules prescribing penalties for violations of
4 this section. The rules must establish escalating penalties including
5 finances and up to suspension or revocation of a marijuana license for
6 subsequent violations.

7 (b) Fines collected under this subsection must be deposited into
8 the dedicated marijuana account created under RCW 69.50.530.

9 (11) A city, town, or county may adopt rules of outdoor
10 advertising by licensed marijuana retailers that are more restrictive
11 than the advertising restrictions imposed under this chapter.
12 Enforcement of restrictions to advertising by a city, town, or county
13 is the responsibility of the city, town, or county.

14 **Sec. 15.** RCW 69.50.4013 and 2015 2nd sp.s. c 4 s 503 are each
15 amended to read as follows:

16 (1) It is unlawful for any person to possess a controlled
17 substance unless the substance was obtained directly from, or
18 pursuant to, a valid prescription or order of a practitioner while
19 acting in the course of his or her professional practice, or except
20 as otherwise authorized by this chapter.

21 (2) Except as provided in RCW 69.50.4014, any person who violates
22 this section is guilty of a class C felony punishable under chapter
23 9A.20 RCW.

24 (3)(a) The possession, by a person twenty-one years of age or
25 older, of useable marijuana, marijuana concentrates, or marijuana-
26 infused products in amounts that do not exceed those set forth in RCW
27 69.50.360(3) is not a violation of this section, this chapter, or any
28 other provision of Washington state law.

29 (b) The possession of marijuana, useable marijuana, marijuana
30 concentrates, and marijuana-infused products being physically
31 transported or delivered within the state, in amounts not exceeding
32 those that may be established under RCW 69.50.385(3), by a licensed
33 employee of a common carrier when performing the duties authorized in
34 accordance with RCW 69.50.382 and 69.50.385, is not a violation of
35 this section, this chapter, or any other provision of Washington
36 state law.

37 (4)(a) The delivery by a person twenty-one years of age or older
38 to one or more persons twenty-one years of age or older, during a
39 single twenty-four hour period, for noncommercial purposes and not