



PROPOSED RULE MAKING

CR-102 (December 2017) (Implements RCW 34.05.320)

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FILED

DATE: September 29, 2021

TIME: 11:45 AM

WSR 21-20-066

Agency: Washington State Liquor and Cannabis Board (WSLCB)

Original Notice

Supplemental Notice to WSR _____

Continuance of WSR _____

Preproposal Statement of Inquiry was filed as WSR 21-11-035 ; or

Expedited Rule Making--Proposed notice was filed as WSR _____; or

Proposal is exempt under RCW 34.05.310(4) or 34.05.330(1); or

Proposal is exempt under RCW _____.

Title of rule and other identifying information: (describe subject) Rules to Implement E2SHB 1480 (chapter 48, Laws of 2021). The proposed rules amend or create the following sections:

Chapter 314-02 WAC, "Requirements for Retail Liquor Licensees"

Amended	WAC 314-02-010 "Definitions."
Amended	WAC 314-02-035 "Food service requirements for a spirits, beer, and wine restaurant license."
Amended	WAC 314-02-0411 "Food service requirements for a hotel license."
Amended	WAC 314-02-065 "Snack bar license."
Amended	WAC 314-02-087 "Spirits, beer, and wine theater license."
Amended	WAC 314-02-112 "Caterer's license."
Amended	WAC 314-02-114 "Senior center license."

Chapter 314-03 WAC, "Allowed Activities"

Amended	WAC 314-03-200 "Outside or extended alcohol service."
New	WAC 314-03-205 "Temporary rules for outdoor alcohol service by on-premises licensees."
New	WAC 314-03-500 "Temporary endorsement for sale of manufacturer-sealed alcohol products through curbside, takeout, or delivery service."
New	WAC 314-03-505 "Temporary endorsement for sale of premixed cocktails, cocktail kits, wine by the glass, premixed wine and spirits cocktails, or premixed wine drinks through curbside, takeout, or delivery service."
New	WAC 314-03-510 "Temporary endorsement for sale of growlers through curbside, takeout, or delivery service."

Hearing location(s):

Date:	Time:	Location: (be specific)	Comment:
November 10, 2021	10:00 am	In response to the coronavirus disease 2019 (COVID-19) public health emergency, the WSLCB will not provide a physical location for this hearing to promote social distancing and the safety of the citizens of Washington State. A virtual public hearing, without a physical meeting space, will be held instead. Board members, presenters, and staff will all participate remotely. The public	For more information about Board meetings, please visit https://lcb.wa.gov/Boardmeetings/Board_meetings .

	<p>may login using a computer or device, or call-in using a phone, to listen to the meeting through the Microsoft Teams application. The public may provide verbal comments during the specified public comment and rules hearing segments.</p>	
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Date of intended adoption: No earlier than November 24, 2021. (Note: This is **NOT** the **effective** date)

Submit written comments to:
 Name: Audrey Vasek, Policy and Rules Coordinator
 Address: 1025 Union Avenue, Olympia, WA 98501
 Email: rules@lcb.wa.gov
 Fax: 360-704-5027
 Other:
 By (date) November 10, 2021

Assistance for persons with disabilities:
 Contact Anita Bingham, ADA Coordinator, Human Resources
 Phone: 360-664-1739
 Fax: 360-664-9689
 TTY: 7-1-1 or 1-800-833-6388
 Email: anita.bingham@lcb.wa.gov
 Other:
 By (date) October 27, 2021

Purpose of the proposal and its anticipated effects, including any changes in existing rules:

Background

In March of 2020, as the coronavirus (COVID-19) pandemic began to spread rapidly in Washington, the state announced restrictions that impacted the operations of many WSLCB licensees, particularly on-premises licensees. Some licensees were required to close entirely and others had significant limitations to sales and customer service. The WSLCB worked to find temporary ways for businesses to expand their operations using methods that would not put the health of employees or customers at risk. E2SHB 1480 (which took effect on April 14, 2021) provides legislative authorization extending certain temporary privileges that the WSLCB granted to liquor licensees to mitigate the impact of the COVID-19 pandemic. These temporary privileges include:

Temporary Endorsements for “To-Go” Alcohol Sales

E2SHB 1480 creates temporary alcohol to-go endorsements that allow certain licensees to engage in curbside, takeout, or delivery sales of cocktails and wine by the glass, growlers, and other alcohol products. These new endorsements are set to expire July 1, 2023. There are no fees for licensees to obtain these endorsements. See E2SHB 1480, section 2(2)-(7) and (11).

Outdoor Alcohol Service Areas

E2SHB 1480 requires the WSLCB to adopt or revise current rules to allow for temporary outdoor service of alcohol by certain on-premises licensees, and provides the WSLCB with authority to adopt requirements providing for clear accountability at locations where multiple licensees use a shared space for serving customers. These outdoor alcohol service area rules are set to expire July 1, 2023. See E2SHB 1480, section 2(8) and (11).

Food Service Menu Requirements

E2SHB 1480 requires the WSLCB to consider revising current rules in order to provide greater flexibility regarding the food service menu requirements that licensees must provide in conjunction with alcohol sales. These food service requirement changes are permanent. See E2SHB 1480, section 3.

Purpose

The purpose of this proposal is to implement E2SHB 1480 by: (1) creating rules for the temporary “to-go” alcohol endorsements; (2) creating and revising rules for the temporary outdoor alcohol service area requirements; and (3) revising food service requirement rules to provide licensees with greater flexibility and make it more financially feasible for licensees to comply with the rules. Proposed new rules and changes to existing rules are described in the table below.

Reasons supporting proposal: The proposed rules are needed to align existing rules with and implement the law as established by E2SHB 1480.

Rule section	Description of proposed rule changes	Supporting reasons
<i>Category: Food Service Menu Requirements</i>		
WAC 314-02-010 "Definitions." (AMENDED)	The definitions of "complete meal," "minimum food service," and "snack food" are revised to provide greater flexibility for licensees. ("Complete meal" was previously defined in WAC 314-02-035.) The definition of "limited food service" is removed and consolidated with "minimum food service." New, culturally diverse food examples are added to all three of these definitions, and the definition of complete meal is expanded to include a "small plates" option in addition to the "entree with at least one side dish available" option.	To implement section 3 of E2SHB 1480 (codified as RCW 66.08.071), which directs the WSLCB to "consider revising current rules in order to provide greater flexibility regarding food service menu requirements." To improve clarity of the rules by streamlining and making technical corrections to language and numbering, without changing its effect.
WAC 314-02-035 "Food service requirements for a spirits, beer, and wine restaurant license." (AMENDED)	The required number of complete meals is reduced from eight to four. The section is streamlined by removing content that is repeated in the definition section and replacing it with references to the appropriate definitions in WAC 314-02-010. The section caption is revised from a question to a statement.	
WAC 314-02-0411 "Food service requirements for a hotel license." (AMENDED)	The required number of complete meals is reduced from eight to four. The section is streamlined by removing content that is repeated in the definition section and replacing it with references to the appropriate definitions in WAC 314-02-010. The section caption is revised from a question to a statement.	
WAC 314-02-065 "Snack bar license." (AMENDED)	The cross-reference in subsection (2) to the definition of snack food in WAC 314-02-010 is updated. The section caption is revised from a question to a statement.	
WAC 314-02-087 "Spirits, beer, and wine theater license." (AMENDED)	The section is streamlined by removing food service requirements that are repeated in WAC 314-02-035, the spirits, beer, and wine restaurant license, and replacing that language with a cross-reference. The effect of this change is that the required number of complete meals is reduced from eight to four. The section caption is revised from a question to a statement.	
WAC 314-02-112 "Caterer's license." (AMENDED)	The required number of complete meals is reduced from eight to four. The section is streamlined by removing content that is repeated in the definition section and replacing it with references to the appropriate definitions in WAC 314-02-010. The section caption is revised from a question to a statement. The subsection numbering is also revised throughout the section.	
WAC 314-02-114 "Senior center license." (AMENDED)	The section is streamlined by removing content that is repeated in the definition of "minimum food service" and replacing it with a reference to the definition of "minimum food service" in WAC 314-02-010. The section caption is revised from a question to a statement.	
<i>Category: Outdoor Alcohol Service Areas</i>		
WAC 314-03-200 "Outside or extended alcohol service." (AMENDED)	A cross-reference to the proposed temporary rules for outdoor alcohol service in WAC 314-03-205 is added to the first paragraph.	To implement section 2(8) of E2SHB 1480, which directs the WSLCB to "adopt or revise current rules to allow for outdoor service of alcohol by on-premises licensees." To improve clarity of the rules by streamlining and making technical corrections to language and numbering, without changing its effect.
WAC 314-03-205 "Temporary rules for outdoor alcohol service by on-premises licensees." (NEW)	<p>Creates a new section. The section applies to all on-premises licensees that want to have ongoing outdoor alcohol service areas. As before, licensees must apply to the WSLCB Licensing Division for approval/alteration request. There are different requirements for outdoor alcohol service areas in private versus public spaces.</p> <p>As compared to the existing rules, the temporary rules provide more flexibility and options for licensees that want to have outdoor alcohol service areas:</p> <p>Outdoor service areas in public spaces (e.g. sidewalk cafes) are no longer limited to restaurants—all licensees are eligible if they have local jurisdiction approval.</p> <p>The outdoor service area does not have to be contiguous to the licensed premises but must be on the same property or parcel.</p> <p>Interior access to the licensed premises from the outdoor service area is no longer required, but there must be a direct line of sight to the outdoor area from within the licensed premises or an employee must be present in the outdoor area at all times when customers are present to monitor alcohol consumption.</p> <p>Requirements for shared outdoor alcohol service areas are established as follows:</p> <ul style="list-style-type: none"> • Licensees' property parcels/buildings must be located in direct physical proximity to one another; • Licensees must maintain separate storage of products and separate financial records for the shared outdoor alcohol service area; • Licensees must use distinctly marked glassware or serving containers in the shared outdoor area to identify the source of any alcohol product being consumed. The distinctive marking may be either permanent or temporary; and • Licensees must complete an operating plan for the shared outdoor alcohol service area. 	
<i>Category: Temporary Endorsements for "To-Go" Alcohol Sales</i>		
WAC 314-03-500 "Temporary endorsement for sale of manufacturer-sealed alcohol products through curbside, takeout, or delivery service." (NEW)	<p>Creates a new rule section to implement the new temporary endorsement for sale of alcohol products through curbside, takeout, or delivery service created by E2SHB 1480. The endorsement is available to the licensees specified in E2SHB 1480: Spirits, Beer, and Wine (SBW) Restaurants, Beer and/or Wine (BW) Restaurants, Taverns, Wineries, Breweries, Microbreweries, Distilleries, Snack Bars, Nonprofit Arts Licensees, and Caterers. The endorsement includes the following requirements:</p> <ul style="list-style-type: none"> • Alcohol products must be manufacturer-sealed or factory-sealed. 	To implement E2SHB 1480, section 2(2), (6), and (9).

	<ul style="list-style-type: none"> • 21+ Labelling requirement: If the alcohol product is enclosed in a bag, box, or other packaging, the exterior of the packaging must be marked with the words "CONTAINS ALCOHOL, FOR PERSONS 21+". Producers (breweries, wineries, and distilleries) selling alcohol products through takeout are exempt from this requirement. • Delivery requirements: Delivery must be made by persons who are 21+. Third-party service providers are allowed if licensees comply with the existing consumer orders, internet sales, and delivery rules. Delivery person must verify that person receiving the alcohol is 21+ and obtain their signature. Alcohol products may not be left unattended. Delivery may not be made to intoxicated persons. • Signage requirements: Signs regarding public consumption and transportation of alcohol products sold through curbside, takeout, or delivery service will be provided electronically by the WSLCB and must be posted at the main entrance and areas of the premises where customers pick up alcohol products for takeout or curbside service. 	
<p>WAC 314-03-505 "Temporary endorsement for sale of premixed cocktails, cocktail kits, wine by the glass, premixed wine and spirits cocktails, or premixed wine drinks through curbside, takeout, or delivery service." (NEW)</p>	<p>Creates a new rule section to implement the new temporary endorsement for sale of premixed cocktails, cocktail kits, wine by the glass, premixed wine and spirits cocktails, or premixed wine drinks through curbside, takeout, or delivery service created by E2SHB 1480. The endorsement is available to the licensees specified in E2SHB 1480: SBW restaurants (for all of the above drinks), BW restaurants (for wine or premixed wine drinks by the glass). The endorsement includes the following requirements:</p> <ul style="list-style-type: none"> • Food requirements: For SBW restaurants, a complete meal must be sold with the "to-go" cocktail, wine, etc. Up to 3 ounces of spirits may be sold per complete meal. For BW restaurants, a minimum food service item must be sold with the "to-go" wine or premixed wine drink. • Container requirements: The "to-go" cocktails, wine, etc., must be packaged in containers that are sealed in a manner designed to prevent consumption without removal of a tamper-evident lid, cap, or seal. A non-comprehensive list of examples is provided. • 21+ Labelling requirements: The individual "to-go" containers must be clearly marked or labeled with the words "CONTAINS ALCOHOL, FOR PERSONS 21+". If the individual "to-go" containers are enclosed in a bag, box, or other packaging, the exterior of the packaging must be marked with the words "CONTAINS ALCOHOL, FOR PERSONS 21+" • To deter public consumption or consumption in a vehicle, licensees may not put ice directly into the alcohol "to-go" containers. Ice may be provided separately with the order. • Alcohol "to-go" containers must be placed in the trunk of a vehicle or beyond the immediate reach of the driver and any passengers in compliance with open container requirements in RCW. • Delivery requirements: Delivery must be made by employees of the licensed business who are 21+. Delivery may not be made by third-party service providers. Delivery person must verify that person receiving the alcohol is 21+ and obtain their signature. Alcohol products may not be left unattended. Delivery may not be made to intoxicated persons. • Signage requirements: Signs regarding public consumption and transportation of alcohol products sold through curbside, takeout, or delivery service will be provided electronically by the WSLCB and must be posted at the main entrance and areas of the premises where customers pick up alcohol products for takeout or curbside service. <p>The following terms used in E2SHB 1480 are defined: "premixed cocktail," "premixed wine and spirits cocktail," and "premixed wine drink."</p>	<p>To implement E2SHB 1480, section 2(3), (4), (6), and (9).</p>
<p>WAC 314-03-510 "Temporary endorsement for sale of growlers through curbside, takeout, or delivery service." (NEW)</p>	<p>Creates a new rule section to implement the new temporary endorsement for sale of growlers through curbside, takeout, or delivery service created by E2SHB 1480. The endorsement is available to the licensees specified in E2SHB 1480: licensees that were authorized by statute or rule before January 1, 2020, to sell growlers, including Taverns, BW restaurants, SBW restaurants, Grocery Stores, Beer and Wine Specialty Shops, Breweries, Microbreweries, Wineries, Combination SBW Licensees, and Hotel Licensees. The endorsement includes the following requirements:</p> <ul style="list-style-type: none"> • As specified in E2SHB 1480, sales of growlers must meet federal TTB requirements. • Growlers must be filled at the tap by the licensee at the time of sale, except that beer and wine specialty shops and breweries can prefill growlers as allowed by E2SHB 1480. • Delivery requirements: Delivery must be made by employees of the licensed business who are 21+. Delivery may not be made by third-party service providers. Delivery person must verify that person receiving the alcohol is 21+ and obtain signature. Alcohol products may not be left unattended. Delivery may not be made to intoxicated persons. • Signage requirements: Signs regarding public consumption and transportation of alcohol products sold through curbside, takeout, or delivery service will be provided electronically by the WSLCB and must be posted at the main entrance and areas of the premises where customers pick up alcohol products for takeout or curbside service. 	<p>To implement E2SHB 1480, section 2(5)-(7), and (9).</p>

Statutory authority for adoption: E2SHB 1480 (section 2, chapter 48, Laws of 2021), RCW 66.08.071, RCW 66.08.030.

Statute being implemented: E2SHB 1480 (chapter 48, Laws of 2021).

Is rule necessary because of a:

- Federal Law? Yes No
Federal Court Decision? Yes No
State Court Decision? Yes No

If yes, CITATION:

Agency comments or recommendations, if any, as to statutory language, implementation, enforcement, and fiscal matters: None.

Name of proponent: (person or organization) Washington State Liquor and Cannabis Board Private
 Public
 Governmental

Name of agency personnel responsible for:

	Name	Office Location	Phone
Drafting: Rules Coordinator	Audrey Vasek, Policy and	1025 Union Avenue, Olympia WA, 98501	360-664-1758
Implementation: Licensing	Becky Smith, Director of	1025 Union Avenue, Olympia, WA. 98501	360-664-1753
Enforcement: Enforcement and Education	Chandra Brady, Director of	1025 Union Avenue, Olympia, WA, 98501	360-664-1726

Is a school district fiscal impact statement required under RCW 28A.305.135? Yes No

If yes, insert statement here:

The public may obtain a copy of the school district fiscal impact statement by contacting:

- Name:
Address:
Phone:
Fax:
TTY:
Email:
Other:

Is a cost-benefit analysis required under RCW 34.05.328?

- Yes: A preliminary cost-benefit analysis may be obtained by contacting:
Name:
Address:
Phone:
Fax:
TTY:
Email:
Other:
- No: Please explain: The proposed rules do not qualify as a type of rule requiring a cost-benefit analysis under RCW 34.05.328(5). The WSLCB is not a listed agency under RCW 34.05.328(5)(a)(i), so the cost-benefit analysis requirements in RCW 34.05.328 are not applicable to the proposed rules unless voluntarily applied or made applicable by the joint administrative rules review committee under RCW 34.05.328(5)(a)(ii).

Regulatory Fairness Act Cost Considerations for a Small Business Economic Impact Statement:

This rule proposal, or portions of the proposal, **may be exempt** from requirements of the Regulatory Fairness Act (see chapter 19.85 RCW). Please check the box for any applicable exemption(s):

This rule proposal, or portions of the proposal, is exempt under RCW 19.85.061 because this rule making is being adopted solely to conform and/or comply with federal statute or regulations. Please cite the specific federal statute or regulation this rule is being adopted to conform or comply with, and describe the consequences to the state if the rule is not adopted.

Citation and description:

This rule proposal, or portions of the proposal, is exempt because the agency has completed the pilot rule process defined by RCW 34.05.313 before filing the notice of this proposed rule.

This rule proposal, or portions of the proposal, is exempt under the provisions of RCW 15.65.570(2) because it was adopted by a referendum.

This rule proposal, or portions of the proposal, is exempt under RCW 19.85.025(3). Check all that apply:

- | | |
|---|--|
| <input type="checkbox"/> RCW 34.05.310 (4)(b)
(Internal government operations) | <input checked="" type="checkbox"/> RCW 34.05.310 (4)(e)
(Dictated by statute) |
| <input checked="" type="checkbox"/> RCW 34.05.310 (4)(c)
(Incorporation by reference) | <input type="checkbox"/> RCW 34.05.310 (4)(f)
(Set or adjust fees) |
| <input checked="" type="checkbox"/> RCW 34.05.310 (4)(d)
(Correct or clarify language) | <input type="checkbox"/> RCW 34.05.310 (4)(g)
((i) Relating to agency hearings; or (ii) process requirements for applying to an agency for a license or permit) |

This rule proposal, or portions of the proposal, is exempt under RCW 19.85.025(3) through the exemptions in RCW 34.05.310 (4) (c), (d), and (e).

Explanation of exemptions, if necessary: Portions of the proposed rules are exempt from the Regulatory Fairness Act's (RFA) Small Business Economic Impact Statement (SBEIS) requirement under RCW 34.05.310(4)(c), (d), and (e) as described in the table below:

Rule	Content	Citation	SBEIS Exemption
Alcohol Products "To-Go" Endorsement	<p><i>The following components of the rule qualify for an SBEIS exemption:</i></p> <p>Specifically dictated by E2SHB 1480:</p> <ul style="list-style-type: none"> • Endorsement is temporary • List of eligible licensees • Upon delivery, signature of person age 21 or over must be obtained • Expiration date <p>Incorporation by reference:</p> <ul style="list-style-type: none"> • At time of alcohol delivery, employee must verify age using acceptable form of ID in WAC 314-11-025. (RCW 66.44.270) • Delivery may not be made of any person who shows signs of intoxication. (RCW 66.44.200) • References to other applicable laws and rules in Title 66 RCW, Title 314 WAC, etc 	<p><u>WAC 314-03-500:</u> Subsection (1) Subsection (2) Subsection (3)(c)(ii) Subsection (3)(c)(iv) Subsection (4) Subsection (5) Subsection (6)</p>	<p>RCW 34.05.310(4)(e): Content of the proposed rules is explicitly and specifically dictated by statute.</p> <p>RCW 34.05.310(4)(c): Adopts or incorporates by reference without material change Washington state statutes.</p>
	<p><i>The following components of the rule do not qualify for an SBEIS exemption:</i></p> <ul style="list-style-type: none"> • 21+ Labelling requirements • Delivery requirements • Signage requirements • Definitions 		
Cocktails and Wine by the Glass "To-Go" Endorsement	<p><i>The following components of the rule qualify for an SBEIS exemption:</i></p> <p>Specifically dictated by E2SHB 1480:</p> <ul style="list-style-type: none"> • Endorsement is temporary • List of eligible licensees • Mini-bottle sales as part of cocktail kits exempt from spirits license issuance fee and tax on retail sale of spirits • Upon delivery, signature of person age 21 or over must be obtained • Expiration date • Definition of mini-bottles <p>Incorporation by reference:</p> <ul style="list-style-type: none"> • At time of alcohol delivery, employee must verify age using acceptable form of ID in WAC 314-11-025. (RCW 66.44.270) • Delivery may not be made of any person who shows signs of intoxication. (RCW 66.44.200) • "To-go" alcohol drinks must be placed in trunk of vehicle, beyond reach of driver in compliance with open container laws (RCW 46.61.519) • References to other applicable laws and rules in Title 66 RCW, Title 314 WAC, etc. • Definitions of spirits and wine 	<p><u>WAC 314-03-505:</u> Subsection (1) Subsection (2) Subsection (3)(g)(ii) Subsection (3)(g)(iv) Subsection (4) Subsection (5)(a),(b),(f),(g) Subsection (6)</p>	<p>RCW 34.05.310(4)(e): Content of the proposed rules is explicitly and specifically dictated by statute.</p> <p>RCW 34.05.310(4)(c): Adopts or incorporates by reference without material change Washington state statutes.</p>

	<p><i>The following components of the rule do not qualify for an SBEIS exemption:</i></p> <ul style="list-style-type: none"> • Food requirements • Container requirements • 21+ Labelling requirements • Delivery requirements • Signage requirements • Definitions of premixed cocktail, premixed wine and spirits cocktail, and premixed wine drink 	<p><u>WAC 314-03-505:</u> Subsection (3), except (3)(g)(ii) and (iv) Subsection (5)(c)-(e)</p>	<p>No exemption applies. See estimated cost of compliance and minor cost analysis in section below.</p>
Growlers "To-Go" Endorsement	<p><i>The following components of the rule qualify for an SBEIS exemption:</i></p> <p>Specifically dictated by E2SHB 1480:</p> <ul style="list-style-type: none"> • Endorsement is temporary • List of eligible licensees • Sale of growlers must meet TTB requirements • BW specialty shops & breweries may sell prefilled growlers • Upon delivery, signature of person age 21 or over must be obtained • Expiration date • Definition of growlers <p>Incorporation by reference:</p> <ul style="list-style-type: none"> • At time of alcohol delivery, employee must verify age using acceptable form of ID in WAC 314-11-025. (RCW 66.44.270) • Delivery may not be made of any person who shows signs of intoxication. (RCW 66.44.200) • References to other applicable laws and rules in Title 66 RCW, Title 314 WAC, etc • Definitions of alcohol product, beer, cider, and wine 	<p><u>WAC 314-03-510:</u> Subsection (1) Subsection (2) Subsection (3)(d)(ii) Subsection (3)(d)(iv) Subsection (4) Subsection (5) Subsection (6)</p>	<p>RCW 34.05.310(4)(e): Content of the proposed rules is explicitly and specifically dictated by statute.</p> <p>RCW 34.05.310(4)(c): Adopts or incorporates by reference without material change Washington state statutes.</p>
	<p><i>The following components of the rule do not qualify for an SBEIS exemption:</i></p> <ul style="list-style-type: none"> • Delivery requirements • Signage requirements 	<p><u>WAC 314-03-510:</u> Subsection (3), except (3)(d)(ii) and (iv)</p>	<p>No exemption applies. See estimated cost of compliance and minor cost analysis in section below.</p>
Outdoor Alcohol Service Areas	<p><i>The following components of the rule qualify for an SBEIS exemption:</i></p> <ul style="list-style-type: none"> • Statement that rules are temporary • Expiration date 	<p><u>WAC 314-03-205:</u> Subsection (1) Subsection (7)</p>	<p>RCW 34.05.310(4)(e): Content of the proposed rules is explicitly and specifically dictated by statute.</p>
	<p><i>The following components of the rule do not qualify for an SBEIS exemption:</i></p> <p>The new temporary rules provide more flexibility and options for licensees that want to have outdoor alcohol service areas, as well as establish requirements for licensees that share outdoor alcohol service areas. The existing outdoor service rule section is revised to include a cross-reference to the new temporary rule section.</p>	<p><u>WAC 314-03-200</u> <u>WAC 314-03-205:</u> Subsections (2)-(6)</p>	<p>No exemption applies, but the changes are not anticipated to impose any new costs on licensees. The changes provide greater flexibility in outdoor alcohol service area options for licensees. See estimated cost of compliance and minor cost analysis in section below.</p>
Food Service Menu Requirements	<p><i>The following components of the rule qualify for an SBEIS exemption:</i></p> <p>For clarity, the language in the section captions for each of these rules is revised from a question to a statement.</p>	<p>Section Captions in: 314-02-010 314-02-035 314-02-0411 314-02-065 314-02-087 314-02-112 314-02-114</p>	<p>RCW 34.05.310(4)(d): Clarifies language of a rule without changing its effect.</p>
	<p><i>The following components of the rule do not qualify for an SBEIS exemption:</i></p> <p>The number of required complete meals for certain licensees is reduced from eight to four.</p> <p>Definitions for "complete meal," "minimum food service," and "snack food" are revised.</p>	<p>314-02-010 314-02-035 314-02-0411 314-02-065 314-02-087 314-02-112 314-02-114</p>	<p>No exemption applies, but the changes are anticipated to reduce licensee costs to comply with food service requirements by providing greater flexibility. The changes are not anticipated to impose any new costs on licensees. See estimated cost of compliance and minor cost analysis in section below.</p>

COMPLETE THIS SECTION ONLY IF NO EXEMPTION APPLIES

If the proposed rule is **not exempt**, does it impose more-than-minor costs (as defined by RCW 19.85.020(2)) on businesses?

No Briefly summarize the agency's analysis showing how costs were calculated.

Overview

E2SHB 1480 created new temporary endorsements for the sale of certain alcohol products through curbside, takeout, or delivery service ("to-go" endorsements) that certain licensees may choose to obtain. E2SHB 1480 also requires that the WSLCB create or revise rules to allow for outdoor alcohol service, and to consider revising rules related to food service requirements to provide greater flexibility for licensees. The proposed rules implementing E2SHB 1480 are largely exempt from the RFA's SBEIS requirement as described in the table above. For the portions of the proposed rules that are not exempt from the RFA's SEBIS requirement, the estimated annual business costs of compliance and minor cost thresholds are described below. The estimated costs of compliance do not exceed the minor cost thresholds for the affected business industries, so a small business economic impact statement (SBEIS) is not required under RCW 19.85.030.

Estimated Annual Costs of Compliance

The WSLCB applied the following estimated costs of compliance when analyzing whether the proposed rules impose more than "minor costs" as defined in RCW 19.85.020(2) on businesses potentially impacted by the proposed rules. In order to estimate these costs of compliance, WSLCB Policy and Rules Coordinators interviewed twelve volunteer licensees for 45 minutes each in September 2021. In order to recruit volunteer interviewees, a GovDelivery message was sent to all liquor licensee subscribers on September 3, 2021 asking for licensees impacted by the to-go endorsements to provide feedback to help estimate the costs of compliance associated with the draft rules to implement E2SHB 1480. The estimated costs are described below.

(1) Temporary manufacturer-sealed alcohol products "to-go" endorsement: \$122 to \$235.

This is an entirely optional or voluntary endorsement. Licensees are not required to obtain this endorsement unless they wish to engage in the new "to-go" sales privileges provided by this endorsement. Although the endorsement is optional, for licensees that do choose to obtain this endorsement, the WSLCB estimates that the total annual cost of compliance with the proposed rules will range between \$122 to \$235, as described below.

Eligible Businesses: Businesses eligible to apply for this endorsement include SBW and BW restaurants, taverns, wineries, breweries, microbreweries, distilleries, snack bars, nonprofit arts licensees, and caterers.

Portions of proposed rules not exempt	Estimated Annual Costs of Compliance
21+ Labelling requirements	\$189 one-time cost during the first year of the endorsement, and \$90 annually in subsequent years. The agency rules team interviewed 12 licensees to determine estimated annual costs of compliance with the manufacturer-sealed alcohol products to-go "CONTAINS ALCOHOL, FOR PERSONS 21+" labelling requirements. Interviewees were asked to consider equipment, supplies, labor, professional services, and administrative costs. The estimated annual cost of compliance was calculated by averaging the cost estimates provided by licensees. Some licensees indicated this requirement would impose a one-time cost (e.g. if a customized rubber stamp were purchased) while other licensees indicated this requirement would impose an annual cost (e.g. if stickers were purchased). Several other licensees indicated they already marked their to-go packaging in the manner required by the proposed rules and there would be no additional cost. The rules do not require a specific type of labelling method as long as the label is legible and readily visible. One-time first year cost: $[\$10+\$50+\$70+\$250+\$20+\$1100+\$260+\$437.50+\$70+\$0+\$0+\$0]/12 = \sim\$188.96$; Annual cost in subsequent years: $[\$0+\$50+\$0+\$250+\$20+\$0+\$250+\$437.50+\$70+\$0+\$0+\$0]/12 = \sim\$89.79$. For the purpose of the minor cost calculations, these estimated costs are rounded to \$189 and \$90, respectively.
Delivery requirements	None (\$0). The agency rules team interviewed 12 licensees to determine estimated annual costs of compliance with the manufacturer-sealed alcohol products to-go delivery requirements. Interviewees were asked to consider equipment, supplies, labor, professional services, and administrative costs. The licensees interviewed either indicated that they did not plan to do delivery so there would be no additional costs, or that they were already engaging in delivery that met the requirements in the proposed rules so that there would be no additional costs.
Signage requirements	\$40 one-time cost during the first year of the endorsement, and \$32 annually in subsequent years. The agency rules team interviewed 12 licensees to determine estimated annual costs of compliance with the manufacturer-sealed alcohol products to-go signage requirements. The signage requirements for each of the three "to-go" endorsements are the same. Interviewees were asked to consider equipment, supplies, labor, professional services, and administrative costs. The estimated annual cost of compliance was calculated by averaging the cost estimates provided by licensees. One-time first year cost: $[\$30+\$50+\$100+\$100+\$0+\$50+\$10+\$3+\$0+\$2+\$100+\$40]/12 = \sim\$40.42$; Annual cost in subsequent years: $[\$30+\$50+\$0+\$100+\$0+\$50+\$10+\$3+\$0+\$2+\$100+\$40]/12 = \sim\$32.08$; For the purpose of the minor cost calculations, these estimated costs are rounded to \$40 and \$32, respectively.
Definitions	None (\$0).
Licensing— Administrative costs	\$6 one-time cost during the first year of the endorsement, and no cost (\$0) annually in subsequent years. A licensee that chooses to apply for the endorsement will have some administrative costs related to licensing. The agency estimates that applicants will spend approximately 10-15 minutes in order to complete an initial application for an endorsement and interact with agency licensing staff. Since this is an endorsement with no fee, for renewals of the endorsement in subsequent years, the agency estimates that applicants will spend no additional time beyond what is required to renew their underlying license.

	According to the 2021 Occupational Employment and Wage Statistics (OEWS) Online Databook available in the Employment Security Department (ESD) labor market report library (https://esd.wa.gov/labormarketinfo/report-library), the estimated average hourly wage in Washington State for Secretaries and Administrative Assistants, Except Legal, Medical, and Executive (using the Standard Occupational Classification (SOC) Code 43-6014) is \$22.68. Based on that data, the estimated cost for these administrative activities during the initial application year is \$5.67 [$\$22.68 \text{ avg. hourly wage} \times .25 \text{ hours} = \5.67], and the estimated cost during subsequent renewal years is \$0. For the purpose of the minor cost calculations, these estimated administrative costs are rounded up to \$6 and \$0, respectively.
Total	\$235 one-time cost during the first year of the endorsement, and \$122 annually in subsequent years.

(2) Temporary cocktails or wine by the glass “to-go” endorsement: \$768 to \$894.

This is an entirely optional or voluntary endorsement. Licensees are not required to obtain this endorsement unless they wish to engage in the new “to-go” sales privileges provided by this endorsement. Although the endorsement is optional, for licensees that do choose to obtain this endorsement, the WSLCB estimates that the total annual cost of compliance with the proposed rules will range between \$768 to \$894, as described below.

Eligible Businesses: Businesses eligible to apply for this endorsement include SBW and BW restaurants.

Portions of proposed rules not exempt	Estimated Annual Costs of Compliance
Food requirements	None (\$0). SBW Restaurants are already required to sell complete meals and BW Restaurants are already required to provide minimum food service, so the agency does not anticipate that the requirement in the proposed rules that cocktails or wine by the glass to-go orders must include food items (e.g. a “complete meal” for SBW restaurants, or a food item that qualifies as “minimum food service” for BW restaurant) will impose any additional costs on licensees.
Tamper-evident container requirements	\$481 one-time cost during the first year of the endorsement, and \$464 annually in subsequent years. The agency rules team interviewed 12 licensees to determine estimated annual costs of compliance with the cocktail/wine by the glass to-go tamper-evident container requirements. Interviewees were asked to consider equipment, supplies, labor, professional services, and administrative costs. Depending on the type of tamper-evident container selected by the licensees, the estimated costs varied widely. For example, licensees that indicated they planned to use heat shrink wrap bands around the lid or cap of a container or planned to purchase bottles that come with break apart caps provided far lower cost estimates than licensees that indicated they planned to purchase specialized sealing equipment and custom designed bottles. Based on the overall feedback from the licensees interviewed, the agency rules team estimates that the cost of compliance with the tamper-evident requirement in the proposed rules accounts for no more than 25% of the estimated cost of a tamper-evident container. Without the tamper-evident requirement in the proposed rules, there would still be a cost for the licensee to purchase a regular, non-tamper-evident container in which to sell to-go drinks. The costs estimates provided by licensees were multiplied by .25 in order to capture just the added cost of compliance with the tamper-evident requirement in the proposed rules. The estimated annual cost of compliance was calculated by averaging the cost estimates provided by licensees (already multiplied by .25). One-time first year cost: $[\$2012.50 + \$0 + \$31.50 + \$888.71 + \$68.75 + \$1000 + \$250 + \$850 + \$68.35 + \$401 + \$200 + \$0] / 12 = \sim \$480.90$; Annual cost in subsequent years: $[\$2012.50 + \$0 + \$31.50 + \$888.71 + \$68.75 + \$1000 + \$250 + \$850 + \$68.35 + \$401 + \$0 + \$0] / 12 = \sim \$464.23$; For the purpose of the minor cost calculations, these estimated costs are rounded to \$481 and \$464, respectively.
21+ Labelling requirements	\$367 one-time cost during the first year of the endorsement, and \$272 annually in subsequent years. The agency rules team interviewed 12 licensees to determine estimated annual costs of compliance with the cocktail/wine by the glass to-go “CONTAINS ALCOHOL, FOR PERSONS 21+” labelling requirements. Interviewees were asked to consider equipment, supplies, labor, professional services, and administrative costs. The estimated annual cost of compliance was calculated by averaging the cost estimates provided by licensees. Some licensees indicated this requirement would impose a one-time cost (e.g. if a customized rubber stamp were purchased) while other licensees indicated this requirement would impose an annual cost (e.g. if stickers were purchased). Several other licensees indicated they already marked their to-go packaging in the manner required by the proposed rules and there would be no additional cost. The rules do not require a specific type of labelling method as long as the label is legible and readily visible. One-time first year cost: $[\$910 + \$0 + \$490 + \$250 + \$70 + \$1000 + \$260 + \$350 + \$140 + \$936 + \$0 + \$0] / 12 = \sim \$367.17$; Annual cost in subsequent years: $[\$900 + \$0 + \$420 + \$250 + \$20 + \$0 + \$250 + \$350 + \$140 + \$936 + \$0 + \$0] / 12 = \sim \$272.17$. For the purpose of the minor cost calculations, these estimated costs are rounded to \$367 and \$272, respectively.
Delivery requirements	None (\$0). The agency rules team interviewed 12 licensees to determine estimated annual costs of compliance with the cocktail/wine by the glass to-go delivery requirements. Interviewees were asked to consider equipment, supplies, labor, professional services, and administrative costs. The licensees interviewed either indicated that they did not plan to do delivery so there would be no additional costs, or that they were already engaging in delivery that met the requirements in the proposed rules so that there would be no additional costs.
Signage requirements	\$40 one-time cost during the first year of the endorsement, and \$32 annually in subsequent years. The agency rules team interviewed 12 licensees to determine estimated annual costs of compliance with the cocktail/wine by the glass to-go signage requirements. The signage requirements for each of the three “to-go” endorsements are the same. Interviewees were asked to consider equipment, supplies, labor, professional services, and administrative costs. The estimated annual cost of compliance was calculated by averaging the cost estimates provided by licensees. One-time first year cost: $[\$30 + \$50 + \$100 + \$100 + \$0 + \$50 + \$10 + \$3 + \$0 + \$2 + \$100 + \$40] / 12 = \sim \$40.42$; Annual cost in subsequent years: $[\$30 + \$50 + \$0 + \$100 + \$0 + \$50 + \$10 + \$3 + \$0 + \$2 + \$100 + \$40] / 12 = \sim \$32.08$; For the purpose of the minor cost calculations, these estimated costs are rounded to \$40 and \$32, respectively.
Definitions of premixed cocktail, premixed wine and spirits cocktail, and premixed wine drink	None (\$0).
Licensing— Administrative costs	\$6 one-time cost during the first year of the endorsement, and no cost (\$0) annually in subsequent years. A licensee that chooses to apply for the endorsement will have some administrative costs related to licensing. The agency estimates that applicants will spend approximately 10-15 minutes in order to complete an initial application for an endorsement and interact with agency licensing staff. Since this is an endorsement with no fee, for renewals of the endorsement in subsequent years, the agency estimates that applicants will spend no additional time beyond what is required to renew their underlying license. According to the 2021 OEWS Online Databook available in the ESD labor market report library (https://esd.wa.gov/labormarketinfo/report-library), the estimated average hourly wage in Washington State for Secretaries

	and Administrative Assistants, Except Legal, Medical, and Executive (using the SOC Code 43-6014) is \$22.68. Based on that data, the estimated cost for these administrative activities during the initial application year is \$5.67 [\$22.68 avg. hourly wage x .25 hours = \$5.67], and the estimated cost during subsequent renewal years is \$0. For the purpose of the minor cost calculations, these estimated administrative costs are rounded up to \$6 and \$0, respectively.
Total	\$894 one-time cost during the first year of the endorsement, and \$768 annually in subsequent years.

(3) Temporary growlers “to-go” endorsement: \$32 to \$46.

This is an entirely optional or voluntary endorsement. Licensees are not required to obtain this endorsement unless they wish to engage in the new “to-go” sales privileges provided by this endorsement. Although the endorsement is optional, for licensees that do choose to obtain this endorsement, the WSLCB estimates that the total annual cost of compliance with the proposed rules will range between \$32 to \$46, as described below.

Eligible Businesses: Businesses eligible to apply for this endorsement include licensees that were authorized by statute or rule before January 1, 2020, to sell growlers, such as taverns, restaurants, grocery stores, BW specialty shops, breweries, wineries, combination SBW licensees, and hotel licensees.

Portions of proposed rules not exempt	Estimated Annual Costs of Compliance
Delivery requirements	None (\$0). The agency rules team interviewed 12 licensees to determine estimated annual costs of compliance with the growlers to-go delivery requirements. Interviewees were asked to consider equipment, supplies, labor, professional services, and administrative costs. The licensees interviewed either indicated that they did not plan to do delivery so there would be no additional costs, or that they were already engaging in delivery that met the requirements in the proposed rules so that there would be no additional costs.
Signage requirements	\$40 one-time cost during the first year of the endorsement, and \$32 annually in subsequent years. The agency rules team interviewed 12 licensees to determine estimated annual costs of compliance with the growlers to-go signage requirements. The signage requirements for each of the three “to-go” endorsements are the same. Interviewees were asked to consider equipment, supplies, labor, professional services, and administrative costs. The estimated annual cost of compliance was calculated by averaging the cost estimates provided by licensees. One-time first year cost: $[\$30+\$50+\$100+\$100+\$0+\$50+\$10+\$3+\$0+\$2+\$100+\$40]/12 = \sim\$40.42$; Annual cost in subsequent years: $[\$30+\$50+\$0+\$100+\$0+\$50+\$10+\$3+\$0+\$2+\$100+\$40]/12 = \sim\$32.08$; For the purpose of the minor cost calculations, these estimated costs are rounded to \$40 and \$32, respectively.
Licensing— Administrative costs	\$6 one-time cost during the first year of the endorsement, and no cost (\$0) annually in subsequent years. A licensee that chooses to apply for the endorsement will have some administrative costs related to licensing. The agency estimates that applicants will spend approximately 10-15 minutes in order to complete an initial application for an endorsement and interact with agency licensing staff. Since this is an endorsement with no fee, for renewals of the endorsement in subsequent years, the agency estimates that applicants will spend no additional time beyond what is required to renew their underlying license. According to the 2021 OEWS Online Databook available in the ESD labor market report library (https://esd.wa.gov/labormarketinfo/report-library), the estimated average hourly wage in Washington State for Secretaries and Administrative Assistants, Except Legal, Medical, and Executive (using the SOC Code 43-6014) is \$22.68. Based on that data, the estimated cost for these administrative activities during the initial application year is \$5.67 [\$22.68 avg. hourly wage x .25 hours = \$5.67], and the estimated cost during subsequent renewal years is \$0. For the purpose of the minor cost calculations, these estimated administrative costs are rounded up to \$6 and \$0, respectively.
Total	\$46 one-time cost during the first year of the endorsement, and \$32 annually in subsequent years.

(4) Temporary outdoor alcohol service area rules: \$12 to \$292.

The creation of outdoor alcohol service areas by licensees is entirely optional or voluntary. The proposed changes to the outdoor alcohol service area rules do not add any new restrictions on existing outdoor alcohol service areas; instead, the rule changes are intended to increase flexibility and provide more options for licensees that wish to have outdoor alcohol service areas through the period of time established by E2SHB 1480 (until July 1, 2023). For licensees that do choose to apply for or alter their outdoor alcohol service areas under the proposed temporary new rule section, the WSLCB estimates that the total annual cost of compliance with the proposed rule changes will range between \$12 to \$292, as described below.

Eligible Businesses: Businesses eligible to apply for an outdoor alcohol service area include all on-premises licensees.

Portions of proposed rules not exempt	Estimated Annual Costs of Compliance
Licensing— Administrative costs for applications or alterations of an outdoor alcohol service area	\$12 one-time cost. A licensee that chooses to apply for or alter an outdoor alcohol service area will have licensing costs related to an application or alteration request. The agency estimates that a licensee will spend 15-30 minutes to complete an application or alteration request and interact with agency licensing staff. This is a one-time cost. Licensees are not required to reapply in subsequent years. According to the 2021 OEWS Online Databook available in the ESD labor market report library (https://esd.wa.gov/labormarketinfo/report-library), the estimated average hourly wage in Washington State for Secretaries and Administrative Assistants, Except Legal, Medical, and Executive (using the SOC Code 43-6014) is \$22.68. Based on that data, the estimated cost for these administrative activities during is a one-time cost of \$11.34 [\$22.68 avg. hourly wage x .5 hour = \$11.34]. For the purpose of the minor cost calculations, this estimated administrative cost is rounded up to \$12.
Requirements for shared outdoor alcohol service areas.	\$280 one-time cost during the first year, and \$178 annually in subsequent years. The proposed rules provide more flexibility and options for licensees by allowing shared outdoor alcohol service areas under certain circumstances. For licensees that choose to share outdoor alcohol service areas, there may be some compliance costs associated with (1) the requirement to use distinctly marked glassware and serving containers in the shared outdoor alcohol service area to identify the source of

	<p>any alcohol product being consumed, and (2) the requirement to complete an operating plan for the shared outdoor area that demonstrates how responsibility for the outdoor alcohol service area is shared among the licensees.</p> <p>(1) \$262 one-time cost during the first year, and \$178 annually in subsequent years. The agency rules team interviewed 12 licensees to determine estimated annual costs of compliance with the glassware/serving container distinctive markings requirements for shared outdoor areas. Interviewees were asked to consider equipment, supplies, labor, professional services, and administrative costs. The costs varied widely depending on the type of markings that licensees indicated they planned to use. Licensees that indicated they planned to use temporary markings (e.g. using pre-printed distinctive stickers/tags and placing these on the glassware or serving containers) estimated moderate annual costs. Licensees that indicated they planned to purchase new logo-etched glassware or otherwise distinct serving containers estimated relatively expensive one-time costs. Other licensees indicated that they did not anticipate any new costs because they already had glassware/serving containers that were distinct from the licensees with which they are planning to share outdoor space (e.g. their glassware/serving containers were already logo-etched or came in different styles, colors, and shapes than the glassware/serving containers used by other licensees in the shared space). The estimated annual cost of compliance was calculated by averaging the cost estimates provided by licensees. One-time first year cost: $[\\$630+\\$1000+\\$0+\\$1010+\\$500+\\$0+\\$0+\\$0+\\$0+\\$0+\\$0]/12 = \sim\\261.67; Annual cost in subsequent years: $[\\$630+\\$1000+\\$0+\\$10+\\$500+\\$0+\\$0+\\$0+\\$0+\\$0+\\$0]/12 = \sim\\178.33; For the purpose of the minor cost calculations, these estimated costs are rounded to \$262 and \$178, respectively.</p> <p>(2) \$18 one-time cost. To create the operating plan and get approval from licensing, there will be additional administrative costs. The agency estimates that licensees will spend 45 minutes to complete an operating plan and interact with licensing staff. This is a one-time cost. Licensees are not required to re-submit an operating plan in subsequent years.</p> <p>According to the 2021 OEWS Online Databook available in the ESD labor market report library (https://esd.wa.gov/labormarketinfo/report-library), the estimated average hourly wage in Washington State for Secretaries and Administrative Assistants, Except Legal, Medical, and Executive (using the SOC Code 43-6014) is \$22.68. Based on that data, the estimated cost for these administrative activities during is a one-time cost of \$17.01 [$\\$22.68 \text{ avg. hourly wage} \times .75 \text{ hour} = \\17.01]. For the purpose of the minor cost calculations, this estimated administrative cost is rounded up to \$18.</p>
Total	\$12 one-time cost; or, if the licensees chooses to create a shared outdoor alcohol service area: \$292 one-time cost during the first year, and \$178 annually in subsequent years.

(5) Food service menu requirement rules: None (\$0).

The WSLCB does not anticipate that there will be any costs of compliance for licensees affected by proposed changes to the food service menu requirement rules. The proposed rules provide more flexibility and options for licensees that currently have food service menu requirements. The creation of more flexibility and options is anticipated to reduce business costs, and there are no associated licensing or administrative costs.

Affected Businesses: Businesses with existing food service requirements include licensees such as SBW restaurants, BW restaurants, snack bars, caterers, hotel licensees, senior center licensees, and SBW theater licensees.

Portions of proposed rules not exempt	Estimated Annual Costs of Compliance
The number of required complete meals for certain licensees is reduced from eight to four.	None (\$0). Provides licensees previously subject to the complete meal requirement with more flexibility. The agency anticipates that reducing the required number of complete meals will reduce costs for licensees.
Definitions for “complete meal,” “minimum food service,” and “snack food” are revised.	None (\$0). Provides licensees with existing complete meal, minimum food service, and snack food requirements with more flexibility by adding new, culturally diverse food examples to all three of these definitions and by expanding the definition of complete meal to include a “small plates” option.
Licensing—Administrative costs	None (\$0). There are no licensing applications or alterations required in order for licensees to take advantage of the proposed changes to the food service requirements.
Total	None (\$0).

Estimated Annual Costs of Compliance by Licensee Type:

The three new alcohol “to-go” endorsements are entirely optional or voluntary. Licensees are not required to obtain these endorsements unless they wish to engage in the new “to-go” sales privileges provided by these endorsements. Similarly, the creation of outdoor alcohol service areas by licensees is entirely optional or voluntary. Although the new endorsements and outdoor alcohol service areas are optional, for licensees that choose to obtain these optional endorsements and/or apply for or alter an outdoor alcohol service area, the table below illustrates the potential estimated range of costs per licensee type by adding together the estimated costs of compliance for each of the portions of the proposed rules potentially applicable to each licensee type. Some licensees may be eligible for multiple endorsement types, in addition to an outdoor alcohol service area.

Licensee Type/Proposed Rule Section	Manufacturer-Sealed Alcohol Products “To-Go” Endorsement	Cocktails and Wine by the Glass “To-Go” Endorsement	Growlers “To-Go” Endorsement	Outdoor Alcohol Service Area (New or Alteration)	Food Service Requirements	Total Estimated Compliance Costs
Distilleries and Craft Distilleries	\$122 to \$235	N/A	N/A	\$12 to \$292	N/A	\$0 to \$527
Wineries	\$122 to \$235	N/A	\$0 to \$46	\$12 to \$292	N/A	\$0 to \$573

Breweries and Microbreweries	\$122 to \$235	N/A	\$0 to \$46	\$12 to \$292	N/A	\$0 to \$573
Taverns	\$122 to \$235	N/A	N/A	\$12 to \$292	\$0	\$0 to \$527
SBW Restaurants	\$122 to \$235	\$768 to \$894	\$0 to \$46	\$12 to \$292	\$0	\$0 to \$1467
BW Restaurants	\$122 to \$235	\$768 to \$894	\$0 to \$46	\$12 to \$292	\$0	\$0 to \$1467
Snack Bars	\$122 to \$235	N/A	N/A	\$12 to \$292	\$0	\$0 to \$527
Caterers	\$122 to \$235	N/A	N/A	N/A	\$0	\$0 to \$235
Hotels	N/A	N/A	\$0 to \$46	\$12 to \$292	\$0	\$0 to \$338
BW Specialty Shops, Combination SBW Licensees	N/A	N/A	\$0 to \$46	N/A	N/A	\$0 to \$46

Minor Cost Threshold Estimates: The agency applied the following North American Industry Classification System (NAICS) codes to estimate minor cost thresholds for licensees:

Licensee Type	NAICS Code	Description from the 2017 NAICS Manual (https://www.census.gov/library/publications/2017/econ/2017-naics-manual.html)
Distilleries and Craft Distilleries	312140 Distilleries	"This industry comprises establishments primarily engaged in one or more of the following: (1) distilling potable liquors (except brandies); (2) distilling and blending liquors; and (3) blending and mixing liquors and other ingredients." There are no separate NAICS codes available for craft distilleries.
Wineries	312130 Wineries	"This industry comprises establishments primarily engaged in one or more of the following: (1) growing grapes and manufacturing wines and brandies; (2) manufacturing wines and brandies from grapes and other fruits grown elsewhere; and (3) blending wines and brandies."
Breweries and Microbreweries	312120 Breweries	"This industry comprises establishments primarily engaged in brewing beer, ale, lager, malt liquors, and nonalcoholic beer." There are no separate NAICS codes available for microbreweries.
Taverns and Nightclubs	722410 Drinking Places (Alcoholic Beverages)	"This industry comprises establishments known as bars, taverns, nightclubs, or drinking places primarily engaged in preparing and serving alcoholic beverages for immediate consumption. These establishments may also provide limited food services."
SBW Restaurants	722511 Full-Service Restaurants	"This U.S. industry comprises establishments primarily engaged in providing food services to patrons who order and are served while seated (i.e., waiter/waitress service) and pay after eating. These establishments may provide this type of food service to patrons in combination with selling alcoholic beverages, providing carryout services, or presenting live nontheatrical entertainment."
BW Restaurants	722513 Limited Service Restaurants	"This U.S. industry comprises establishments primarily engaged in providing food services (except snack and nonalcoholic beverage bars) where patrons generally order or select items and pay before eating. Food and drink may be consumed on premises, taken out, or delivered to the customer's location. Some establishments in this industry may provide these food services in combination with selling alcoholic beverages."
Snack Bars	722515 Snack and Nonalcoholic Beverage Bars	"This U.S. industry comprises establishments primarily engaged in (1) preparing and/or serving a specialty snack, such as ice cream, frozen yogurt, cookies, or popcorn, or (2) serving nonalcoholic beverages, such as coffee, juices, or sodas for consumption on or near the premises. These establishments may carry and sell a combination of snack, nonalcoholic beverage, and other related products (e.g., coffee beans, mugs, coffee makers) but generally promote and sell a unique snack or nonalcoholic beverage."
Caterers	722320 Caterers	"This industry comprises establishments primarily engaged in providing single event-based food services. These establishments generally have equipment and vehicles to transport meals and snacks to events and/or prepare food at an off-premise site. Banquet halls with catering staff are included in this industry. Examples of events catered by establishments in this industry are graduation parties, wedding receptions, business or retirement luncheons, and trade shows."
Hotels	721110 Hotels (except Casino Hotels) and Motels	"This industry comprises establishments primarily engaged in providing short-term lodging in facilities known as hotels, motor hotels, resort hotels, and motels. The establishments in this industry may offer food and beverage services, recreational services, conference rooms, convention services, laundry services, parking, and other services."
BW Specialty Shops, Combination SBW Licensees	445310 Beer, Wine, and Liquor Stores	"This industry comprises establishments primarily engaged in retailing packaged alcoholic beverages, such as ale, beer, wine, and liquor. <i>Cross-References.</i> Establishments primarily engaged in retailing packaged liquor in combination with providing prepared drinks for immediate consumption on the premises are classified in Industry 722410, Drinking Places (Alcoholic Beverages)."

As shown in the table below, the estimated cost of compliance for businesses in each of these industries does not exceed the minor cost estimate for these industries, so a small business economic impact statement (SBEIS) is not required under RCW 19.85.030.

2017 Industry NAICS Code	Estimated Cost of Compliance	Industry Description [Licensee Type]	NAICS Code Title	Minor Cost Estimate = MAX (RT,\$100, WT)	Wage Threshold (WT) 1% of Avg Annual Payroll (0.01*AvgPay)	Revenue Threshold (RT) 0.3% of Avg Annual Gross Business Income (0.003*AvgGBI)
312140	\$0 to \$527	Distilleries and Craft Distilleries	Distilleries	\$2,808.53	\$2,808.53 2020 Dataset pulled from USBLS	\$1,707.60 2020 Dataset pulled from DOR

312130	\$0 to \$573	Wineries	Wineries	\$3,905.58	\$3,905.58 2020 Dataset pulled from ESD	\$3,560.33 2020 Dataset pulled from DOR
312120	\$0 to \$573	Breweries and Microbreweries	Breweries	\$3,085.32	\$2,805.97 2020 Dataset pulled from USBLS	\$3,085.32 2020 Dataset pulled from DOR
722410	\$0 to \$527	Taverns and Nightclubs	Drinking Places (Alcoholic Beverages)	\$1,388.67	\$1,388.67 2020 Dataset pulled from USBLS	\$1,376.99 2020 Dataset pulled from DOR
722511	\$0 to \$1467	SBW Restaurants	Full-Service Restaurants	\$3,221.87	\$3,221.87 2020 Dataset pulled from ESD	\$2,464.57 2020 Dataset pulled from DOR
722513	\$0 to \$1467	BW Restaurants	Limited-Service Restaurants	\$5,011.98	\$5,011.98 2020 Dataset pulled from ESD	\$3,976.52 2020 Dataset pulled from DOR
722515	\$0 to \$527	Snack Bars	Snack and Nonalcoholic Beverage Bars	\$2,722.49	\$2,722.49 2020 Dataset pulled from ESD	\$2,307.40 2020 Dataset pulled from DOR
722320	\$0 to \$235	Caterers	Caterers	\$2,067.35	\$2,067.35 2020 Dataset pulled from USBLS	\$639.07 2020 Dataset pulled from DOR
721110	\$0 to \$338	Hotels	Hotels (except Casino Hotels) and Motels	\$6,259.68	\$6,259.68 2020 Dataset pulled from ESD	\$4,099.84 2020 Dataset pulled from DOR
445310	\$0 to \$46	BW Specialty Shops, Combination SBW Licensees	Beer; Wine; and Liquor Stores	\$2,730.56	\$2,730.56 2020 Dataset pulled from USBLS	\$2,544.95 2020 Dataset pulled from DOR

The revenue and wage thresholds used to determine the minor cost estimates for each of the business industries listed in the table above were calculated using the 2020 raw datasets distributed by the Employment Security Department (ESD), Department of Revenue (DOR), and U.S. Bureau of Labor Statistics (USBLS), following the instructions for finding the minor cost of a business industry (*updated September 2021*) provided by the Governor's Office for Regulatory Innovation and Assistance (ORIA). For more information, see the ORIA Regulatory Fairness Act Tools & Guidance webpage at https://www.oria.wa.gov/site/alias_oria/934/Regulatory-Fairness-Act-Support.aspx.

Yes Calculations show the rule proposal likely imposes more-than-minor cost to businesses, and a small business economic impact statement is required. Insert statement here:

The public may obtain a copy of the small business economic impact statement or the detailed cost calculations by contacting:

Name:
Address:
Phone:
Fax:
TTY:
Email:
Other:

Date: September 29, 2021	Signature: 
Name: David Postman	
Title: Chair	

NEW SECTION

WAC 314-03-500 Temporary endorsement for sale of manufacturer sealed alcohol products through curbside, takeout, or delivery service.

(1) As authorized in section 2, chapter 48, Laws of 2021, the temporary endorsement described in this section is available until July 1, 2023, unless extended by law. There is no fee for a licensee to apply for and obtain this endorsement.

(2)(a) Consistent with section 2(2), chapter 48, Laws of 2021, an endorsement to sell manufacturer sealed alcohol products at retail through curbside, takeout, or delivery service is available to the following licensees: Beer and wine restaurants; spirits, beer, and wine restaurants; taverns; domestic wineries; domestic breweries and microbreweries; distilleries; snack bars; nonprofit arts licensees; and caterers.

(b) This endorsement is separate from the endorsements in WAC 314-03-505 and 314-03-510 that authorize the sale through curbside, takeout, or delivery service of nonmanufacturer or nonfactory sealed premixed cocktails, cocktail kits, wine by the glass, premixed wine and spirits cocktails, premixed wine drinks, or growlers.

(3) In order to obtain and maintain the endorsement described in this section, licensees must meet the following requirements:

(a) Alcohol products must be sold in closed, factory or manufacturer sealed packages or containers, such as cans, bottles, and kegs. Licensees may only sell the types of manufacturer sealed alcohol products under this endorsement that they are authorized to sell under the terms of their license.

(b)(i) Except as provided in (b)(ii) of this subsection, if an alcohol product authorized for sale under this endorsement is enclosed inside a bag, box, or other packaging before the alcohol product is provided to the customer through curbside, takeout, or delivery service, the exterior of the bag, box, or other packaging must be clearly marked or labeled with the words "CONTAINS ALCOHOL, FOR PERSONS 21+" in a size that is legible and readily visible.

(ii) Brewery, winery, and distillery licensees are not required to mark or label the exterior of the bag, box, or other packaging as described in (b)(i) of this subsection if the alcohol product is provided to the customer through takeout service.

(c) If the alcohol products authorized for sale under this endorsement are sold through delivery service:

(i) Licensees must comply with the requirements in the consumer orders, internet sales, and delivery rules in this title. For these requirements, see WAC 314-03-020 through 314-03-040. Delivery by third-party service providers is allowed with approval by the board's licensing division of an added activity application requesting internet sales privileges.

(ii) At the time of delivery, the employee making the delivery must verify that the person receiving the delivery is at least twenty-one years of age using an acceptable form of identification in WAC 314-11-025. See RCW 66.44.270.

(iii) Consistent with section 2(9), chapter 48, Laws of 2021, upon delivery of the alcohol product, the signature of the person age twenty-one or over receiving the delivery must be obtained. Delivery sales records must meet the requirements in the consumer orders, internet sales, and delivery rules. For general record retention requirements, see WAC 314-11-095.

(iv) If no person age twenty-one or over is present to accept the alcohol product at the time of delivery, the alcohol product must be returned. An alcohol product may not be left unattended at a delivery location.

(v) Delivery of an alcohol product may not be made to any person who shows signs of intoxication. See RCW 66.44.200.

(d)(i) In addition to the signs required by WAC 314-11-060, signs provided electronically by the board regarding public consumption and transportation of any alcohol products sold through curbside, takeout, or delivery service must be posted in plain view at:

(A) The main entrance to the area of the premises where alcohol products are sold; and

(B) The areas of the premises where alcohol products are picked up for takeout, curbside, or delivery service.

(ii) The signs will be designed to remind customers purchasing alcohol products through curbside, takeout, or delivery service that they must comply with applicable laws and rules including, but not limited to, restrictions on consuming alcohol in public in RCW 66.44.100 and restrictions on drinking or having an open container in a vehicle in RCW 46.61.519.

(4) In addition to the requirements listed in this section, licensees must comply with all applicable requirements in Title 66 RCW, Title 314 WAC, and any other applicable laws and rules including, but not limited to: Keg sale requirements in WAC 314-02-115 and restrictions on sales to minors and intoxicated persons in chapter 66.44 RCW and WAC 314-16-150.

(5) The definitions in this subsection apply throughout this section unless the context clearly requires otherwise.

(a) "Alcohol product" means liquor as defined in RCW 66.04.010.

(b) "Factory sealed" or "manufacturer sealed" means that a package or container is in one hundred percent resalable condition, with all manufacturer's seals intact.

(6) This section expires July 1, 2023, pursuant to section 2(11), chapter 48, Laws of 2021, unless extended by law.

NEW SECTION

WAC 314-03-505 Temporary endorsement for sale of premixed cocktails, cocktail kits, wine by the glass, premixed wine and spirits cocktails, or premixed wine drinks through curbside, takeout, or delivery service. (1) As authorized in section 2, chapter 48, Laws of 2021, the temporary endorsement described in this section is available until July 1, 2023, unless extended by law. There is no fee for a licensee to apply for and obtain this endorsement.

(2) Consistent with section 2(3) and (4), chapter 48, Laws of 2021:

(a) An endorsement is available to spirits, beer, and wine restaurants to sell premixed cocktails, cocktail kits, wine by the glass, or premixed wine and spirits cocktails through curbside, takeout, or delivery service. This endorsement does not authorize the sale of full bottles of spirits for off-premises consumption, although mini-bottles may be sold as part of cocktail kits. Consistent with section 2(3), chapter 48, Laws of 2021, mini-bottle sales as part of cocktail kits

are exempt from the spirits license issuance fee under RCW 66.24.630 (4) (a) and the tax on each retail sale of spirits under RCW 82.08.150.

(b) An endorsement is also available to beer and wine restaurant licensees to sell wine or premixed wine drinks by the glass through curbside, takeout, or delivery service.

(3) In order to obtain and maintain the endorsement described in this section, licensees must meet the following requirements:

(a) (i) For spirits, beer, and wine restaurants, food that qualifies as a complete meal under WAC 314-02-010 must be sold with the premixed cocktails, cocktail kits, wine by the glass, or premixed wine and spirits cocktails authorized for sale through curbside, takeout, or delivery service under this endorsement. Spirits, beer, and wine restaurants can sell up to 3 ounces of spirits per complete meal.

(ii) For beer and wine restaurants, a food item that qualifies as minimum food service under WAC 314-02-010 must be sold with the wine or premixed wine drinks by the glass authorized for sale through curbside, takeout, or delivery service under this endorsement.

(b) The alcohol products authorized for sale through curbside, takeout, or delivery service under this endorsement must be prepared the same day they are sold.

(c) The alcohol products authorized for sale through curbside, takeout, or delivery service under this endorsement must be packaged in a container that has been sealed in a manner designed to prevent consumption without removal of the tamper-evident lid, cap, or seal. For the purposes of this subsection, "tamper-evident" means a lid, cap, or seal that visibly demonstrates when a container has been opened. Tape is not a tamper-evident seal. The following list of examples is not comprehensive and is not intended to capture all of the possible types of allowed or disallowed containers:

(i) Examples of containers that are allowed:

(A) Containers with a screw top cap or lid that breaks apart when the container is opened.

(B) Containers with a plastic heat shrink wrap band, strip, or sleeve extending around the cap or lid to form a seal that must be broken when the container is opened.

(C) Vacuum or heat-sealed pouches without holes or openings for straws.

(ii) Examples of containers that are not allowed:

(A) Containers with lids with sipping holes or openings for straws.

(B) Containers such as styrofoam, paper, or plastic cups that lack a tamper-evident lid, cap, or seal.

(d) The containers that the alcohol products authorized for sale under this endorsement are packaged in must be clearly marked or labeled with the words "CONTAINS ALCOHOL, FOR PERSONS 21+" in a size and manner that is legible and readily visible. If a container of alcohol authorized for sale under this endorsement is enclosed inside a bag, box, or other packaging before it is provided to the customer through curbside, takeout, or delivery service, the exterior of the bag, box, or other packaging must be clearly marked or labeled with the words "CONTAINS ALCOHOL, FOR PERSONS 21+" in a size and manner that is legible and readily visible.

(e) To deter public consumption or consumption in a vehicle of premixed cocktails, cocktail kits, wine by the glass, premixed wine and spirits cocktails, and premixed wine drinks sold through curbside, takeout, or delivery service, licensees may not put ice directly into the containers that the alcohol products authorized for sale under

this endorsement are packaged in, except for frozen or blended drinks. Ice may be provided separately along with the curbside, takeout, or delivery order.

(f) The premixed cocktails, cocktail kits, wine by the glass, premixed wine and spirits cocktails, and premixed wine drinks authorized for sale through curbside, takeout, or delivery service under this endorsement must be placed in the trunk of the vehicle or beyond the immediate reach of the driver or any passengers in compliance with open container requirements in RCW 46.61.519 before being transported off the licensee's premises.

(g) If the premixed cocktails, cocktail kits, wine by the glass, premixed wine and spirits cocktails, and premixed wine drinks authorized for sale under this endorsement are sold through delivery service:

(i) Licensees must comply with the requirements in the consumer orders, internet sales, and delivery rules in this title, except to the extent that those rules allow delivery by third-party service providers and prohibit the sale of nonfactory sealed containers. For these requirements, see WAC 314-03-020 through 314-03-040.

(ii) Delivery must be made by an employee of the licensed business who is at least twenty-one years of age and holds a class 12 mandatory alcohol server training (MAST) permit under chapter 314-17 WAC. Delivery may not be made by third-party service providers.

(iii) At the time of delivery, the employee making the delivery must verify that the person receiving the delivery is at least twenty-one years of age using an acceptable form of identification in WAC 314-11-025. See RCW 66.44.270.

(iv) Consistent with section 2(9), chapter 48, Laws of 2021, upon delivery of the alcohol product, the signature of the person age twenty-one or over receiving the delivery must be obtained. Delivery sales records must meet the requirements in the consumer orders, internet sales, and delivery rules. For general record retention requirements, see WAC 314-11-095.

(v) If no person age twenty-one or over is present to accept the alcohol product at the time of delivery, the alcohol product must be returned. An alcohol product may not be left unattended at a delivery location.

(vi) Delivery of an alcohol product may not be made to any person who shows signs of intoxication. See RCW 66.44.200.

(h)(i) In addition to the signs required by WAC 314-11-060, signs provided electronically by the board regarding public consumption and transportation of any alcohol products sold through curbside, takeout, or delivery service must be posted in plain view at:

(A) The main entrance to the area of the premises where alcohol products are sold; and

(B) The areas of the premises where alcohol products are picked up for takeout, curbside, or delivery service.

(ii) The signs will be designed to remind customers purchasing alcohol products through curbside, takeout, or delivery service that they must comply with applicable laws and rules including, but not limited to, restrictions on consuming alcohol in public in RCW 66.44.100 and restrictions on drinking or having an open container in a vehicle in RCW 46.61.519.

(4) In addition to the requirements listed in this section, licensees must comply with all applicable requirements in Title 66 RCW, Title 314 WAC, and any other applicable laws and rules including, but

not limited to, restrictions on sales to minors and intoxicated persons in chapter 66.44 RCW and WAC 314-16-150.

(5) The definitions in this subsection apply throughout this section unless the context clearly requires otherwise.

(a) "Alcohol product" or "alcoholic beverage" means liquor as defined in RCW 66.04.010.

(b) "Mini-bottles" has the same meaning as defined in section 2(10), chapter 48, Laws of 2021: Original factory-sealed containers holding not more than 50 milliliters of a spirituous beverage.

(c) "Premixed cocktail" means a drink made by combining spirits with other alcoholic or nonalcoholic beverages and ingredients including, but not limited to, fruit juice, carbonated beverages, flavorings, or cream.

(d) "Premixed wine and spirits cocktail" means a drink made by combining wine and spirits with other alcoholic or nonalcoholic beverages and ingredients including, but not limited to, fruit juice, carbonated beverages, flavorings, or cream.

(e) "Premixed wine drink" means a drink made by combining wine with nonalcoholic beverages and ingredients including, but not limited to, fruit juice, carbonated beverages, flavorings, or cream. A premixed wine drink may not include alcoholic beverages other than wine.

(f) "Spirits" has the same meaning as defined in RCW 66.04.010.

(g) "Wine" has the same meaning as defined in RCW 66.04.010.

(6) This section expires July 1, 2023, pursuant to section 2(11), chapter 48, Laws of 2021, unless extended by law.

NEW SECTION

WAC 314-03-510 Temporary endorsement for sale of growlers through curbside, takeout, or delivery service. (1) As authorized in section 2, chapter 48, Laws of 2021, the temporary endorsement described in this section is available until July 1, 2023, unless extended by law. There is no fee for a licensee to apply for and obtain this endorsement.

(2) Consistent with section 2(5), chapter 48, Laws of 2021, an endorsement to sell growlers for off-premises consumption through curbside, takeout, or delivery service is available to licensees that were authorized by statute or rule before January 1, 2020, to sell growlers.

(a) Licensees eligible for this endorsement include: Taverns; beer and wine restaurants; spirits, beer, and wine restaurants; grocery stores; beer and wine specialty shops; breweries; microbreweries; wineries; combination spirits, beer, and wine licensees; and hotel licensees.

(b) For a beer and wine specialty shop to be eligible for the endorsement described in this section, the beer and wine specialty shop must meet the requirement in RCW 66.24.371(3), as it existed on December 31, 2019, that the licensee's beer and/or wine sales must be more than fifty percent of the licensee's total sales.

(3) In order to obtain and maintain this endorsement, licensees must meet the following requirements:

(a) Sale of growlers must meet federal alcohol and tobacco tax and trade bureau requirements.

(b) (i) Growlers must be filled at the tap by the licensee at the time of sale, except that beer and wine specialty shops licensed under RCW 66.24.371 and domestic breweries and microbreweries with this endorsement may sell prefilled growlers consistent with section 2(7), chapter 48, Laws of 2021. Prefilled growlers must be sold the same day they are prepared for sale and not stored overnight for sale on future days.

(ii) Brewery and microbrewery products that meet federal alcohol and tobacco tax and trade bureau labeling requirements are not considered prefilled growlers and are not subject to the overnight storage prohibition.

(c) Growlers must be filled with alcohol products, such as beer, wine, or cider, that the licensee was authorized by statute or rule before January 1, 2020, to sell in growlers.

(d) If the growlers authorized for sale under this endorsement are sold through delivery service:

(i) Licensees must comply with the requirements in the consumer orders, internet sales, and delivery rules in this title, except to the extent that those rules allow delivery by third-party service providers and prohibit the delivery of growlers. For these requirements, see WAC 314-03-020 through 314-03-040.

(ii) Delivery must be made by an employee of the licensed business who is at least twenty-one years of age. Delivery may not be made by third-party service providers.

(iii) At the time of delivery, the employee making the delivery must verify that the person receiving the delivery is at least twenty-one years of age using an acceptable form of identification in WAC 314-11-025. See RCW 66.44.270.

(iv) Consistent with section 2(9), chapter 48, Laws of 2021, upon delivery of the alcohol product, the signature of the person age twenty-one or over receiving the delivery must be obtained. Delivery sales records must meet the requirements in the consumer orders, internet sales, and delivery rules. For general record retention requirements, see WAC 314-11-095.

(v) If no person age twenty-one or over is present to accept the alcohol product at the time of delivery, the alcohol product must be returned. An alcohol product may not be left unattended at a delivery location.

(vi) Delivery of an alcohol product may not be made to any person who shows signs of intoxication. See RCW 66.44.200.

(e) (i) In addition to the signs required by WAC 314-11-060, signs provided electronically by the board regarding public consumption and transportation of any alcohol products sold through curbside, takeout, or delivery service must be posted in plain view at:

(A) The main entrance to the area of the premises where alcohol products are sold; and

(B) The areas of the premises where alcohol products are picked up for takeout, curbside, or delivery service.

(ii) The signs will be designed to remind customers purchasing alcohol products through curbside, takeout, or delivery service that they must comply with applicable laws and rules including, but not limited to, restrictions on consuming alcohol in public in RCW 66.44.100 and restrictions on drinking or having an open container in a vehicle in RCW 46.61.519.

(4) In addition to the requirements listed in this section, licensees must comply with all applicable requirements in Title 66 RCW, Title 314 WAC, and any other applicable laws and rules including, but

not limited to, restrictions on sales to minors and intoxicated persons in chapter 66.44 RCW and WAC 314-16-150.

(5) The definitions in this subsection apply throughout this section unless the context clearly requires otherwise.

(a) "Alcohol product" means liquor as defined in RCW 66.04.010.

(b) "Beer" has the same meaning as defined in RCW 66.04.010.

(c) "Cider" has the same meaning as defined in RCW 66.24.210.

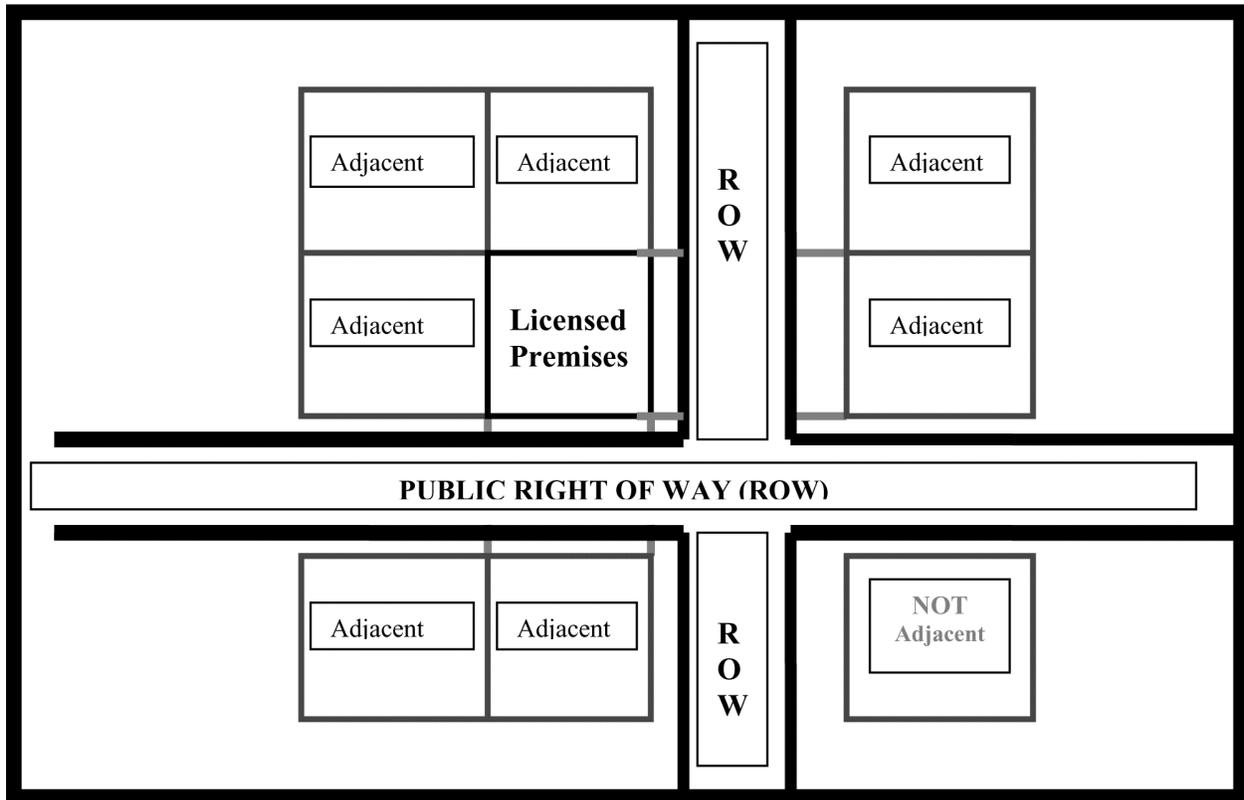
(d) "Growlers" has the same meaning as defined in section 2(10), chapter 48, Laws of 2021: Sanitary containers brought to the premises by the purchaser or furnished by the licensee and filled by the retailer at the time of sale.

(e) "Wine" has the same meaning as defined in RCW 66.04.010.

(6) This section expires July 1, 2023, pursuant to section 2(11), chapter 48, Laws of 2021, unless extended by law.

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))~~ definitions in this section apply throughout this title unless the context clearly requires otherwise. 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.~~

(3) (a) "Complete meal" means:

(i) An entree with at least one side dish available to order. Side dishes must be offered and available to order with the entree, but are not required to be included; or

(ii) A combination of small plates that are intended to be ordered many at a time or on a rolling basis throughout the meal service.

(b) Menu items that consist solely of the following types of food do not qualify as complete meals: Precooked frozen meals that are reheated, carry-out items obtained from another business, or snack food.

(c) For the purposes of this subsection, the following definitions apply unless the context clearly requires otherwise:

(i) "Entree" means the main course of a meal. Some examples of entrees include, but are not limited to, fish, steak, chicken, pork, pasta, pizza, burgers, pho, sushi, street tacos, tikka masala, quiche, fufu, curry, seafood salad, Cobb salad, chef's salad, sandwiches, and breakfast items.

(ii) "Side dish" includes soups, vegetables, salads, potatoes, beans, rice, naan, couscous, irio, fruit, bread, banchan, and other similar dishes. Garnishes do not qualify as side dishes. Some examples of garnishes include, but are not limited to, pickles, salsa, and dips.

(iii) "Small plate" means a type of menu item that has a small portion size and is intended to be ordered many at a time or on a rolling basis throughout the meal service. Small plates are often shared among guests. Some examples of small plates include, but are not limited to, tapas, dim sum, and meze. Many cultures have different types of small plates. Small plates do not include snack food.

(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))~~ (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))~~ (12) "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))~~ 21 years of age).

~~((14))~~ (13)(a) "Minimum food service" means that menu items such as sandwiches, salad, soup, pizza, hamburgers, ((and fry orders)) fries, savory pies, tacos, dumplings, fried rice, and other similar items are available to order.

(b) Menu items that consist solely of the following types of food do not qualify as minimum food service: Precooked frozen meals that

are reheated, carry-out items obtained from another business, or snack food.

~~((15))~~ (14) "Minor" means a person under ~~((twenty-one))~~ 21 years of age.

~~((16))~~ (15) "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))~~ (16) "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))~~ (17) "Snack food" ~~((means))~~ includes items such as peanuts, popcorn, ~~((and))~~ chips, jerky, candy, cookies, crackers, edamame, and other similar food items.

AMENDATORY SECTION (Amending WSR 18-13-063, filed 6/14/18, effective 7/15/18)

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))~~ four 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. Side dishes are not required to be included with the entrée, however must be offered.~~

~~(b) "Entree" means the main course of a meal. Some examples of entrees are fish, steak, chicken, pork, pasta, pizza, burgers, pho, sushi, street tacos, tikka masala, quiche, 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, rice, fruit, and bread. Garnishes such as, but not limited to, pickles, salsa, and dips do not qualify as a side dish.)~~ "Complete meal" is defined in WAC 314-02-010.

(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))~~ 100 percent dedicated dining area must maintain complete meal service any time liquor is available for sale, service, or consumption.

(8) (a) Restaurants with less than ~~((one-hundred))~~ 100 percent dedicated dining area must maintain complete meal service for a mini-

mum of five hours a day during the hours of 8:00 a.m. and 11:00 p.m., three days a week.

~~((Limited food service, such as appetizers, sandwiches, salads, soups, pizza, burgers, or fry orders, must be available outside of these hours. Snacks such as peanuts, popcorn, and chips do not qualify as limited food service.))~~ (b) Minimum food service must be available during hours of alcohol service when complete meal service is not offered. "Minimum food service" is defined in WAC 314-02-010.

(9) The hours of complete meal service must be conspicuously posted on the premises or listed on the menu. A statement that ~~((limited))~~ minimum food service is available outside of those hours must also be posted or listed on the menu.

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

WAC 314-02-0411 ((What are the)) Food service requirements for a hotel license((?)).

(1) A hotel licensee must have the ability to serve at least ~~((eight))~~ four complete meals to hotel guests or any other patron of the hotel who is offered alcohol service for on-premise consumption at a food outlet on the hotel premises. Food outlets include room service, banquets, bars/lounges, restaurants, or coffee shops. "Complete meal" is defined in WAC ~~((314-02-035))~~ 314-02-010.

(2) Complete meals must be prepared on the hotel premises.

(3) A menu must be available to hotel guests and patrons offered alcohol service that lists, at a minimum, the required complete meals.

(4) The food items required to maintain the menu must be located on the licensed premises. These items must be edible.

(5)(a) Licensees must maintain complete meal service for a minimum of five hours a day between the hours of 11:00 a.m. and 2:00 a.m. on any day that liquor is served. The board may consider written requests for exceptions to this requirement due to a demonstrated hardship and may allow exceptions under terms and conditions the board determines are in the best interests of the public.

(b) Minimum food service must be available during hours of alcohol service when complete meal service is not offered. "Minimum food service" ~~((includes items such as hamburgers or fry orders. Snacks such as peanuts, popcorn, and chips do not qualify as minimum food service))~~ is defined in WAC 314-02-010.

(6) Hours of complete meal service must be listed on the menu. If applicable, a statement must be posted or listed on the menu that minimum food service is available when alcohol is served and complete meal service is unavailable.

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

WAC 314-02-065 ((What is a)) Snack bar license((?)). (1) Per RCW 66.24.350, a snack bar license allows a licensee to serve beer by the opened bottle or can for on-premises consumption only.

(2) Snack bar licensees must have snack food, as defined in WAC 314-02-010(~~((15))~~), available whenever beer is sold or served.

(3) Snack bars must have designated seating for on-premises consumption of beer.

(4) The annual fee for this license is (~~(one hundred twenty-five dollars)~~) \$125.

AMENDATORY SECTION (Amending WSR 17-12-030, filed 5/31/17, effective 7/1/17)

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)~~) 120 seats per 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)) meet the same food~~

service requirements that apply to spirits, beer, and wine restaurant licensees in WAC 314-02-035.

(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~~) 21, staff will request identification from any patron who appears to be age (~~thirty~~) 30 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.

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))~~ four 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, sea-food 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.))~~ "Complete meal" is defined in WAC 314-02-010.

(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.))~~ "Minimum food service" is defined in WAC 314-02-010.

(7) 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))~~ (8) The applicant must provide the liquor and cannabis board with a copy of their commissary kitchen license issued by the city or county health department.

~~((8))~~ (9)(a) 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))~~ (i) Date of the catered events;

~~((b))~~ (ii) Time of the catered events; and

~~((c))~~ (iii) Place and location of catered events.

(b) Any changes to the information provided to the board must be reported to the regional enforcement office (~~(seventy-two)~~) 72 hours prior to the catered event.

~~((9))~~ (10) A caterer's license holder is not allowed to cater events at a liquor licensed premises.

~~((10))~~ (11) The holder of the caterer's license may store liquor on other premises operated by the licensee if the licensee owns or has a leasehold interest at the other premises. Documentation must be provided to the board showing the licensee owns or has a leasehold interest in the property.

~~((11))~~ (12) All employees that sell or serve alcohol must hold MAST permits.

~~((12))~~ (13) The annual fee for the caterer's license is as follows:

(a) The annual fee for beer is (~~(two hundred dollars)~~) \$200;

(b) The annual fee for wine is (~~(two hundred dollars)~~) \$200; and

(c) The annual fee for a combined spirits, beer, and wine is (~~(one thousand dollars)~~) \$1,000.

AMENDATORY SECTION (Amending WSR 14-20-048, filed 9/24/14, effective 10/25/14)

WAC 314-02-114 ((What is a)) Senior center license((?)). (1) A senior center license can only be issued to a nonprofit organization whose primary service is providing recreational and social activities for seniors on the licensed premises.

(2) The senior center license permits the sale of spirits by the individual glass, including mixed drinks and cocktails mixed on the premises only, beer and wine, at retail for consumption on the licensed premises.

(3) To qualify for the senior center license, the applicant must:

(a) Be a nonprofit organization under RCW 24.03.005;

(i) "Corporation" or "domestic corporation" means a corporation not for profit subject to the provisions of this chapter, except a foreign corporation.

(ii) "Foreign corporation" means a corporation not for profit organized under laws other than the laws of this state.

(iii) "Not for profit corporation" or "nonprofit corporation" means a corporation no part of the income of which is distributable to its members, directors or officers.

(b) Only serve alcohol between the hours of 6 a.m. and 2 a.m.; and

(c) Provide ((limited)) at least minimum food service anytime alcohol is sold. "Minimum food service" is defined in WAC 314-02-010.
(~~Limited food service means foods such as:~~

- ~~(i) Appetizers;~~
- ~~(ii) Sandwiches;~~
- ~~(iii) Salads and soups;~~
- ~~(iv) Pizza;~~
- ~~(v) Hamburgers; and~~
- ~~(vi) Fry orders.)~~

(4) Alcohol may be sold and served at the following types of events:

(a) Events hosted by the senior center; and

(b) Private events where the facility is rented by a private party for an event such as a wedding reception, family reunion, etc.

(5) If minors are allowed on the premises, floor plans must meet the requirements in WAC 314-02-025.

(6) All alcohol servers must have a valid mandatory alcohol server training permit.

(7) The annual fee for this license is ((seven hundred twenty dollars)) \$720.

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. Except as provided in the temporary rules for outdoor alcohol service in WAC 314-03-205 that are effective until July 1, 2023, unless extended by law, the following conditions must be met:

(1) The area must be enclosed with a permanent or movable barrier a minimum of (~~forty-two~~) 42 inches in height.

(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~~) 10 feet. If there is more than one opening along one side, the total combined opening may not exceed (~~ten~~) 10 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~~) 42 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 no more than (~~ten~~) 10 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~~) 42 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 314-03-205 Temporary rules for outdoor alcohol service by on-premises licensees. (1) As authorized in section 2(8), chapter 48, Laws of 2021, the temporary rules for outdoor alcohol service descri-

bed in this section are effective until July 1, 2023, unless extended by law. These rules create a temporary exception to the requirements in WAC 314-03-200. These rules apply to all on-premises licensees.

(2) For ongoing outdoor alcohol service located in privately owned spaces, a licensee must request approval from the board's licensing division and meet the following requirements:

(a) The licensee must have legal authority to use the outdoor alcohol service area including, but not limited to, ownership or leasehold rights;

(b) The licensee must have a building that provides indoor dining or production in order to qualify for an outdoor alcohol service area;

(c) The outdoor alcohol service area must be (i) contiguous to the licensed business, or (ii) located on the same property or parcel of land as the licensed business;

(d) The outdoor alcohol service area must have an attendant, wait staff, or server dedicated to the area when patrons are present;

(e) Interior access to the licensed premises from the outdoor alcohol service area is not required. However, unless there is (i) interior access to the licensed premises from the outdoor alcohol service area, or (ii) an unobstructed direct line of sight from inside the licensed premises to the outdoor alcohol service area, an employee with a mandatory alcohol server training (MAST) permit under chapter 314-17 WAC must be present in the outdoor alcohol service area at all times that patrons are present, in order to monitor alcohol consumption. This requirement is in addition to the requirement in (d) of this subsection that the outdoor alcohol service area must have an attendant, wait staff, or server dedicated to the area when patrons are present;

(f) The same food service offered inside the licensed premises must also be offered in the outdoor alcohol service area;

(g) The outdoor alcohol service area must be enclosed with a permanent or movable barrier a minimum of 42 inches in height. The board may grant limited exceptions to the required 42 inch high barrier for outdoor alcohol service areas if the licensee has permanent boundaries for the outdoor alcohol service area;

(h) Openings into and out of the outdoor alcohol service area cannot exceed 10 feet. If there is more than one opening along one side, the total combined opening may not exceed 10 feet; and

(i) Licensees must comply with local building codes, local health jurisdiction requirements, department of labor and industries requirements, and any other applicable laws and rules.

(3) For ongoing outdoor alcohol service located in public spaces, a licensee must request approval from the board's licensing division and meet the following requirements:

(a) The licensed business must have a permit from their local jurisdiction allowing the business to use the public space as a service area, such as a sidewalk cafe permit or other similar outdoor area permit authorized by local regulation;

(b) The licensee must have a building that provides indoor dining or production in order to qualify for an outdoor alcohol service area;

(c)(i) Except as provided in (c)(ii) of this subsection, the outdoor alcohol service area must be enclosed with a permanent or movable barrier a minimum of 42 inches in height. Openings into and out of the outdoor alcohol service area cannot exceed 10 feet. If there is more than one opening along one side, the total combined opening may not exceed 10 feet;

(ii) Licensees with outdoor alcohol service areas contiguous to the licensed premises may use a permanent demarcation of the designa-

ted alcohol service area for continued enforcement of the boundaries, instead of a permanent or movable barrier a minimum of 42 inches in height. If a permanent demarcation is used, the permanent demarcation must be at all boundaries of the outdoor alcohol service area, must be at least six inches in diameter, and must be placed no more than 10 feet apart;

(d) The outdoor alcohol service area must have an attendant, wait staff, or server dedicated to the area when patrons are present;

(e) The same food service offered inside the licensed premises must also be offered in the outdoor alcohol service area; and

(f) Licensees must comply with local building codes, local health jurisdiction requirements, department of labor and industries requirements, and any other applicable laws and rules.

(4) For multiple licensees to share an outdoor alcohol service area, the licensees must request approval from the board's licensing division and meet the following requirements:

(a) The licensees' property parcels or buildings must be located in direct physical proximity to one another. For the purposes of this subsection, "direct physical proximity" means that the property parcels or buildings are physically connected or touching each other along a boundary or at a point;

(b) (i) If the shared outdoor alcohol service area is located on public space, the licensees sharing the space must meet all of the requirements in subsection (3) of this section and shared use of the outdoor service area must be authorized by the licensees' local jurisdiction permits; or

(ii) If the shared outdoor alcohol service area is located in a privately owned space, the licensees sharing the space must meet all of the requirements in subsection (2) of this section and must have legal authority to share use of the outdoor service area including, but not limited to, ownership or leasehold rights;

(c) The licensees must maintain separate storage of products and separate financial records for the shared outdoor alcohol service area. If licensees share any point of sale system, the licensees must keep complete documentation and records for the shared point of sale system showing clear separation as to what sales items and categories belong to each respective licensee;

(d) The licensees must use distinctly marked glassware or serving containers in the shared outdoor alcohol service area to identify the source of any alcohol product being consumed. The distinctive markings may be either permanent or temporary. Any temporary markings must remain on the glassware or serving containers through the duration of use by the customer;

(e) The licensees must complete an operating plan for the shared outdoor alcohol service area. The operating plan should demonstrate in general how responsibility for the outdoor alcohol service area is shared among the licensees. Licensees are required to submit the operating plan to the board's licensing division at the time of application or alteration and must keep documentation of an up-to-date plan available for inspection on premises; and

(f) Consistent with WAC 314-11-065, a licensee may not permit the removal of alcohol in an open container from the shared outdoor alcohol service area, except to reenter the licensed premises where the alcohol was purchased. Signage prohibiting the removal of alcohol in an open container must be visible to patrons in the shared outdoor alcohol service area.

(5) If multiple licensees use a shared outdoor alcohol service area as described in subsection (4) of this section, all participating licensees are jointly responsible for any violation or enforcement issues unless it can be demonstrated that the violation or enforcement issue was due to one or more licensee's specific conduct or action, in which case the violation or enforcement action applies only to those identified licensees.

(6) The definitions in this subsection apply throughout this section unless the context clearly requires otherwise.

(a) "Alcohol service" means service of liquor as defined in RCW 66.04.010.

(b) "Contiguous" means touching along a boundary or at a point.

(c) "Sidewalk cafe" means a designated seating area on the sidewalk, curb space, or other public space where a business provides table service and seating for their patrons during business hours.

(7) This section expires July 1, 2023, pursuant to section 2(11), chapter 48, Laws of 2021, unless extended by law.