



Notice of Rule Change – Explanatory Statement Nonprofit Organizations and Business Practices Regarding the Use and Sale of Alcohol

This explanatory statement concerns the **Washington State Liquor Control Board's adoption of changes to the rules necessary to implement legislation regarding non-profit organizations and special occasion licenses.**

The Administrative Procedure Act (RCW 34.05.325(6)) requires agencies to complete a concise explanatory statement before filing adopted rules with the Office of the Code Reviser. This statement must be provided to anyone who gave comment about the proposed rule making.

Once persons who gave comment during this rule making have had a chance to receive this document, the Liquor Control Board will file the amended rule with the Office of the Code Reviser. This rule change will become effective 31 days after filing (approximately January 30, 2009).

The Liquor Control Board appreciates your involvement in this rule making process. If you have any questions, please contact Karen McCall, Rules Coordinator, at (360) 664-1631 or e-mail at rules@liq.wa.gov.

What are the agency's reasons for revising these rules?

Three legislative bills pertaining to retail regulations were adopted between 2006 and 2008. The Washington State Liquor Control Board is updating its rules to reflect the changes made by these bills.

Legislative.

SHB 3128 (2006), E2SSB 5859 (2007), and SSB 6770 (2008) permits three new activities that were previously prohibited under "tied house" regulations.

1. A 501(c)(3) nonprofit, or a local wine-industry 501(c)(6) nonprofit, may hold a special-occasion license, even if its board members are also members of a licensed domestic winery or a wine certificate of approval holder (SHB 3128, E2SSB 5859).
2. A domestic winery, a domestic brewery, or an out-of-state certificate of approval holder may furnish wine or beer, without charge, to a 501(c)(6) nonprofit (SSB 6770).

What changes are being made?

Amendatory Section 314-05-020 – What is a special occasion license?

A 501(c)(3) nonprofit, or a local wine-industry 501(c)(6) nonprofit, is eligible for a special-occasion license, even if its board members are also members of a licensed domestic winery or a wine certificate of approval holder.

Amendatory Section 314-05-030 – Guidelines for special occasion license events.

In-state breweries and wineries, and out-of-state brewery and winery certificate of approval holders, may donate beer or wine to a special occasion licensee, provided that the special occasion licensee is a 501(c)(3) or a 501(c)(6) nonprofit.

Rule Adoption

The Board adopted these rule changes on December 17, 2008. The rule was filed on December 29, 2008 and will be effective January 30, 2009.

Summary of all public comments received on this rule proposal.

The WSLCB filed Pre-proposal (CR 101) on July 15, 2008 and proposed rules (CR 102) were filed on October 17, 2008. A public hearing was held on December 3, 2008, in Olympia, Washington, at WSLCB headquarters. One person testified at the December 3rd public hearing. No written comment was received.

1. Comment: Jean Leonard, Washington Wine Institute

The wording in WAC 314-05-020 (4) needs to be changed from “**may qualify for**” to “**is not disqualified from obtaining**”.

Response:

Changes were made based on Jean Leonard’s comment.

Text of Rules (Estimated effective date is January 30, 2009)

AMENDATORY SECTION (Amending WSR 04-22-078, filed 11/2/04, effective 12/3/04)

WAC 314-05-020 What is a special occasion license? (1)

Per RCW 66.24.380, a special occasion license allows a nonprofit organization to sell, at a specified date, time, and place:

(a) Spirits, beer, and wine by the individual serving for on-premises consumption; and

(b) Beer and wine in original, unopened containers for off-premises consumption.

(2) Special occasion licensees are limited to twelve days per calendar year (see RCW 66.24.380(1) for an exception for agricultural fairs).

(3) The fee for this license is \$60 per day, per event. Multiple alcohol service locations at an event are an additional sixty dollars per location.

(4) ~~((Guidelines for nonprofit organizations:~~

~~(a))~~) Per RCW 66.24.375, all proceeds from the sale of alcohol at a special occasion event must go directly back into the nonprofit organization, except for reasonable operating costs for actual services performed at compensation levels comparable to like services within the state.

~~((b) Per RCW 66.28.010, officers, directors, and/or stockholders of the organization may not have an interest in a manufacturer, importer, or distributor of alcohol.))~~ (5) A

charitable nonprofit organization or a local winery industry association is not disqualified from obtaining a special

occasion license even if its board members are also officers, directors, owners, or employees of either a licensed domestic winery or a winery certificate of approval holder. The charitable nonprofit organization must be registered under section 501(c)(3) of the Internal Revenue Code, and the local wine industry association must be registered under section 501(c)(6) of the Internal Revenue Code.

[Statutory Authority: RCW 66.08.030, 66.24.375, 66.24.380, 66.28.010. 04-22-078, § 314-05-020, filed 11/2/04, effective 12/3/04.]

AMENDATORY SECTION (Amending WSR 07-02-076, filed 12/29/06, effective 1/29/07)

WAC 314-05-030 Guidelines for special occasion license events. (1) The special occasion license must be posted at the event.

(2) Special occasion licensees may get alcohol for the event only from the following sources:

(a) Spirits must be purchased from a Washington state-run or contract liquor store;

(b) Beer and wine must be purchased at retail from a licensed retailer, from a beer or wine distributor, from a domestic brewery, microbrewery, or winery, acting as a distributor of its own product, or from a certificate of approval holder with a direct shipping to Washington retailer endorsement; and

(c) Per RCW 66.28.040, in state breweries and wineries and out-of-state breweries and wineries holding a certificate of approval license may donate beer and wine to special occasion licensees that are nonprofit 501(c)(3) charitable organizations or nonprofit 501(c)(6) organizations.

(3) Special occasion licensees may not advertise or sell alcohol below cost. If donated product is sold by the special occasion licensee, it may not be advertised or sold below the manufacturers' cost.

(4) Per RCW 66.28.010, alcohol manufacturers, importers and distributors may provide advertising, pouring, or dispensing of beer or wine at a beer or wine tasting exhibition or judging event, but may not provide money, goods, or services to special occasion licensees.

(5) Per RCW (~~(66.28.380)~~) 66.24.380, the sale, service, and consumption of alcohol must be confined to a designated location(s).

(6) If a special occasion license function is held at an establishment that has a liquor license:

(a) The special occasion function must be held in an area of the premises separate from areas open to the general public during the time the special occasion function is occurring, and the licensed premises' liquor cannot be sold or served in the same area(s) as the special occasion license function.

(b) The liquor licensee cannot charge for the liquor purchased by the special occasion licensee for service at the special occasion event, but can charge for room usage, services, etc. The liquor licensee must sign the special occasion application giving permission for the special occasion licensee to bring their alcohol onto the liquor licensed premises.

(c) The special occasion (~~(licensees)~~) license will not be issued for use at premises whose liquor license will be suspended on the date(s) of the scheduled event.

[Statutory Authority: RCW 66.08.030, 66.20.360 through [66.20].380, 66.20.390, 66.24.170, 66.24.206, 66.24.210,

66.24.240, 66.24.244, 66.24.270, 66.24.290, 66.28.170,
66.28.180, and 42.56.270. 07-02-076, § 314-05-030, filed
12/29/06, effective 1/29/07. Statutory Authority: RCW
66.08.030, 66.24.375, 66.24.380, 66.28.010. 04-22-078, § 314-
05-030, filed 11/2/04, effective 12/3/04.]