



Notice of Rule Change – Explanatory Statement Restaurant Retail Activities and Restaurant Liquor Storage under a Caterer’s Endorsement

This explanatory statement concerns the **Washington State Liquor Control Board’s adoption of changes to the rules necessary to implement legislation regarding retail regulations.**

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 in 2007 and 2008. The Washington State Liquor Control Board is updating its rules to reflect the changes made by these bills.

Legislative. HB 1349 (2007), E2SSB 5859 (2007), and SSB 6770 (2008) permit three new activities.

1. A spirits, beer, and wine restaurant may sell malt liquor, in containers of four gallons or more, to customers to take with them for off-premises consumption (HB 1349).
2. A spirits, beer, and wine restaurant may sell bottled wine to customers to take with them for off-premises consumption (SSB 6770). Prior to this bill, the restaurant could sell only wine with a label exclusive to the restaurant (for off-premises consumption).

3. A spirits, beer, and wine restaurant with a caterer's endorsement, or a beer and/or wine restaurant with a caterer's endorsement, may store alcohol at an off-premises event location, a domestic winery, a passenger vessel, or another premises operated by the licensee (E2SSB 5859). Prior to this bill, only on-premises storage was allowed.

Keg registration forms. The WSLCB provides keg-registration forms free of charge to beer restaurants and taverns. A licensee who holds an off-premises beer and/or wine grocery-store or specialty-shop license must purchase his/her forms.

What changes are being made?

Amendatory Section 314-02-015 - What is a spirits, beer, and wine restaurant license?

A spirits, beer, and wine restaurant may sell wine by the bottle to customers for take-away, even if the restaurant licensee does not own the label, exclusively or otherwise. It also allows a spirits, beer, and wine restaurant to sell kegs of malt liquor for off-premises consumption.

Amendatory Section 314-02-120 – How do licensees get keg registration forms?

The WSLCB will provide keg-registration forms free of charge to beer and/or wine restaurants, to taverns, and to beer and/or wine specialty shops. Grocery stores and spirits, beer, and wine restaurants must purchase their keg-registration forms.

New Section 314-02-061 – What is required for off-site storage of liquor under a caterer's endorsement?

New conditions are proposed to address caterers now being allowed to store their alcohol off the licensed premises (e.g. displaying the approval letter for alcohol storage at each location).

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. One written comment was received in support of the proposed legislation.

1. Comment: Michael Transue, Washington Restaurant Association

The wording in WAC 314-02-061 (3) and (4) should be changed from **“a catered event”** to **“catered events”**.

Response:

Changes were made based on Michael Transue's comment.

2. Comment: Jesse D Lyon, Davis Wright Tremaine LLP, General Counsel for the Oregon Winegrowers Association (OWA)

“On behalf of the OWA, I would like to comment in support of proposed Washington Administrative Code 314-02, particularly subsection (1)(e). As amended, the rule would allow a Washington restaurant with a spirits, beer, and wine restaurant to “sell wine by the bottle for off-premises consumption with the appropriate endorsement”.

Response:

Acknowledgement of support letter.

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

**Restaurant Retail Activities and Restaurant Liquor Storage under
a Caterer's Endorsement**

AMENDATORY SECTION (Amending WSR 05-22-022, filed 10/24/05,
effective 11/24/05)

**WAC 314-02-015 What is a spirits, beer, and wine
restaurant license?** (1) Per RCW 66.24.400, this license allows
a restaurant to:

(a) Serve spirits by the individual (~~(serving)~~) glass for
on-premises consumption;

(b) Serve beer by the bottle or can or by tap for on-
premises consumption; (~~and~~)

(c) Serve wine for on-premises consumption (~~((see RCW
66.24.400 regarding patrons removing recorked wine from the
premises)).~~

~~(2) Per RCW 66.24.400, this license prohibits licensees
from selling alcohol for off-premises consumption except for a
licensee having an endorsement that allows the licensee to sell,
for off-premises consumption, wine vinted and bottled in the
state of Washington that has a label exclusive to the licensee's
restaurant.~~

~~(3))~~;

(d) Allow patrons to remove recorked wine from the licensed
premises in accordance with RCW 66.24.400;

(e) Sell wine by the bottle for off-premises consumption
with the appropriate endorsement; and

(f) Sell kegs of malt liquor with the appropriate endorsement.

(2) To obtain and maintain a spirits, beer, and wine restaurant license, the restaurant must be open to the public at least five hours a day during the hours of 11:00 a.m. and 11:00 p.m., five days a week. The board may consider written requests for exceptions to this requirement due to demonstrated hardship, and may grant an exception under such terms and conditions as the board determines are in the best interests of the public.

~~((4))~~ (3) All applicants for a spirits, beer, and wine license must establish, to the satisfaction of the board, that the premises will operate as a bona fide restaurant. The term "bona fide restaurant" is defined in RCW 66.24.410(2).

[Statutory Authority: RCW 66.04.010, 66.08.030, 66.24.410, 66.44.310, and 66.44.420. 05-22-022, § 314-02-015, filed 10/24/05, effective 11/24/05. Statutory Authority: RCW 66.08.030, 66.24.010, 66.24.120. 00-07-091, § 314-02-015, filed 3/15/00, effective 4/15/00.]

NEW SECTION

WAC 314-02-061 What is required for off-site storage of liquor under a caterer's endorsement? A spirits, beer, and wine restaurant licensee with a caterer's endorsement, or a beer and/or wine restaurant licensee with a caterer's endorsement, may store its alcohol at locations described in RCW 66.24.320 and 66.24.420 that are not on the licensed premises if the following conditions are met:

(1) The licensee must display the approval letter for storing liquor at each location;

(2) Liquor storage must be within the event location where catering services for events are provided;

(3) If the location is one for which the licensee has an on-going contract or agreement to provide liquor service at catered events, the contract or agreement must include the following:

(a) Names of the parties;

(b) Location and address where on-going liquor catering services are provided;

(c) A sketch and description of the facility that includes where the liquor will be stored, how the liquor will be secured to ensure public safety, and the provisions that restrict access

to the liquor storage area to the licensee and the licensee's employees; and

(d) Signatures of the parties.

(4) For locations owned or leased by the licensee and for which the licensee provides liquor service at catered events, the licensee must submit copies of documents that evidence the ownership or leasehold interest.

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AMENDATORY SECTION (Amending WSR 00-07-091, filed 3/15/00, effective 4/15/00)

WAC 314-02-120 How do licensees get keg registration forms? (1) The board will provide keg registration forms (~~free of charge~~) free of charge to licensees who hold (a) a beer and/or wine restaurant (~~or~~) license in combination with an off-premises beer and/or wine endorsement; (b) a tavern license in combination with an off-premises beer and/or wine endorsement; or (c) a beer and/or wine specialty shop license with a keg endorsement.

(2) Licensees who hold (~~only an off-premises beer and/or wine license~~) a grocery store license with a keg endorsement, or a spirits, beer, and wine restaurant license with a keg endorsement, must purchase the keg registration forms from their local board enforcement office for four dollars per book of twenty-five forms.

[Statutory Authority: RCW 66.08.030, 66.24.010, 66.24.120. 00-07-091, § 314-02-120, filed 3/15/00, effective 4/15/00.]