



## **Notice of Permanent Rules to Implement 2011 Legislation for Licensed Agents**

This explanatory statement concerns the **Washington State Liquor Control Board's adoption of rule changes to implement 2011 legislation for Licensed Agents.**

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 rules with the Office of the Code Reviser. These rule changes will become effective 31 days after filing (approximately January 7, 2012).

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](mailto:rules@liq.wa.gov).

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### **What are the agency's reasons for adopting this rule?**

Rules needed to be revised to implement SSB 5788 that passed in the 2011 legislative session.

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### **Summary of all public comments received on this rule proposal.**

The Liquor Control Board received no comments on this rulemaking at the public hearing held November 30, 2011.

## WAC Changes

AMENDATORY SECTION (Amending WSR 98-18-097, filed 9/2/98, effective 10/3/98)

**WAC 314-44-005 Agent's license required--Eligible employers defined--Certain classes limited--Bona fide entity defined--Prohibited practices.** (1) No person shall canvass for, solicit, receive or take orders for the purchase or sale of any liquor, or act as the agent for the purchase or sale of liquor, nor contact any licensees of the board in goodwill activities, unless such person is holder of an agent's license as provided in RCW 66.24.310, and this regulation.

(2) An agent's license may be issued to the accredited representative of a person, firm, or corporation holding a certificate of approval issued pursuant to RCW 66.24.270 or 66.24.206, a beer distributor's license, a brewer's license, a beer importer's license, a domestic winery license, a wine importer's license, or a wine distributor's license within the state of Washington, or the accredited representative of a distiller, manufacturer, importer, or distributor of spirituous liquor, or foreign produced beer or wine. A person, firm, or corporation so qualified, is herein defined to be an eligible employer. Such employer shall apply to the board for such an agent's license for his accredited representatives on application forms prescribed and furnished by the board. This subsection shall not apply to drivers who deliver beer or wine

or to domestic wineries or their employees. Employees of a domestic winery must have identification on them that indicates they work for the winery. Identification may be in the form of a winery's business card, employee badge, or similar identification.

(3) Any person acting as an independent contractor for a winery must have an agent's license. An independent contractor is defined as an independent business person who runs his or her own business that provides services to another individual or business. The independent contractor is a separate business entity. The earnings of a person who is working as an independent contractor are subject to self-employment tax.

~~((3))~~ (4) Every firm which applies for an agent's license under the provisions of this section shall furnish the board with satisfactory proof that such firm is in fact a bona fide business entity.

~~((4))~~ (5) Only the licensed agent of a distiller, manufacturer, importer, or distributor of spirituous liquor may contact retail licensees in goodwill activities when such contacts pertain to spirituous liquor products.

~~((5))~~ (6) No distiller, manufacturer, importer, distributor of liquor, or agent thereof, shall solicit either in person, by mail or otherwise, any liquor vendor or employee of the board, except the purchasing agent thereof, for the purpose or with the intent of furthering the sale of a particular brand

or brands of merchandise as against another brand or brands of merchandise.

~~((6))~~ (7) No distiller, manufacturer, importer, distributor of liquor, or agent thereof, shall visit any state liquor store or agency for the purpose of exerting influence on employees for sales promotion or to secure information regarding inventory or any other matter relating to sales. They may deliver, or have delivered, and assemble where required, consumer offers and display material that have been approved by the board or its designee. Violation of this section will result in a penalty against all company items, which in appropriate cases could mean a partial or total delisting of those items.

~~((7))~~ (8) No distiller, manufacturer, importer, or distributor of liquor, or agent thereof, shall give or offer to any employee of the board any entertainment, gratuity or other consideration for the purpose of inducing or promoting the sale of merchandise.

~~((8))~~ (9) No distiller, manufacturer, importer, or distributor, or agent thereof, shall allow, pay or rebate, directly or indirectly, any cash or merchandise to any retail licensee to induce or promote the sale of liquor, including the payment of tips to such licensees or their employees and the purchasing of drinks "for the house." Such persons, firms and licensees must operate in conformity with WAC 314-12-140, RCW 66.28.010, 66.28.040, and other applicable laws and rules.

~~((9))~~ (10) Upon the infraction of any law or regulation by any distiller, manufacturer, importer, distributor, or agent, the board may, in addition to imposing other penalties as prescribed by law, remove such firm's products from the sales list of the board, and/or prohibit the sale of any brand or brands of beer or wine involved as provided in RCW 66.28.030.

~~((10))~~ (11) Upon the termination of the employment of a licensed agent, his employer shall immediately notify the board and with such notice return to the board the agent's license issued to such person.

[Statutory Authority: RCW 66.08.030, 15.88.030, 19.126.020, 66.04.010, 66.08.180, 66.16.100, 66.20.010, 66.20.300, 66.20.310, 66.24.150, 66.24.170, 66.24.185, 66.24.200, 66.24.206, 66.24.210, 66.24.230, 66.24.240, 66.24.244, 66.24.250, 66.24.375, 66.24.380, 66.24.395, 66.24.400, 66.24.420, 66.24.425, 66.24.440, 66.24.450, 66.24.455, 66.24.495, 66.24.540, 66.28.010, 66.28.040, 66.28.050, 66.28.170, 66.28.180, 66.28.190, 66.28.200, 66.28.310, 66.44.190, 66.44.310, 66.98.060 and 82.08.150. 98-18-097, § 314-44-005, filed 9/2/98, effective 10/3/98. Statutory Authority: RCW 66.08.030. 89-01-004 (Order 271, Resolution No. 280), § 314-44-005, filed 12/8/88. Statutory Authority: RCW 66.08.030 and 66.98.070. 82-04-029 (Order 93, Resolution No. 102), § 314-44-005, filed 1/27/82; Order 46, § 314-44-005, Rule 111, filed 6/9/76. Formerly WAC 314-44-010 and 314-44-020.]

