



Notice of Rule Change – Explanatory Statement Requirements for Retail Liquor Licensees

This explanatory statement concerns the **Washington State Liquor Control Board's adoption of changes to rules regarding Requirements for Retail Liquor Licensees**. The Board adopted these rules at the December 15, 2010 board meeting.

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 21, 2011).

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?

These rules are being revised as part of the rules review process and to implement SSB 6329 – Beer and Wine Tastings in Grocery Stores.

What changes are being made?

The Board adopted these rule changes December 15, 2010. The rules will be filed on December 15, 2010 and will be effective on January 15, 2011.

Summary of all public comments received in writing and at the public hearing on December 8, 2010.

Jan Gee – Washington Food Industry (WFI)

Comment on WAC 314-02-100 and WAC 314-02-102: WFI approves of the new rules implementing SSB 6329 – beer and wine tastings in grocery stores.

Bruce Beckett – Washington Restaurant Association (WRA)

Comment on WAC 314-02-035 (1): WRA believes changing the requirement from complete meals to eight complete meals could inadvertently eliminate bona fide restaurants from being licensees, will be confusing to interpret and enforce, and could lead many licensees to unnecessarily incur the cost to change menus.

Response: WAC 314-02-035 also adds sandwiches, salads, hamburgers, pizza, and breakfast items to the list of foods that can be considered entrees. This change expands the number and types of foods that licensees can count as entrees. A sampling of over a hundred menus of current spirits, beer, and wine restaurant licensees found that all but one of the menus meets the requirements for the proposed rules. Nine of those menus don't meet the current requirements for four complete meals in the categories now considered entrees, but they do meet the requirements under the proposed rules. Language was added allowing the board to make an exception on a case-by-case basis to the eight complete meals.

Comment on WAC 314-02-035 (1)(b): WRA believes the language in the proposed rules related to frozen foods or carry out items is confusing. WRA proposed alternate language.

Response: The language in the proposed rules related to frozen foods or carry out items was replaced with the suggested language by WRA.

Comment on WAC 314-02-035 (8): The proposed rules change the hours for complete meals service from five hours a day, five days a week between the hours of 11am and 11pm to the hours of 8am and 11pm. WRA would like the hours to be 6am to 11pm.

Response: The Board decided to keep the proposed language at 8am to 11pm.

Comments on 314-02-125: The requirement for licensees to notify enforcement of one-time activities or events was changed from 48 hours prior to the activity or event to five days prior to the activity or event. WRA would like flexibility to be included in the timeline. The five day period may not be feasible for all events.

Response: The proposed rule was revised to require the licensee to notify enforcement five days in advance unless the licensee receives an exception from their enforcement officer.

WAC Changes

AMENDATORY SECTION (Amending WSR 10-01-091, filed 12/16/09, effective 1/16/10)

WAC 314-02-005 What is the purpose of chapter 314-02 WAC?

Chapter 314-02 WAC outlines the qualifications for the following liquor licenses (~~and permits~~):

- (1) Spirits, beer, and wine restaurants;
- (2) Nightclubs;
- (3) Spirits, beer, and wine restaurant restricted;
- (4) Hotels;
- ~~((4))~~ (5) Beer and/or wine restaurants;
- (6) Sports/entertainment facilities;
- ~~((5))~~ (7) Snack bars;
- ~~((6))~~ (8) Taverns;
- ~~((7))~~ (9) Motels;
- ~~((8) Bed and breakfasts;~~
- ~~(9))~~ (10) Nonprofit arts organizations;
- ~~((10) Public houses;))~~
- (11) Grocery stores;
- (12) Beer/wine specialty shops; and
- (13) Beer/wine gift delivery (~~(business)~~) businesses.

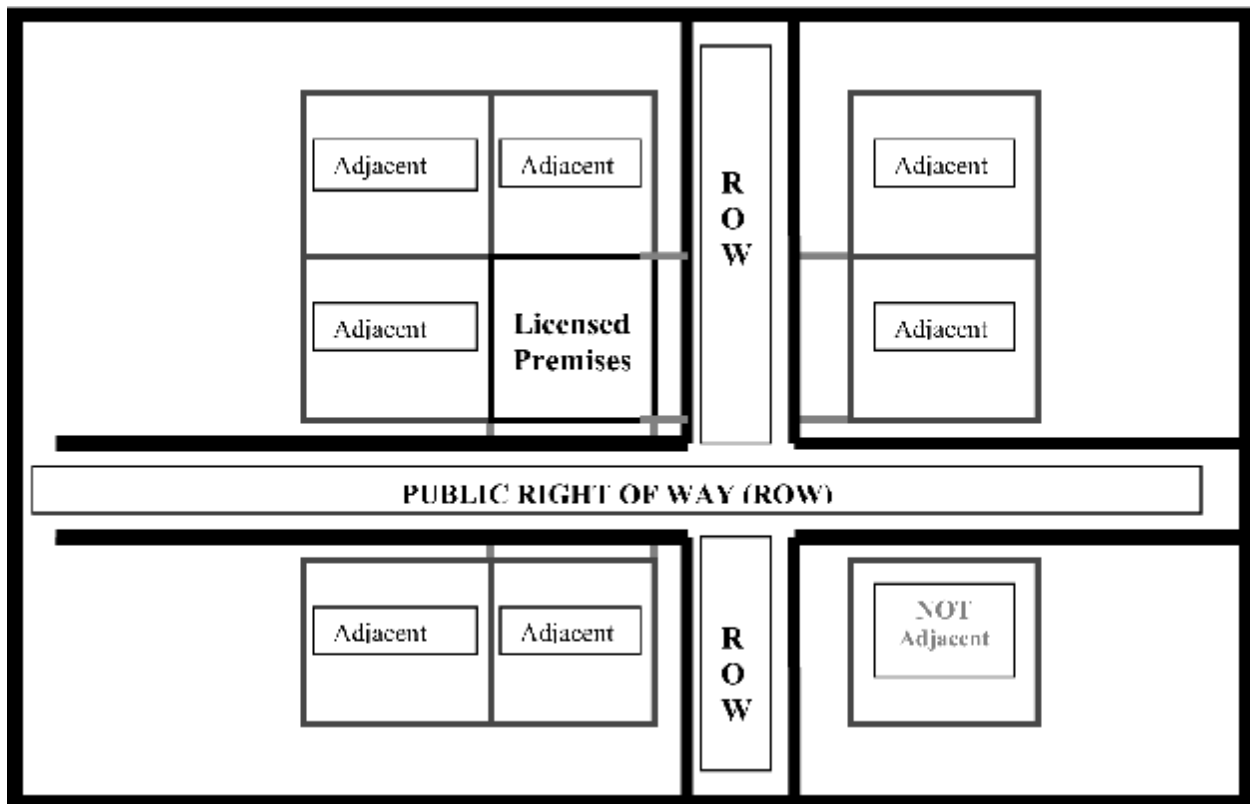
[Statutory Authority: RCW 66.08.030 and 66.24.600. 10-01-091, § 314-02-005, filed 12/16/09, effective 1/16/10. Statutory

Authority: RCW 66.08.030 and 66.24.590. 08-17-067, § 314-02-005, filed 8/19/08, effective 9/19/08. Statutory Authority: RCW 66.08.030, 66.24.010, 66.24.120. 00-07-091, § 314-02-005, filed 3/15/00, effective 4/15/00.]

AMENDATORY SECTION (Amending WSR 10-01-091, filed 12/16/09, effective 1/16/10)

WAC 314-02-010 Definitions. The following definitions are to clarify the purpose and intent of the rules and laws governing liquor licenses and permits. Additional definitions can be found in RCW 66.04.010.

(1) "Adjacent" means having a common endpoint or border where the extension of the property lines of the licensed premises contacts that common border.



(2) "Appetizer" means a small portion of food served before the main course of a meal to stimulate the appetite. An appetizer does not qualify as minimum food service.

(3) "Banquet room" means any room used primarily for the sale and service of food and liquor to private groups.

~~((3))~~ (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.

~~((4))~~ (5) "Dedicated dining area." In order for an area to qualify as a dedicated dining area, it must be a distinct portion 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.

~~((5))~~ (6) "Designated area" means a space where alcohol may be sold, served, or consumed.

~~((6))~~ (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.

~~((7))~~ (8) "Entertainment" means dancing, karaoke, singing, comedy shows, concerts, TV broadcasts, contests with patron participation and/or performing for an audience.

~~((8))~~ (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.

~~((9))~~ (10) "Game room" means an area of a business set up for the primary purpose of patrons using games or gaming devices.

~~((10))~~ (11) "Limited food service" means items such as appetizers, sandwiches, salads, soups, pizza, hamburgers, or fry orders.

(12) "Liquor bar" means a table or counter where alcohol is stored or prepared and served to customers who sit or stand at

the bar. Liquor bars can only be in lounges or in premises where minors are not allowed at any time.

~~((11))~~ (13) "Lounge" means the portion of a restaurant used primarily for the preparation, sale, and service of beer, wine, or spirits. Minors are not allowed in a lounge (see RCW 66.44.316 for information on employees and professional musicians under twenty-one years of age).

~~((12))~~ (14) "Minimum food service" means items such as sandwiches, salad, soup, pizza, hamburgers, and fry orders.

~~((13))~~ (15) "Minor" means a person under twenty-one years of age.

~~((14))~~ (16) "On-premises liquor licensed premises" means a building in which a business is located inside that is allowed to sell alcohol for consumption on the licensed premises.

(17) "Service bar" means a fixed or portable table, counter, cart, or similar work station primarily used to prepare, mix, serve, and sell alcohol that is picked up by employees or customers. Customers may not be seated or allowed to consume food or alcohol at a service bar.

~~((15))~~ (18) "Snack food" means items such as peanuts, popcorn, and chips.

[Statutory Authority: RCW 66.08.030 and 66.24.600. 10-01-091, § 314-02-010, filed 12/16/09, effective 1/16/10. Statutory Authority: RCW 66.08.030 and 66.24.590. 08-17-067, § 314-02-010, filed 8/19/08, effective 9/19/08. Statutory Authority: RCW 66.04.010, 66.08.030, 66.24.410, 66.44.310, and 66.44.420.

05-22-022, § 314-02-010, filed 10/24/05, effective 11/24/05.
Statutory Authority: RCW 66.08.030, 66.24.010, 66.24.120. 00-
07-091, § 314-02-010, filed 3/15/00, effective 4/15/00.]

AMENDATORY SECTION (Amending WSR 09-02-012, filed 12/29/08,
effective 1/29/09)

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

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

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

(c) Serve wine for on-premises consumption;

(d) Allow patrons to remove recorked wine from the licensed
premises (~~(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)~~) 8:00 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.

(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 66.08.030. 09-02-012, § 314-02-015, filed 12/29/08, effective 1/29/09. 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.]

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

WAC 314-02-025 What are the floor space requirements to obtain and maintain a spirits, beer, and wine restaurant license or a beer and wine restaurant license? (1) The liquor control board has the responsibility to classify what licensed premises or what portions of the licensed premises are off-limits to minors. (RCW 66.44.310(2).) Minors may not purchase, possess, or consume liquor, and may not enter any areas that are classified as off-limits to minors. (RCW 66.44.290 and 66.44.310.) The purpose of this rule is to clarify the ways in which licensees can prevent minors from consuming alcohol or entering restricted areas.

(2) Dedicated dining areas - If a spirits, beer, and wine restaurant licensee or a beer and wine restaurant licensee that allows minors chooses to have live music, Karaoke, patron dancing, live entertainment, or contests involving physical participation by patrons in the dedicated dining area after 11:00 p.m., the licensee must either:

(a) Request board approval to reclassify the dining area to a lounge for the period of time that live entertainment is conducted, thus restricting minors during that time; or

(b) Notify the board's licensing and regulation division in writing at least forty-eight hours in advance that the sale, service, and consumption of liquor will end in the dedicated dining area after 11:00 p.m.

Request or notifications may cover one event or a series of recurring events over a period of time.

(3) **Barriers** - Licensees must place barriers around (~~game rooms and~~) areas that are classified as off-limits to minors and around game rooms.

(a) The barriers must clearly separate restricted areas, and must be at least forty-two inches high.

(b) The barriers must be permanently affixed (folding or retractable doors or other barriers that are permanently affixed are acceptable). A portable or moveable rope and stanchion is not acceptable. Those licensees that have been approved by the board for moveable barriers prior to the effective date of this rule may keep their movable barriers until the licensee requests alterations to the premises or the premises change ownership.

(c) Liquor bars cannot be used as the required barriers (see definition of liquor bar in WAC 314-02-010(~~(+7)~~) (10)).

(d) Entrances to restricted areas may not be wider than ten feet. If a licensee has more than one entrance along one wall, the total entrance areas may not exceed ten feet.

(e) "Minor prohibited" signs, as required by WAC 314-11-060(1), must be posted at each entrance to restricted areas.

(4) If the business allows minors, the business's primary entrance must open directly into a dedicated dining area or into

a neutral area, such as a lobby or foyer, that leads directly to a dedicated dining area. Minors must be able to access restrooms without passing through a lounge or other age-restricted area.

(5) **Floor plans** - When applying for a license, the applicant must provide to the board's licensing and regulation division two copies of a detailed drawing of the entire premises. The drawing must:

- (a) Be drawn one foot to one-quarter-inch scale;
- (b) Have all rooms labeled according to their use; e.g., dining room, lounge, game room, kitchen, etc.; and
- (c) Have all barriers labeled in a descriptive way; e.g., "full wall," "half wall," etc.

[Statutory Authority: RCW 66.04.010, 66.08.030, 66.24.410, 66.44.310, and 66.44.420. 05-22-022, § 314-02-025, filed 10/24/05, effective 11/24/05. Statutory Authority: RCW 66.08.030, 66.24.010, 66.24.120. 00-07-091, § 314-02-025, filed 3/15/00, effective 4/15/00.]

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

WAC 314-02-030 Can a spirits, beer, and wine restaurant exclude persons under twenty-one years of age from the premises?

A spirits, beer, and wine restaurant licensee may exclude minors from the entire premises at all times (~~(or at certain times)~~) as approved by the board.

(1) To exclude minors from the entire licensed premises at all times (~~(or at certain times,)~~) the applicant or licensee must:

(a) Indicate during the liquor license application process that he/she does not wish to have minors on the entire premises at all times (~~(or at certain times indicated by the applicant or licensee)~~); or

(b) If already licensed as a spirits, beer, and wine restaurant that allows minors, the applicant may request permission from the board's licensing and regulation division to exclude minors at all times or (~~(at certain times indicated by the applicant or licensee)~~) for a specific event. See WAC 314-02-130 for instructions on requesting this approval.

(c) Spirits, beer, and wine restaurant licensees who exclude minors from the entire premises at all times or at certain times must meet all other requirements of this license,

including the food service requirements outlined in WAC 314-02-035.

(d) During the times that a spirits, beer, and wine restaurant licensee excludes minors from the entire premises, the licensee may not employ minors. (See ((~~WAC 314-11-040~~)) RCW 66.44.316 for more information on employing minors.)

(2) Restaurants that have less than fifteen percent of their total customer service area dedicated to dining must exclude minors from the entire premises. The licensee ((~~must~~)):

(a) Must pay the ((~~two thousand dollars~~)) largest annual license fee (less than fifty percent dedicated dining; ((~~and~~))

(b) Must meet all other requirements of this license, including the food service requirements outlined in WAC 314-02-035((~~-~~)); and

(c) May not employ minors at any time. (See RCW 66.44.316 for information on employing certain persons eighteen years and over under specific conditions.)

(3) See WAC 314-11-060(1) regarding requirements for "minors prohibited" signage.

[Statutory Authority: RCW 66.04.010, 66.08.030, 66.24.410, 66.44.310, and 66.44.420. 05-22-022, § 314-02-030, filed 10/24/05, effective 11/24/05. Statutory Authority: RCW 66.08.030, 66.24.010, 66.24.120. 00-07-091, § 314-02-030, filed 3/15/00, effective 4/15/00.]

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

WAC 314-02-033 Do spirits, beer, and wine restaurants that exclude minors from the premises have to put barriers around their dedicated dining area(s)? Spirits, beer, and wine restaurant licensees who exclude minors from the entire premises at all times are only required to place the barriers described in WAC 314-02-025(2) around dedicated dining areas for the purpose of paying the ~~((one thousand six hundred dollar))~~ lower annual license fee (fifty percent to ninety-nine percent dedicated dining area). Restaurants that do not allow minors at any time and do not wish to have barriers around their dining area(s) must pay the ~~((two thousand dollar))~~ higher annual license fee (less than fifty percent dedicated dining area). (See WAC 314-02-020 for an explanation of fees.)

[Statutory Authority: RCW 66.04.010, 66.08.030, 66.24.410, 66.44.310, and 66.44.420. 05-22-022, § 314-02-033, filed 10/24/05, effective 11/24/05.]

AMENDATORY SECTION (Amending WSR 10-01-091, filed 12/16/09, effective 1/16/10)

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 ~~((four))~~ eight complete meals. ~~((Per RCW 66.24.410(2), a complete meal does not include hamburgers, sandwiches, salads, or fry orders.))~~ 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 ~~((additional course))~~ side dish.

(b) "Entree" means the main course of a meal. ~~((To qualify as one of the four required complete meals, the entree must require the use of a dining implement to eat, and cannot consist of a hamburger, sandwich, salad, or fry order))~~ 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.

(2) The restaurant must maintain the kitchen equipment necessary to prepare the complete meals required under this section ~~((and RCW 66.24.410(2))~~).

(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 ~~((that lists, at a minimum, the required complete meals))~~.

(6) The food items required to maintain the menu must be on the restaurant premises. These items must be edible.

(7) Restaurants that have one hundred percent dedicated dining area must maintain complete meal service any time liquor is available for sale, service, or consumption.

(8) Restaurants with less than one hundred percent dedicated dining area ~~((restaurants in the one thousand seven hundred sixty eight dollar or two thousand two hundred ten dollar fee category))~~ must maintain complete meal service for a minimum of five hours a day during the hours of ~~((11:00))~~ 8:00 a.m. and 11:00 p.m. ~~((on any day liquor is served))~~, five days a week. The board may consider written requests for exceptions to this requirement due to demonstrated hardship, under such terms

and conditions as the board determines are in the best interests of the public.

~~((a) Minimum))~~ Limited food service, such as appetizers, sandwiches, salads, soups, pizza, hamburgers, or fry orders, must be available outside of these hours. Snacks such as peanuts, popcorn, and chips do not qualify as limited food service.

~~((b) Snacks such as peanuts, popcorn, and chips do not qualify as minimum food service.))~~

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

[Statutory Authority: RCW 66.08.030 and 66.24.600. 10-01-091, § 314-02-035, filed 12/16/09, effective 1/16/10. Statutory Authority: RCW 66.04.010, 66.08.030, 66.24.410, 66.44.310, and 66.44.420. 05-22-022, § 314-02-035, filed 10/24/05, effective 11/24/05. Statutory Authority: RCW 66.08.030, 66.24.010, 66.24.120. 00-07-091, § 314-02-035, filed 3/15/00, effective 4/15/00.]

AMENDATORY SECTION (Amending WSR 10-01-091, filed 12/16/09, effective 1/16/10)

WAC 314-02-038 Can a spirits, beer, and wine nightclub license exclude persons under twenty-one years of age from the premises? A spirits, beer, and wine nightclub licensee may exclude minors from the premises at all times.

(1) To exclude minors from the entire licensed premises at all times, the applicant must:

(a) Indicate during the liquor license application process that he/she does not wish to have minors on the entire premises at all times; or

(b) If already licensed as a spirits, beer, and wine nightclub license that allows minors, the licensee may request permission from the board's licensing and regulation division to exclude minors at all times. See WAC 314-02-130 for instructions on requesting this approval.

(2) Spirits, beer, and wine nightclub licensees who exclude minors from the premises may not employ minors. (See (~~WAC 314-11-040~~) RCW 66.44.310 for more information on employing minors.)

[Statutory Authority: RCW 66.08.030 and 66.24.600. 10-01-091, § 314-02-038, filed 12/16/09, effective 1/16/10.]

AMENDATORY SECTION (Amending WSR 08-17-067, filed 8/19/08, effective 9/19/08)

WAC 314-02-041 What is a hotel license? (1) Per RCW 66.24.590, this license allows a hotel to:

(a) Serve spirits by the individual serving (~~(at retail)~~) for consumption on the licensed premises;

(b) Serve beer, including strong beer, and wine for consumption on the licensed premises;

(c) Sell at retail, from locked honor bars, in individual units, spirits not to exceed fifty milliliters, beer in individual units not to exceed twelve ounces, and wine in individual bottles not to exceed three hundred eighty-five milliliters, to registered guests of the hotel for consumption in guest rooms;

(d) Provide, without additional charge, to overnight guests, spirits, beer, and wine by the individual serving for consumption on the licensed premises at a specified regular date, time, and place. Self-service by guests is prohibited;

(e) Sell beer, including strong beer, wine, or spirits, in the manufacturer's sealed container or by the individual drink to guests through room service, or through service to occupants of private residential units which are part of the buildings or complex of buildings, that include the hotel;

(f) Sell beer, including strong beer, and wine, in the manufacturer's sealed container at retail sales locations within the hotel premises; and

(g) Place in guest rooms at check-in, complimentary beer, including strong beer, or wine in a manufacturer's sealed container.

(2) The annual fee for a hotel license is two thousand dollars.

[Statutory Authority: RCW 66.08.030 and 66.24.590. 08-17-067, § 314-02-041, filed 8/19/08, effective 9/19/08.]

AMENDATORY SECTION (Amending WSR 08-17-067, filed 8/19/08, effective 9/19/08)

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 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.

(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.

(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.

[Statutory Authority: RCW 66.08.030 and 66.24.590. 08-17-067, § 314-02-0411, filed 8/19/08, effective 9/19/08.]

NEW SECTION

WAC 314-02-042 Spirits, beer and wine restaurant restricted--Qualifications. (1) Spirits, beer and wine

restaurant restricted licensees shall govern their operations in selling liquor in accordance with the regulations set forth in Title 66 RCW. Such licensees may sell liquor in accordance with these regulations, only to members, invited guests, and holders of cards as authorized by chapter 314-40 WAC.

(2) (a) Applications for new spirits, beer and wine restaurant restricted licenses shall be accompanied by proof that:

(i) The business has been in operation for at least one year immediately prior to the date of its application. Such proof should include records of membership as well as an indication as to numbers and types of membership.

(ii) Membership or admission will not be denied to any person because of race, creed, color, national origin, sex or the presence of any sensory, mental or physical handicap.

(b) Spirits, beer and wine restaurant restricted applicants and licensees must meet the provisions of WAC 314-02-035.

(3) Under RCW 66.24.450, the board may issue an endorsement allowing the club to hold up to forty nonclub, member-sponsored events using club liquor.

(a) Each event must have a sponsoring member from the club.

(b) Each visitor and/or guest may only attend the event by invitation of the sponsoring member(s).

(c) Event may not be open to the general public.

(d) At least seventy-two hours prior to any nonclub event, the sponsoring member, or any club officer, must provide to the board: The date, time, and location of the event, the name of the sponsor of the event, and a brief description of the purpose of the event.

(e) A list of all invited guests and visitors must be available for inspection during the nonclub event.

(4) Under RCW 66.24.450, the board may issue an endorsement allowing the holder of a spirits, beer, and wine private club license to sell bottled wine for off-premises consumption.

(a) Spirits and beer may not be sold for off-premises consumption.

(b) Bottled wine may only be sold to members, visitors, and guests defined under WAC 314-40-005. Bottled wine may not be sold to the general public.

(5) See chapter 314-40 WAC for additional rules on clubs.

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AMENDATORY SECTION (Amending WSR 10-01-091, filed 12/16/09, effective 1/16/10)

WAC 314-02-045 What is a beer and/or wine restaurant license? (1) Per RCW 66.24.320 and 66.24.354, this license allows a restaurant to:

Privilege	Annual fee
(a) Serve beer by the bottle or can or by tap for on-premises consumption.	\$221
(b) Serve wine for on-premises consumption (see RCW 66.24.320 regarding patrons removing recorked wine from the premises).	\$221
(c) Sell beer and/or wine in the original, unopened containers for off-premises consumption.	\$133
(d) Sell tap beer for off-premises consumption in a sanitary container holding less than four gallons of beer, and brought to the premises by the purchaser.	In conjunction with off-premises privilege outlined in subsection (c).
(e) Sell beer in kegs or other containers holding at least four gallons of beer (see WAC 314-02-115 regarding the requirements for registering kegs).	In conjunction with off-premises privilege outlined in subsection (c).

(2) All applicants for a beer and/or wine restaurant license must establish, to the satisfaction of the board, that

the premises will operate as a bona fide restaurant, as defined in RCW 66.04.010(30).

(a) Minimum food service is required, as defined in WAC 314-02-010(~~(12)~~) (14).

(b) To obtain and maintain a beer and/or wine restaurant license, the restaurant must be open to the public at least five hours a day, five days a week. The board may consider written requests 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.

(3) If a beer and/or wine restaurant's dedicated dining area comprises less than fifteen percent of the total customer service area, the premises must maintain a tavern license (see WAC 314-02-070 regarding the tavern license).

[Statutory Authority: RCW 66.08.030 and 66.24.600. 10-01-091, § 314-02-045, filed 12/16/09, effective 1/16/10. Statutory Authority: RCW 66.04.010, 66.08.030, 66.24.410, 66.44.310, and 66.44.420. 05-22-022, § 314-02-045, filed 10/24/05, effective 11/24/05. Statutory Authority: RCW 66.08.030, 66.24.010, 66.24.120. 00-07-091, § 314-02-045, filed 3/15/00, effective 4/15/00.]

NEW SECTION

WAC 314-02-056 Sports/entertainment facility license--

Purpose. (1) What is the purpose of the rules governing the use of alcohol in sports/entertainment facilities?

(a) In RCW 66.24.570, the legislature established a spirits, beer, and wine license for arenas, coliseums, stadiums, or other facilities where sporting, entertainment, and special events are presented.

(b) These rules provide a framework for the enforcement of liquor laws and regulations, particularly those prohibiting the sale of alcohol to persons under twenty-one years of age or persons who are apparently intoxicated.

(c) This framework recognizes the unique conditions associated with events attended by large crowds consisting of diverse age groups.

(2) Will the liquor control board recognize the differences between types of sports/entertainment facilities? Yes. A sports/entertainment facility must submit an operating plan, which must be approved by the board prior to the issuance of a license. All plans are required to meet the minimum standards outlined in WAC 314-02-058. The board will take into consideration the unique features of each facility when

approving an operating plan, including the seating accommodations, eating facilities, and circulation patterns.

[]

NEW SECTION

WAC 314-02-057 Definitions. (1) **Premises** - buildings, parking lots, and any open areas that are adjacent to and owned, leased, or managed by the licensee and under the licensee's control.

(2) **Event categories** - types of events that the licensee expects to hold on the premises:

(a) **Professional sporting event** - a contest involving paid athletes and sanctioned by a professional sports organization that regulates the specific sport.

(i) A preapproved level of alcohol service will be applied to the professional sporting events of baseball, football, basketball, soccer, tennis, volleyball, horse racing, hockey, and track and field events (relay races, dashes, pole vaulting, etc.).

(ii) For all other professional sporting events, the board will determine the level of alcohol service on a case-by-case basis, as approved in the operating plan.

(b) **Amateur sporting event** - a contest or demonstration involving athletes who receive no monetary compensation that is sanctioned by a national or regional amateur athletic regulatory organization.

(c) **Entertainment event** - a concert, comedy act, or similar event intended for the entertainment of the audience.

(d) **Special event** - a convention, trade show, or other public/private event to large too be held in a separate banquet or meeting room within the facility.

(e) **Private event** - an event not open to the public such as a wedding, private party, or business meeting, where the facility or a portion of the facility where the event is held is not accessible to the general public during the time of the private event.

(3) **Hawking** - the practice of selling alcohol in seating areas by roving servers who carry the beverages with them, as outlined in WAC 314-02-058(4). Because of row seating arrangements, servers normally do not have direct access to customers. Therefore, service usually requires that drinks, money, and identification be passed down rows, involving other spectators.

(4) **Club seats** - a specifically designated and controlled seating area that is distinct from general seating with food and beverage service provided by servers directly to the customer.

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NEW SECTION

**WAC 314-02-058 Sports/entertainment facility licenses--
Operating plans. (1) What rules govern the submission of
operating plans?**

(a) To receive a license, a sports/entertainment facility must submit an operating plan for board approval.

(b) Once approved, the plan remains in effect until the licensee requests a change or the board determines that a change is necessary due to demonstrated problems or conditions not previously considered or adequately addressed in the original plan.

(c) The plan must be submitted in a format designated by the board.

(d) The plan must contain all of the following elements:

(i) How the sports/entertainment facility will prevent the sale and service of alcohol to persons under twenty-one years of age and those who appear to be intoxicated.

(ii) The ratio of alcohol service staff and security staff to the size of the audiences at events where alcohol is being served.

(iii) Training provided to staff who serve, regulate, or supervise the service of alcohol.

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

(v) A list of event categories (see WAC 314-02-057(2)) to be held in the facility at which alcohol service is planned, along with a request for the level of alcohol service at each event.

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

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

(viii) The operating plan must be signed by a principal of the licensed entity.

(e) Prior to the first of each month, the licensee must provide a schedule of events for the upcoming month to the facility's local liquor enforcement office. This schedule must show the date and time of each event during which alcohol service is planned. The licensee must notify the local enforcement office at least seventy-two hours in advance of any events where alcohol service is planned that were not included in the monthly schedule. Notice of private events is not required when the event is being held in conjunction with a professional or amateur sporting event, an entertainment event, or a special event as outlined in WAC 314-02-057(2).

(2) **May the liquor control board impose any other mandatory standards as a part of an operating plan?** Yes. To prevent persons who are under twenty-one years of age or who appear intoxicated from gaining access to alcohol, the board may impose the following standards as part of an operating plan:

(a) The board may require that an operating plan include additional mandatory requirements if it is judged by the board that the plan does not effectively prevent violations of liquor laws and regulations, particularly those that prevent persons under twenty-one years of age or who are apparently intoxicated from obtaining alcohol.

(b) To permit alcohol servers to establish the age of patrons and to prevent over-service, sports/entertainment facilities must meet minimum lighting requirements established by WAC 314-11-055 in any area where alcohol is served or consumed. For the purpose of establishing a permanent technical standard, an operating plan may include a lighting standard measured in foot candles, so long as the candle power of the lighting is, at all times, sufficient to permit alcohol servers to establish the validity of documents printed in eight point type.

(3) **Where will spirits, beer, and wine be allowed in a sports/entertainment facility?** The purpose of the following matrix is to outline where and when alcohol service will normally be permitted. Due to the unique nature of each facility, the board will determine the permitted alcohol service based on the facility's approved operating plan.

(a) If alcohol service is requested outside of the parameters listed below, a special request with justification for the alcohol service area must be submitted with the operating plan for consideration by the board.

Type of event as defined in WAC 314-02-057	Beer, wine, and spirits may be sold and served in approved restaurants, lounges, private suites, and club rooms	Beer, wine, and spirits may be sold and served in temporary lounges, beer gardens, or other approved service areas	Wine may be served and consumed in club seats during events	Beer and wine may be consumed throughout seating areas during events	Hawking - beer may be served throughout seating areas, subject to the provisions of WAC 314-02-058(4)
Professional sporting events of baseball, football, basketball, soccer, tennis, volleyball, horse racing, hockey, and track and field events	x	x	x	x	x
All other professional sporting events (level of alcohol service will be determined on a case-by-case basis per the approved operating plan)	x	x	x	x	
Amateur sporting events	x	x			
Entertainment events	x	x			
Special events	x	x			

(b) For private events, beer, wine, and spirits may be served in the area where the event is held. This area may be a separate meeting or banquet room or the entire facility.

(c) In order to minimize youth access to alcohol, the board may prohibit or restrict the service of alcohol at events where the attendance is expected to be over thirty percent persons under twenty-one years of age. This restriction will not apply to the professional sporting events outlined in WAC 314-02-057 (2) (a).

(4) **Will hawking be allowed at sports/entertainment facilities?** Subject to the provisions of this rule, hawking may be permitted in general seating areas for the sale and consumption of beer, at the professional sporting events of baseball, football, basketball, soccer, tennis, volleyball, horse racing, hockey, and track and field events only, as defined by WAC 314-02-057 (2) (a).

(a) An operating plan must include procedures for hawkers to verify the age of purchasers and to prevent service to apparently intoxicated persons.

(b) During hawking, any patron may decline to handle alcoholic beverages, either on behalf of themselves and for any person under their supervision. When a patron objects to handling alcohol, hawkers must accommodate the objection. The facility operating plan will address how hawking will be managed, including how hawkers will respond to patron objections to handling alcohol.

(c) Each facility's hawking authorization will be reviewed by the board one year after the facility commences hawking under these rules and then every two years. This review, which will take no more than ninety days, will recommend the continuation, modification, or repeal of the hawking authorization. The decision to continue hawking will be based on:

(i) The facility's demonstrated record of preventing service of liquor to persons under twenty-one years of age and to persons who appear intoxicated; and

(ii) Public input submitted to the board. The licensee must post written notices to its patrons at fixed points of alcohol sales on the premises and in programs at events where hawking occurs for at least sixty days prior to the review period, stating that the facility's hawking authorization is up for review by the board, and directing comment to the board. The wording and method of notice must be approved by the board.

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NEW SECTION

WAC 314-02-059 How will the operating plans be enforced?

(1) The board will inspect sports/entertainment facilities and issue violation notices for:

(a) Infractions of all liquor laws and rules, particularly with regard to persons who appear intoxicated or who are under twenty-one years of age; and

(b) Any significant deviation from the approved operating plan.

(2) Violations of liquor laws or rules that occur as a result of not following the approved operating plan will be considered aggravating circumstances, which permit the board to impose added penalties.

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AMENDATORY SECTION (Amending WSR 10-01-091, filed 12/16/09, effective 1/16/10)

WAC 314-02-100 What is a grocery store license? (1) Per RCW 66.24.360, a grocery store license allows a licensee to sell beer and/or wine for off-premises consumption.

(2) The annual fee for this license is one hundred sixty-six dollars.

(3) In order to obtain and maintain a grocery store license, the premises must be stocked with an inventory of at least three thousand dollars wholesale value of food for human consumption, not including soft drinks, beer, or wine. This minimum inventory must be:

(a) Stocked within the confines of the licensed premises;
and

(b) Maintained at the premises at all times the business is licensed, with the exception of:

(i) The beginning and closing inventory for seasonal operations; or

(ii) When the inventory is being sold out immediately prior to discontinuing or selling the business.

(4) A grocery store licensee may sell beer in kegs or other containers holding at least four gallons and less than five and one-half gallons of beer. See WAC 314-02-115 regarding keg registration requirements.

(5) A grocery store licensee may sell beer and wine over the internet. See WAC 314-03-020 regarding internet sales and delivery.

(6) A grocery store applicant or licensee may apply for an international exporter endorsement for five hundred dollars a year, which allows the sale of beer and wine for export to locations outside the United States.

(7) A grocery store applicant or licensee may apply for a beer and wine tasting endorsement which allows beer and wine tastings on the grocery store premises. The annual fee for this endorsement is two hundred dollars.

[Statutory Authority: RCW 66.08.030 and 66.24.600. 10-01-091, § 314-02-100, filed 12/16/09, effective 1/16/10. Statutory

Authority: RCW 66.08.030, 66.24.010, 66.24.120. 00-07-091, § 314-02-100, filed 3/15/00, effective 4/15/00.]

NEW SECTION

WAC 314-02-102 What are the requirements for a grocery store licensee to conduct beer and wine tastings? (1) To be issued a beer and wine tasting endorsement, the licensee must meet the following criteria:

(a) The licensee has retail sales of grocery products for off-premises consumption, not to include candy, soda pop, beer or wine, that are more than fifty percent of the licensee's gross sales, or the licensee is a membership organization that requires members to be at least eighteen years of age;

(b) The licensee operates a fully enclosed retail area encompassing at least nine thousand square feet. The board may issue the endorsement to a licensee with a retail area with less than nine thousand square feet if there is no licensee in the community that meets the nine thousand square foot requirement under the following conditions: There must be at least two employees on duty any time the licensee is conducting beer and wine tasting events. One employee must be dedicated to beer and wine tastings during these events;

(c) The licensee has not had more than one public safety administrative violation within the last two years. The two-

year window is counted from two years prior to the date of the application for the beer and wine tasting endorsement. (See WAC 314-29-020 for a list of public safety violations.)

(2) In addition to the conditions in RCW 66.24.363, a beer and wine tasting must be conducted under the following:

(a) The licensee must provide a sketch of the tasting area. Fixed or moveable barriers are required around the tasting area to ensure persons under twenty-one years of age do not possess or consume alcohol;

(b) Signs advertising beer and wine tastings may not be placed in the windows or outside of the premises that can be viewed from the public right of way;

(c) Persons serving beer and wine during tasting events must hold a class 12 alcohol server permit.

(3) Licensees are required to send a list of scheduled beer and wine tastings to their regional enforcement office at the beginning of each month. The date and time for each beer and wine tasting must be included.

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AMENDATORY SECTION (Amending WSR 10-01-091, filed 12/16/09, effective 1/16/10)

WAC 314-02-105 What is a beer and/or wine specialty store license? (1) Per RCW 66.24.371, a beer and/or wine specialty store license allows a licensee to sell beer and/or wine for off-premises consumption.

(2) The annual fee for this license is one hundred eleven dollars.

(3) Qualifications for license--To obtain and maintain a beer and/or wine specialty store license, the premises must be stocked with an inventory of beer and/or wine in excess of three thousand dollars wholesale value. This inventory must be:

(a) Stocked within the confines of the licensed premises; and

(b) Maintained on the premises at all times the premises is licensed, with the exception of beginning and closing inventory for seasonal operations or when the inventory is being sold out immediately prior to discontinuing or selling the business.

(4) Qualifications to sample--A beer and/or wine specialty store licensee may allow customers to sample beer and wine for the purpose of sales promotion, if the primary business is the sale of beer and/or wine at retail, and the licensee meets the requirements outlined in either (a) or (b) of this subsection:

(a) A licensee's gross retail sales of beer and/or wine exceeds fifty percent of all gross sales for the entire business; or

(b) The licensed premises is a beer and/or wine specialty store that conducts bona fide cooking classes for the purpose of pairing beer and/or wine with food, under the following conditions:

(i) The licensee must establish to the satisfaction of the board that the classes are bona fide cooking courses. The licensee must charge participants a fee for the course(s).

(ii) The sampling must be limited to a clearly defined area of the premises.

(iii) The licensee must receive prior approval from the board's licensing and regulation division before conducting sampling with cooking classes.

(iv) Once approved for sampling, the licensee must provide the board's enforcement and education division a list of all scheduled cooking classes during which beer and/or wine samples will be served. The licensee must notify the ~~((board))~~ board's enforcement and education division at least forty-eight hours in advance if classes are added.

(5) Licensees who qualify for sampling under subsection (4) of this rule may sample under the following conditions:

(a) No more than a total of eight ounces of alcohol may be provided to a customer during any one visit to the premises;

(b) Each sample must be two ounces or less; and

(c) No more than one sample of any single brand and type of beer or wine may be provided to a customer during any one visit to the premises.

(6) A beer and/or wine specialty store licensee may sell beer in kegs or other containers holding at least four gallons of beer. See WAC 314-02-115 regarding keg registration requirements.

[Statutory Authority: RCW 66.08.030 and 66.24.600. 10-01-091, § 314-02-105, filed 12/16/09, effective 1/16/10. Statutory Authority: RCW 66.08.030, 66.24.371. 04-19-156, § 314-02-105, filed 9/22/04, effective 10/23/04; 04-07-020, § 314-02-105, filed 3/8/04, effective 4/8/04. Statutory Authority: RCW 66.08.030, 66.24.010, 66.24.120. 00-07-091, § 314-02-105, filed 3/15/00, effective 4/15/00.]

AMENDATORY SECTION (Amending WSR 09-02-012, filed 12/29/08, effective 1/29/09)

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

(2) Licensees who hold a grocery store license with a keg endorsement, or a spirits, beer, and wine restaurant license with a keg endorsement, must purchase the keg registration forms. Keg registration books can be ordered on-line at the liquor control board web site or from ((their local board)) the enforcement ((office)) customer service line for four dollars per book of twenty-five forms.

[Statutory Authority: RCW 66.08.030. 09-02-012, § 314-02-120, filed 12/29/08, effective 1/29/09. 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.]

AMENDATORY SECTION (Amending WSR 10-01-091, filed 12/16/09, effective 1/16/10)

WAC 314-02-125 What types of activities on a licensed premises require notice to the board? Liquor licensees must notify their local enforcement office in writing at least ~~((forty-eight hours before))~~ five days prior to conducting the following activities unless the licensee has received an exception from their enforcement officer:

(1) Male/female dance reviews, subject to the provisions of WAC 314-11-050;

(2) Live boxing or wrestling;

(3) Contests or games where patrons are part of the entertainment; ~~((and))~~


(4) Hours of operation in between 2:00 a.m. and 6:00 a.m. for licensees that sell liquor for on-premises consumption; and

(5) Outside service for one-time events such as a holiday celebration where liquor service and consumption is planned to extend to an area of the premises that does not have board approval for liquor service. The licensee must have leasehold rights to the area where alcohol service and consumption is planned.

[Statutory Authority: RCW 66.08.030 and 66.24.600. 10-01-091, § 314-02-125, filed 12/16/09, effective 1/16/10. Statutory Authority: RCW 66.08.030, 66.24.010, 66.24.120. 00-07-091, § 314-02-125, filed 3/15/00, effective 4/15/00.]

AMENDATORY SECTION (Amending WSR 10-01-091, filed 12/16/09, effective 1/16/10)

WAC 314-02-130 What types of changes to a licensed premises require board approval? The following changes to a licensed premises require prior board approval, by submitting a form provided by the board's licensing and regulation division:

Type of alteration	Approval process and timeline
(1)  excluding persons under twenty-one years of age from a spirits, beer, and wine restaurant or a spirits, beer, and wine nightclub;  excluding persons under twenty-one years of age from the dining area of a beer and/or wine restaurant;  reclassifying a lounge as open to persons under twenty-one years of age;	(a) The board's licensing and regulation division will ((respond to)) <u>make initial contact on</u> the request for alteration within five business days. (b) The licensee may begin liquor service in conjunction with the alteration as soon as approval is received.

~~✎~~ extending the location of alcohol service, such as a beer garden or patio/deck service (areas must be enclosed with a barrier a minimum of forty-two inches in height);
~~((~~✎~~ storing liquor off of the licensed premises;))~~
~~✎~~ initiating room service in a hotel or motel when the restaurant is not connected to the hotel or motel;
~~((~~✎~~ installing a pass-through window for walk-up customers; and ~~✎~~ using a licensed premises as an access to another business.))~~
(2)
~~✎~~ any alteration that affects the size of a premises' customer service area.

(c) Board approval will be based on the alteration meeting the requirements outlined in this title.

- (a) The board's licensing and regulation division will ~~((respond to))~~ make an initial response on the licensee's request for alteration within five business days.
- (b) The licensee must contact their local liquor control agent when the alteration is completed.
- (c) The licensee may begin liquor service in conjunction with the alteration after the completed alteration is inspected by the liquor control agent.

(d) Board approval will be based on the alteration meeting the requirements outlined in this title.

[Statutory Authority: RCW 66.08.030 and 66.24.600. 10-01-091, § 314-02-130, filed 12/16/09, effective 1/16/10. Statutory Authority: RCW 66.08.030, 66.24.010, 66.24.120. 00-07-091, § 314-02-130, filed 3/15/00, effective 4/15/00.]

REPEALER

The following sections of the Washington Administrative Code are repealed:

WAC 314-02-085	What is a bed and breakfast permit?
WAC 314-02-095	What is a public house license?

REPEALER

The following sections of the Washington Administrative Code are repealed:

WAC 314-16-195	Spirits, beer and wine restaurant restricted--Qualifications.
WAC 314-16-260	Sports/entertainment facility license--Purpose.
WAC 314-16-265	Definitions.
WAC 314-16-270	Sports/entertainment facility licenses--Operating plans.
WAC 314-16-275	How will the operating plans be enforced?