



Notice of Permanent Rule for Outside Service Area Requirements

This explanatory statement concerns the Washington State Liquor Control Board's adoption of an amendment to WAC 314-02-130 regarding outside service requirements

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 April 11, 2015).

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 adopting this rule?

This rulemaking is a result of a petition for rulemaking submitted by the cities of Seattle and Spokane. WAC 314-02-130 requires all outdoor alcohol service areas be enclosed by a 42 inch high barrier. Both Seattle and Spokane have active sidewalk café permitting programs. They have found the 42 inch barrier requirement may have a doubly negative effect on their street level environment. First, there is limited walkable space and the barrier requirement further encroaches on the remaining walkable zone, thereby limiting pedestrian access. Second, the barrier requirement around tables and chairs often does not allow enough room for pedestrians, which results in restaurants being denied the opportunity to have outdoor seating and the opportunity to expand their business. The cities of Seattle and Spokane requested the board allow local jurisdictions to decide where barriers are appropriate.

Summary of all public comments received on this rule proposal.

Two comments of support were received at the public hearing held on February 25, 2015, in the Board Room in Olympia, WA. One written comments was received in support of the rule change.

WAC Changes

AMENDATORY SECTION (Amending WSR 11-01-133, filed 12/21/10, effective 1/21/11)

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) <ul style="list-style-type: none">• <u>Excluding</u> persons under twenty-one years of age from a spirits, beer, and wine restaurant or a spirits, beer, and wine nightclub;• <u>Excluding</u> persons under twenty-one years of age from the dining area of a beer and/or wine restaurant;• <u>Reclassifying</u> a lounge as open to persons under twenty-one years of age;	(a) The board's licensing and regulation division will make initial contact on 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. (c) Board approval will be based on the alteration meeting the requirements outlined

Type of alteration	Approval process and timeline
<ul style="list-style-type: none"> • <u>E</u>xtending 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); • <u>I</u>nitiating room service in a hotel or motel when the restaurant is not connected to the hotel or motel; <p>(2)</p> <ul style="list-style-type: none"> • <u>A</u>ny alteration that affects the size of a premises' customer service area. 	<p>in this title.</p> <p>(a) The board's licensing and regulation division will make an initial response on the licensee's request for alteration within five business days.</p> <p>(b) The licensee must contact their local liquor control agent when the alteration is completed.</p> <p>(c) The licensee may begin liquor service in conjunction with the alteration after the completed alteration is inspected by the liquor control agent.</p> <p>(d) Board approval will be based on the alteration meeting the requirements outlined in this title.</p>

(3) For sidewalk cafe outside service, the board allows local regulations that, in conjunction with a local sidewalk cafe permit, requires a forty-two inch barrier or permanent

demarcation of the designated alcohol serving 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 at a minimum of ten feet apart.

(4) There must be an attendant, wait staff, or server dedicated to the outside service area when patrons are present.

(5) 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.

(6) 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.

[Statutory Authority: RCW 66.08.030 and 66.24.363. WSR 11-01-133, § 314-02-130, filed 12/21/10, effective 1/21/11. Statutory

Authority: RCW 66.08.030 and 66.24.600. WSR 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. WSR 00-07-091, § 314-02-130, filed 3/15/00, effective 4/15/00.]