



Notice of Permanent Rules for Internet Sales & Delivery by B/W Restaurants and Taverns holding an Off-Premises Endorsement

This explanatory statement concerns the Washington State Liquor and Cannabis Board's adoption of a new rule, WAC 314-03-035 Consumer orders, internet sales, and delivery for on-premises beer and/or wine liquor licensees.

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 and Cannabis Board will file the amended rules with the Office of the Code Reviser. These rule changes will become effective 31 days after filing (approximately November 21, 2015).

The Liquor and Cannabis 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@lcb.wa.gov.

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

A petition for rulemaking was submitted by Doug Engler, the licensee of Malt & Vine. Mr. Engler holds a beer/wine tavern license with an off-premises endorsement. The petition requests the board adopt a rule to allow a beer/wine on-premises licensee holding an off-premises endorsement to sell beer and wine over the internet and deliver the product to their customers.

Summary of all public comments received on this rule proposal.

One written comment was received in support of the proposed rules. One written comment was received opposing the proposed rules.

Three comments were received at the public hearing held on October 7, 2015, requesting revisions to the proposed rules.

Comment:

On-premises licensee's primary business is to sell beer and wine for on-premises consumption. There is no justification for the board expanding the rights of a sub-set of on-premises retailers without legislative authority. Only grocery stores and beer/wine specialty shops are allowed to sell alcohol over the internet and deliver. The number of grocery stores and beer/wine specialty shops is a small fraction of the number of licenses holding tavern licenses or beer/wine restaurant licenses.

LCB response: This rule only applies to beer/wine restaurant licensees and tavern licensees that hold an off-premises endorsement per RCW 66.24.354. The off-premises endorsement allows the licensee to sell beer and/or wine for off-premises consumption in original sealed package by the manufacturer or bottler. Internet sales and delivery is an extension of that endorsement. Grocery stores, beer/wine specialty shops, and spirits retailers are all allowed internet sales and delivery. There are 5540 grocery stores licensed, 215 taverns licensed, and 3078 beer and wine restaurants licensed. There are also 1422 spirits retailers licensed.

Comment:

Include a 24 hour wait period for delivery to confirm the person placing the order is at least 21 years of age. Only allow delivery until 11 pm instead of 2am. Limit the quantity a person may order over the internet and have delivered.

LCB response: The person placing the internet order must provide a date of birth is required. The delivery can only be made to a person showing identification that they are at least 21 years of age. The hours a licensee may sell alcohol is between 6 am and 2 am. Most restaurants close well before 2am. The board has not seen any problems with grocery stores, specialty shops, or spirits retailers with this issue.

WAC Changes

See attachment.