

AMENDATORY SECTION (Amending WSR 10-10-126, filed 5/5/10, effective 6/5/10)

WAC 314-07-010 Definitions. Following are definitions for the purpose of this title. Other definitions are in WAC 314-01-005 and RCW 66.08.010.

(1) "Applicant" or "liquor license applicant" means any person or business entity who is considered by the board as a true party of interest in a liquor license or permit application, as outlined in WAC 314-07-035.

(2) "Building" means a structure with floor to ceiling solid walls and a roof.

(3) "Business name" or "trade name" means the name of a licensed business as used by the licensee on signs, advertising, etc.

~~((+3))~~ (4) "Financier" means any person or entity who has made or will make an investment in the licensed business of more than ten thousand dollars. A "financier" can be someone who provides money as a gift, someone who loans money to the business and expects to be paid back the amount of the loan without interest, or someone who invests money into the business expecting a percentage of the profits, but accepts the risk that there may not be a full return on the investment. These persons or entities shall submit appropriate investigation level "financier" financial documents.

~~((+4))~~ (5) "Licensee" or "liquor licensee" means any person or entity that holds a liquor license or permit, or any person or entity who is a true party of interest in a liquor license or permit, as outlined in WAC 314-07-035.

~~((+5))~~ (6) "Public institution" means a public college or university. (See WAC 314-07-020 regarding the liquor control board notifying public institutions of liquor license applications.)

AMENDATORY SECTION (Amending WSR 10-10-126, filed 5/5/10, effective 6/5/10)

WAC 314-07-015 General information about liquor licenses. (1) A person or entity must meet ~~((certain))~~ required qualifications to receive a liquor license, which are continuing qualifications in order to maintain the license.

(2) A liquor license applicant may not exercise any of the privileges of a liquor license until the board approves the license application (see WAC 314-07-055 regarding temporary licenses).

(3) In approving a liquor license, the board reserves the right to impose special conditions as to the involvement in the operations of the licensed business of any former licensees, their former employees, or any person who does not qualify for a liquor license.

WAC 314-07-020 Liquor license qualifications and application process. Each liquor license application is unique and investigated individually. The board may inquire and request documents regarding all matters in connection with the liquor license application. Following is a general outline of the liquor license application process.

(1) Per RCW 66.24.010, the board shall send a notice to the local authority regarding the liquor license application. The local authority has twenty days to respond with a recommendation to approve or an objection to the applicant, location, or both.

(a) The local authority may submit a written request to the board for an extension for good cause shown.

(b) If the application is within a board-recognized alcohol impact area, the board will give the local authority sixty days to comment on the liquor license application or assumption (see WAC 314-12-215(7) for more information).

(2) For an application for a new liquor license privilege, the board may require a public posting notice to be posted at the site for fourteen days.

(3) For an application for a new liquor license privilege, the board shall notify (~~any~~) schools, churches, or public colleges or universities within five hundred feet of the business (see RCW 66.24.010(9) for more information).

(4) The board will verify that the proposed business meets the minimum requirements for the type of license or privilege requested.

(5) The board may conduct an investigation of the applicants' criminal history and administrative violation history, per WAC 314-07-040 and 314-07-045.

(6) The board may conduct a financial investigation in order to verify the source of funds used for the acquisition and startup of the business (~~(, the applicants' right to the real and personal property, and to verify the true party(ies) of interest)~~).

(7) The board will conduct an investigation to establish the applicant's exclusive right to the real and personal property and to verify the true party(ies) of interest.

(8) The board may provide a briefing on liquor laws and rules.

~~((+8+))~~ (9) The board may conduct a final inspection of the proposed licensed business, in order to determine if the applicant has complied with all the requirements of the license or privilege requested.

~~((+9+))~~ (10) Per RCW 66.24.010 (2)(a), all applicants must have resided in the state of Washington for at least one month prior to issuance of a liquor license. For a corporation or a limited liability company, the entity meets this residency requirement if the entity was formed in Washington or has a certificate of authority to do business in Washington.

~~((+10+))~~ (11) All applicants and true parties of interest must be at least twenty-one years of age.

(12) Upon failure to respond to the board licensing and regulation division's requests for information within the timeline provided, the application will be administratively closed.

AMENDATORY SECTION (Amending WSR 10-10-126, filed 5/5/10, effective 6/5/10)

WAC 314-07-035 What persons or entities have to qualify for a liquor license? Per RCW 66.24.010(1), a liquor license must be issued in the name(s) of the true party(ies) of interest.

(1) **True parties of interest** - For purposes of this title, "true party of interest" means:

True party of interest	Persons to be qualified
Sole proprietorship	Sole proprietor and spouse.
General partnership	All partners and spouses.
Limited partnership, limited liability partnership, or limited liability limited partnership	<ul style="list-style-type: none"> • All general partners and spouses; • All limited partners that have more than 10% interest in the partnership and their spouses.
Limited liability company	<ul style="list-style-type: none"> • All members (<u>or persons with equivalent title</u>) with more than 10% interest in the LLC and spouses. (Note: In order for the liquor control board to identify the persons to be qualified, we will need to know all parties that have an interest in the limited liability company or have a pending interest.) • All managers (<u>or persons with equivalent title</u>) and their spouses.
Privately held corporation	<ul style="list-style-type: none"> • All corporate officers (or persons with equivalent title) <u>and their spouses</u>. • All stockholders (<u>or persons with equivalent title</u>) <u>and their spouses</u> who hold more than 10% of the issued or outstanding stock. (Note: In order for the liquor control board to identify the persons to be qualified, we will need to know all parties who have been issued or will be issued corporate stock.)
Publicly held corporation	All corporate officers (or persons with equivalent title).
Multi-level ownership structures	The liquor control board will review each entity to determine which individuals are to qualify according to the guidelines in this rule.

True party of interest	Persons to be qualified
Any entity	<p>Any person who is in receipt of, or has the right to receive, more than ten percent of the gross or net sales from the licensed business during any full or partial calendar or fiscal year. For the purposes of this chapter:</p> <p>((■)) "Gross sales" includes</p> <ul style="list-style-type: none"> • the entire gross receipts from all sales and services made in, upon, or from the licensed business. <p>((■)) "Net sales" means gross</p> <ul style="list-style-type: none"> • sales minus cost of goods sold.

(2) For purposes of this section, "true party of interest" does not mean:

(a) A person or entity receiving reasonable payment for rent (as determined by the board) on a fixed or percentage basis under a bona fide lease or rental obligation, unless the lessor or property manager exercises control over or participates in the management of the business.

(b) A person who receives a bonus as an employee, if: The employee is on a fixed wage or salary and the bonus is not more than twenty-five percent of the employee's prebonus annual compensation; or the bonus is based on a written incentive/bonus program that is not out of the ordinary for the services rendered.

(c) A person or entity contracting with the applicant(s) to sell the property, unless the contract holder exercises control over or participates in the management of the licensed business.

(d) A person or entity receiving payment of franchise fees on a fixed or percentage basis under a bona fide franchise agreement, unless the person or entity receiving payment of franchise fees exercises control over or participates in the management of the licensed business.

(3) **Financiers** - The board may conduct a financial investigation of financiers.

(4) **Persons who exercise control of business** - The board may conduct an investigation of any person or entity who exercises any control over the applicant's business operations.

In cases where there is an entity who is in control of the day-to-day business operation (other than the owner) because of an agreement between the owner and the operator, the operating party becomes a true party of interest. The operator must meet all the qualifications of any other true party of interest and if approved, must be the licensee. The owner may be required to be named on the license as a party of interest based on the terms of the agreement, but will not normally be required to meet all the qualifications of a true party of interest.

AMENDATORY SECTION (Amending WSR 05-07-012, filed 3/4/05, effective 4/4/05)

WAC 314-07-040 What criminal history might prevent a liquor license applicant from receiving or keeping a liquor license? (1) When the board processes a criminal history check on an applicant, it uses a point system to determine if the person qualifies for a license. The board will not normally issue a liquor license to an applicant who has accumulated eight or more points as indicated below:

Description	Time period during which points will be assigned	Points assigned
Felony conviction	Ten years	12 points
Gross misdemeanor conviction	Three years	5 points
Misdemeanor conviction	Three years	4 points
Currently under federal or state supervision for a felony conviction	n/a	8 points
Nondisclosure of any of the above	n/a	4 points each

(2) If a case is pending for an alleged offense that would earn eight or more points, the board will hold the application for the disposition of the case. If the disposition is not settled within ninety days, the board ((will)) may administratively close the application.

(3) The board will not normally issue a liquor license to any person who has demonstrated a pattern of disregard for laws and rules.

AMENDATORY SECTION (Amending WSR 05-07-012, filed 3/4/05, effective 4/4/05)

WAC 314-07-045 What liquor law or rule violation history might prevent an applicant from receiving a liquor license? (1) The board will conduct an investigation of all applicants' liquor law or rule administrative violation history. The board will not normally issue a liquor license to a person, or to an entity with a true party of interest, who has the following administrative violation notice history(~~(; or to any person who has demonstrated a pattern of disregard for laws or rules)~~).

Violation Type (see WAC 314-29-020 through 314-29-035)	Period of Consideration
<ul style="list-style-type: none"> ((■)) Three or more public safety violations((:)); 	<ul style="list-style-type: none"> ((■)) Violations issued within two years of the date the application is received by the board's licensing and regulation division.
<ul style="list-style-type: none"> ((■)) Four or more conduct violations((:)); or 	<ul style="list-style-type: none"> ((■)) Violations issued within the last two years the true party(ies) of interest were licensed.
<ul style="list-style-type: none"> ((■)) Five or more regulatory violations. 	

(2) The board will not normally issue a liquor license to a person who has demonstrated a pattern of disregard for laws or rules including, but not limited to, written and/or verbal warnings.

AMENDATORY SECTION (Amending WSR 10-10-126, filed 5/5/10, effective 6/5/10)

WAC 314-07-055 Temporary retail license. Applicants may ((~~apply for~~)) request a temporary retail liquor license in addition to an annual license for the same business. If granted, the temporary license allows the applicant to operate for a period of up to ((~~sixty~~)) one hundred twenty days while the annual license application is being processed.

Type of Application	Qualification and process to receive a temporary retail license
<p>(1) New business, existing licensed business, or new license type:</p> <ul style="list-style-type: none"> • Applicant is applying for a license at a business location that does not hold a current, valid liquor license. • Applicant is applying for the same license privilege at a location that has a valid license that has not expired. • Applicant is applying for a license or a business that has an existing license at the location, but the applicant is applying for a different license privilege(s). 	<p>In order to receive a temporary license, the applicant(s) must:</p> <ul style="list-style-type: none"> • Sign the acknowledgment form. • Clear a criminal history check, per WAC 314-07-040. • Complete a briefing on liquor laws and regulations, per WAC 314-07-020(7).

Type of Application	Qualification and process to receive a temporary retail license
	<ul style="list-style-type: none"> • The local authority and any churches, schools, or public colleges or universities within 500 feet of the proposed licensed business must have responded to the liquor control board's notice of liquor license application, or the time period must have passed. See WAC 314-07-020, subsections (1), (2), and (3) for more information. • When the annual liquor license is issued, the fee will be pro-rated back to the date of issuance of the temporary license.

(2) For the purposes of this section, "retail liquor license" shall include all classes of liquor licenses that allow the holder to sell liquor directly to the public.

(3) The privilege of having a temporary license issued upon an application for license does not apply to breweries or wineries.

(4) A temporary license under subsection (1) above may be issued for a distributor license applicant.

AMENDATORY SECTION (Amending WSR 10-10-126, filed 5/5/10, effective 6/5/10)

WAC 314-07-060 Reasons for denial or cancellation of a temporary license. Following is a list of reasons a temporary permit may not be issued or can be revoked. Per RCW 66.24.010, the board has broad discretionary authority to approve or deny a liquor license or permit application. Refusal by the board to issue or extend a temporary license shall not entitle the applicant to request a hearing.

(1) An applicant who has received a temporary license and their application is later administratively closed, and they reapply for a liquor license at the same location.

(2) The local authority objects for any reason.

(3) The applicant affirmatively refuses to submit documents requested by the board to conduct the application investigation.

(4) The applicant accrues or is involved in ~~((a))~~ an administrative violation committed while operating under a temporary license.

(5) The investigator is unable to determine the true party of interest.

(6) The applicant fails to meet the basic requirements of the license.

(7) ~~((Denial of the permanent license is recommended to the board.))~~ An objection is received from a privately or publicly funded

elementary or secondary school within five hundred feet of the proposed location.

(8) Violation history of the applicant is found to be sufficient to raise the application to threshold decision.

(9) Upon denial of the permanent license, the temporary license will be immediately revoked.

AMENDATORY SECTION (Amending WSR 10-10-126, filed 5/5/10, effective 6/5/10)

WAC 314-07-065 Reasons the board may deny a liquor license application. Following is a list of reasons the board may deny a liquor license application. Per RCW 66.24.010, the board has broad discretionary authority to approve or deny a liquor license or permit application.

(1) Failure to meet qualifications or requirements for the specific liquor license or privilege, as outlined in this Title 314 WAC and Title 66 RCW.

(2) Failure by any applicant or financier to submit information or documentation requested by the board.

(3) Refusal by any applicant or financier to submit information or documentation requested by the board.

(4) Misrepresentation of fact by any applicant or financier.

~~((+4))~~ (5) Failure to meet the criminal history standards outlined in WAC 314-07-040.

~~((+5))~~ (6) Failure to meet the liquor law or rule violation history standards outlined in WAC 314-07-045.

~~((+6))~~ (7) Source of funds used for the acquisition, startup and operation of the business is questionable or unverified.

~~((+7))~~ (8) Objection from the local authority or from the public (see WAC 314-09-010 and RCW 66.24.010(8)).

~~((+8))~~ (9) Objection from the following entities if they are within five hundred feet of the proposed business: A public school, a private school that meets the requirements of chapter 28A.195 RCW, a church, or a public college or university. See WAC 314-09-010 and RCW 66.24.010(9) for more information. Note: Per RCW 66.24.010(9), the board may not issue a new liquor license if the board receives objection from a public school within five hundred feet of the proposed licensed business.

~~((+9))~~ (10) The board determines that the issuance of the liquor license will not be in the best interest of the welfare, health, or safety of the people of the state.

AMENDATORY SECTION (Amending WSR 05-07-012, filed 3/4/05, effective 4/4/05)

WAC 314-07-070 Process if the board denies a liquor license application. If the board denies a liquor license application, the applicants may:

(1) Request an administrative hearing per chapter 34.05 RCW, the Administrative Procedure Act.

(2) (~~Reapply for the license no sooner than one year from the original denial date.~~) Not apply for any license for one year from the date of the board's final order. Exceptions may be granted on a case-by-case basis at the sole discretion of the board or their delegated staff.

AMENDATORY SECTION (Amending WSR 05-07-012, filed 3/4/05, effective 4/4/05)

WAC 314-07-090 Change of business name. (1) If you wish to change the name of your business, you must apply for a change of trade name with the department of (~~licensing, master~~) revenue, business license service.

(2) If you wish to (~~change~~) amend your corporation or limited liability company name, you must apply for a change of name through the secretary of state.

(3) See WAC 434-12 for guidelines for trade names.

AMENDATORY SECTION (Amending WSR 05-07-012, filed 3/4/05, effective 4/4/05)

WAC 314-07-095 Discontinue liquor sales. You must notify the board's enforcement and education division if you plan to stop (~~doing business~~) liquor sales for more than thirty days, or if you plan to permanently discontinue liquor sales.

AMENDATORY SECTION (Amending WSR 05-07-012, filed 3/4/05, effective 4/4/05)

WAC 314-07-100 Death or incapacity of licensee. (1) The appointed guardian, executor, administrator, receiver, trustee, or assignee must notify the board's licensing and regulation division in the event of the death, incapacity, receivership, bankruptcy, or assignment for benefit of creditors of any licensee.

(2) Subject to a criminal background check, the board may give the appointed guardian, executor, administrator, receiver, trustee, or assignee written approval to continue liquor sales on the licensed business premises for the duration of the existing license and to renew the license when it expires.

(3) When the matter is resolved by the court, the true party(ies) of interest must apply for a liquor license for the business.

AMENDATORY SECTION (Amending WSR 05-07-012, filed 3/4/05, effective 4/4/05)

WAC 314-07-110 Are liquor license fees refundable? When a license is suspended, revoked, or (~~cancelled~~) canceled, or the licensed business is discontinued, the unused portion of the liquor license fee will not be refunded. There are two exceptions:

(1) Per RCW 66.24.420 (1)(b), a spirits, beer, and wine restaurant that is located in an unincorporated city or town may receive a refund of the unused portion of their license fees, calculated per calendar quarter.

(2) Per RCW 66.24.015, if a liquor license application is denied or is administratively closed by the board, the application fee will be refunded less a seventy-five dollar (~~non-refundable~~) nonrefundable processing fee.

AMENDATORY SECTION (Amending WSR 09-21-048, filed 10/14/09, effective 11/14/09)

WAC 314-07-121 Board delegation of authority to make initial threshold determinations. (1) The board may delegate to the licensing and regulation division director the authority to make initial threshold determinations on liquor license applications and renewals where:

(a) Objections have been submitted; or

(b) The applicant/licensee appears to be ineligible for a license due to failure to meet requirements under statute or rule. Failure to meet eligibility requirements includes data obtained through a criminal background check or criminal history record information (CHRI) report.

(2) Threshold determinations will be made in accordance with the provisions of RCW 66.24.010 as well as all other relevant sections of state law and Title 314 WAC. The licensing and regulation division director shall:

(a) Give substantial weight to objections from a local authority where objections are based on chronic illegal activity;

(b) Give due consideration to the location of a new liquor license application as it relates to the proximity to churches, schools, and public institutions as well as (~~other~~) any considerations raised by the local authority.

(3) If the licensing and regulation director determines that the board will seek denial of a license application or nonrenewal of an existing license, an aggrieved applicant/licensee may request an adjudicative hearing before an administrative law judge (see chapter 314-09 WAC).

(4) If the licensing and regulation director determines that the board will seek to approve a license or renewal over the objection of the local authority, the local authority may request an adjudicative hearing before an administrative law judge (see chapter 314-09 WAC). The licensing and regulation director will determine whether an adjudicative hearing will be granted to the local authority.

An adjudicative hearing will be granted where the objection is based on alleged conduct related to public safety within the jurisdiction of the board under Title 66 RCW.