



Washington State
Liquor and Cannabis Board

Date: December 18, 2024

To: Jim Vollendroff, Acting Board Chair
Ollie Garrett, Board Member

From: Daniel Jacobs, Acting Policy & Rules Manager

Copy: Will Lukela, Director
Toni Hood, Deputy Director
Justin Nordhorn, Director of Policy and External Affairs
Becky Smith, Director of Licensing and Regulation
Paul Magerl, Acting Director of Education and Enforcement

Subject: **Request for approval of final rules (CR 103) implementing House Bill (HB) 2204 regarding emergency liquor permits.**

The Rules Coordinator requests that the Board adopt the final rules and approve the CR 103 to create a new rule to implement [HB 2204 \(chapter 91, Laws of 2024\)](#), codified as [RCW 66.20.010\(19\)](#), which authorizes the Liquor and Cannabis Board (LCB) to issue emergency liquor permits to liquor manufacturers when they are unable to access their premises or operate due to an emergency or road closure.

The Board has been briefed on the rule development background and public comment received for this rulemaking project. A CR 103 memorandum, CR 103 form, concise explanatory statement, and rule text are attached.

If approved, the concise explanatory statement will be sent to everyone who provided public comment or testimony, the CR 103 form and rule text will be filed with the Code Reviser, and the new rule will be effective January 18, 2025.

Approve Disapprove _____ _____
 Jim Vollendroff Date
 Acting Board Chair

Approve Disapprove _____ _____
 Ollie Garrett Date
 Board Member

Attachments: CR 103 Memorandum
Concise Explanatory Statement



CR 103 Memorandum

Implementing House Bill (HB) 2204 Regarding Emergency Liquor Permits

Date: December 18, 2024
Presented by: Daniel Jacobs, Acting Rules & Policy Manager

Background

Following the 2024 legislative session, the Washington State Legislature passed [House Bill \(HB\) 2204 \(chapter 91, Laws of 2024\)](#), codified as [RCW 66.20.010\(19\)](#), and went into effect on June 6, 2024. This law created an emergency liquor permit for liquor manufacturers who are temporarily unable to access their premises, allowing them to operate in a retail capacity on the premises of another liquor licensee with retail privileges. The Liquor & Cannabis Board (LCB) issued a [policy statement](#) on emergency liquor permits in early July 2024. The CR-101 was filed on August 14, 2024 ([WSR 24-17-049](#)), and no comments were received during the informal comment period.

Stakeholder Engagement

The project team consists of representation from the Attorney General's Office, Enforcement & Education division, Licensing division, and the Finance division. Two virtual stakeholder engagement sessions were recorded on [Monday, September 30](#) and [Thursday, October 3, 2024](#). The draft rule language was [posted](#) on the LCB's website and included in the stakeholder engagement invitation sent out via GovDelivery on September 16, 2024. Following the September 30 stakeholder engagement session, the [PowerPoint presentation](#) was posted to the Laws and Rules [webpage](#). Between the first and second stakeholder engagement, the Washington Wine Institute emailed the rules team to indicate their support for the proposed rule language.

The CR 102 was filed on October 23, 2024 ([WSR 24-21-168](#)) with the proposed rule changes identified in the table below. One written comment was submitted following the filing of the CR 102 and prior to the public hearing held on December 4, 2024. The comment was supportive of the proposed rules and suggested no changes.

No testimony was provided during the public hearing.

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Rule Necessity & Description of Rule Changes

WAC 314-38-120 Emergency liquor permits		
Section	Proposed Rule	Reason
(1)	Per RCW 66.20.010, there is an emergency liquor permit for eligible licensees to authorize the sale, service, and consumption of liquor of their own production on the premises of another liquor licensee with retail sales privileges when an emergency has made the permit holder's premises inaccessible and unable to operate due to an emergency or road closure.	The language mimics that found in RCW 66.20.010(19), with one exception: the use of the wording "of their own production[,]" which is added to ensure that the purpose of the statute is maintained in rule, allowing manufacturers to continue the retail activities allowed by their license during an emergency closure.
(2)	There is no fee for the emergency liquor permit.	LCB has made the decision within its authority not to charge fees to licensees experiencing this hardship.
(3)	The following licensees are eligible to obtain an emergency liquor permit:	These are the liquor licensees with manufacturing privileges, per the following: (a) RCW 66.24.140 , RCW 66.24.145 (b) RCW 66.24.244 , RCW 66.24.240 (c) RCW 66.24.170
(3)(a)	Distilleries, craft distilleries, and fruit and wine distilleries;	
(3)(b)	Domestic breweries and microbreweries; and	
(3)(c)	Domestic wineries.	
(4)	The following licensees are eligible to operate as a host of a permit holder:	These are the liquor licensees eligible to host a permit holder: 1) All of the manufacturing licensees, and 2) All liquor licensees with retail privileges except for caterers, which do not have a dedicated premises, private clubs, which are not intended to be open to the public, and sports entertainment facilities, which operate in such a way that allowing them to host a permit holder would be infeasible.
(4)(a)	All the licensees identified in subsection (3) of this section;	
(4)(b)	All liquor licensees with retail sales privileges, except for the following:	
(4)(b)(i)	Caterers, licensed under RCW 66.24.690;	
(4)(b)(ii)	Private clubs licensed under RCW 66.24.450 or 66.24.452; and	
(4)(b)(iii)	Sports entertainment facilities licensed under RCW 66.24.570.	
(5)(a)	To be eligible to host a permit holder, the host must have the authority to sell the type of products manufactured by the permit holder.	The goal is to prevent a host from selling liquor it is not ordinarily permitted to sell on its premises, such as a beer/wine restaurant hosting a distillery and thus having spirits served on premises.
(5)(b)	If the permit holder is a distillery, craft distillery, or fruit and wine distillery, the host must comply with the food offerings requirements in WAC 314-28-067.	Per RCW 66.24.1471 and WAC 314-28-067, distilleries, craft distilleries and fruit and wine distilleries must satisfy certain food offering requirements. This ensures liquor licensees required to meet food offerings requirements cannot avoid these requirements through use of the emergency liquor permit.
(6)	The permit holder shall identify the host when applying to the board's licensing division for an emergency liquor permit.	This is consistent with existing practice when applying for an emergency liquor permit. Additionally, this ensures that a host is identified prior to a permit holder requesting a permit, and thus presumably informed that they are expected to host a permit holder.
(7)(a)	The permit shall last for 30 days.	This language is from RCW 66.20.010(19).
(7)(b)	If the emergency continues, the permit may be renewed for an additional 30 days.	
(8)	The permit holder may store no more than a 30-day supply of liquor at the host premises.	

(8)(a)	The permit holder's liquor must be kept separate from the host liquor.	
(8)(b)	Host employees and agents are permitted to serve liquor provided by the permit holder if they have the MAST permits required by RCW 66.20.310 and chapter 314-17 WAC.	This wording is meant to ensure that employees and agents of hosts and permit holders have the same level of MAST permit privileges to serve liquor, and as stated above in (5)(a), the host and permit holder will have the same alcohol sales privileges.
(8)(c)	The permit holder's employees and agents must meet the same MAST permit requirements as the host's employees and agents.	
(9)	A host and permit holder may not enter into any type of agreement that would involve impermissible direct or indirect interests as provided in chapter 66.28 RCW.	Reiterating that hosts and permit holders cannot use the emergency liquor permit to enter business agreements that are otherwise prohibited by law or rule.
(10)(a)	A host may have no more than three permit holders operating on its premises at a time.	This language is from RCW 66.20.010(19).
(10)(b)	A permit holder may only have one permit at a time.	This is to prevent a permit holder with one location from using the emergency liquor permit as an opportunity to operate at multiple locations.
(10)(c)	The permit holder must conspicuously post the emergency liquor permit at the host premises at all times the permit is in use and be available for inspection by liquor enforcement officers.	This language is from WAC 314-11-060(3) about required public display of liquor licenses, and the reasoning is similar: to allow patrons and liquor enforcement officers to know that permit holders are legally operating on the premises.
(11)(a)	Hosts and permit holders must maintain separate records consistent with Titles 66 RCW and 314 WAC as it applies to the host and permit holder.	This is consistent with WAC 314-03-200(4) on licensees sharing outdoor spaces and the need to maintain separate records.
(11)(b)	Hosts and permit holders must comply with all tax payment and reporting requirements in Titles 66 RCW and 314 WAC.	This is to ensure that licensees continue to comply with all tax payment requirements as if they were operating from the original premises.
(11)(c)	Hosts and permit holders must use distinctively marked glassware or serving containers to identify the source of any alcohol product being consumed on the host premises. The distinctive markings may be either permanent or temporary. Any temporary markings must remain on the glassware or serving containers through the duration of use by the customer.	Language from WAC 314-03-200 regarding outdoor service areas and licensees sharing space.
(12)	Hosts and all permit holders on the hosts' premises are jointly responsible for any violation or enforcement issues unless it can be demonstrated that the violation or enforcement issue was due to one or more licensee's specific conduct or action, in which case the violation or enforcement action applies only to those identified licensees.	
(13)	Definitions: For purposes of this section, the following definitions apply:	
(13)(a)	"Emergency" means an emergency or disaster as defined in RCW 38.52.010.	This language is from RCW 66.20.010(19).
(13)(b)	"Host" means a liquor licensee with the same retail sales privileges that allows a permit holder to operate on their premises pursuant to the terms of the emergency liquor permit.	Definition needed to identify the licensee who is allowing the emergency permit liquor holder to temporarily operate on their premises.
(13)(c)	"Inaccessible" means unable to be safely entered, reached, or used for on-premises business purposes for more than 48 hours.	Term needs to be defined because it is used in RCW 66.20.010(19) and no definition is provided.

(13)(d)	"Permit holder" means a licensed manufacturer that has experienced an emergency that has made its premises inaccessible and unable to operate due to an emergency or road closure.	Definition needed to identify the licensee who is eligible to obtain the emergency liquor permit.
(13)(e)	"Road closure" means whenever the condition of any state highway, county road, city street, or right-of-way is such that its use by vehicles will be dangerous to traffic, or it is being constructed, altered, or repaired in such a manner as to require their use to be closed or restricted to all vehicles for more than 48 hours.	Language used is from RCW 47.48.010 regarding Washington State Department of Transportation's authority to close roads.
(13)(f)	"Unable to operate" means unable to perform the on-premises activities which the liquor license authorizes in Titles 66 RCW and 314 WAC.	Term needs to be defined because it is used in RCW 66.20.010(19) and no definition is provided.

Variance between proposed rule (CR 102) and final rule:

No changes has been made to the proposed rule language (CR 102).

Rule Implementation (RCW 34.05.328(3)(a))

Informing and Educating Persons Impacted by the Rule (RCW 34.05.328(3)(b))

To help inform and educate persons impacted by the rule, the LCB will:

- Email notice with the adoption materials to persons who commented on the rules, the rule making and licensee distribution lists, and the general LCB GovDelivery list;
- Post rule adoption materials, including final rule language, response to comments, final analysis (Concise Explanatory Statement), and any other relevant documents on the rulemaking webpage for public access.

Promoting and Assisting Voluntary Compliance (RCW 34.05.328(3)(c))

LCB will promote and assist voluntary compliance through technical assistance.

- LCB staff are available to respond to phone and email inquiries about the rules.
- Agency leadership and staff have actively participated in rule development and revisions and are familiar with the final product. Internal and external education efforts to share knowledge and assure consistent application of rule will be supported.
- Rule and guidance documents will be available on the LCB website.
- LCB will use available and customary resources to disseminate materials and information to all persons impacted by the rules.

These actions are designed to inform and educate all persons impacted by the rules to support and promote voluntary compliance.

Training and Informing LCB Staff

Several LCB staff responsible for implementing these adopted rules work directly with impacted parties and are already familiar with the nuances of the rule changes. Additional internal guidance documents may be prepared as necessary. The LCB will also consider:

- Provision of internal and external training and education, as needed. potentially including webinars, training, and videos if appropriate;
- Coordinating and centrally locating decisions to assure consistency between agency, staff, and industry.

Rule Effectiveness Evaluation (RCW 34.05.328(3)(d))

After the rule becomes effective, the LCB will evaluate the effectiveness of this rule in the following ways, including but not limited to:

- Monitoring questions received after the effective date of this rule, and adjusting training and guidance accordingly;
- Monitoring the number of enforcement actions, including type, resolution, and the outcome;
- Monitoring the number of requests for rule language revisions or changes;
- Monitoring the number of requests for rule interpretation;
- Monitoring licensee feedback including, but not limited to, the number of requests for assistance.



RULE-MAKING ORDER

PERMANENT RULE ONLY

CR-103P (December 2017) (Implements RCW 34.05.360)

Agency: Washington State Liquor and Cannabis Board

Effective date of rule:

Permanent Rules

- 31 days after filing.
 Other (specify) _ (If less than 31 days after filing, a specific finding under RCW 34.05.380(3) is required and should be stated below)

Any other findings required by other provisions of law as precondition to adoption or effectiveness of rule?

- Yes No If Yes, explain: .

Purpose: The Washington State Liquor and Cannabis Board (Board) has created one section of Chapter 314-38 WAC (WAC 314-38-120) to implement House Bill 2204 (chapter 91, Laws of 2024) codified at RCW 66.20.010(19), which creates an emergency liquor permit for liquor manufacturers who are temporarily unable to operate or access their premises due to an emergency or road closure to allow them to operate in a retail capacity on the premises of another liquor licensee with retail sales privileges, subject to several conditions identified in RCW 66.20.010(19). The rule identifies several conditions of operation that are necessary to align the operation of a liquor manufacturer within the existing rules for liquor licensees with on-premises consumption privileges.

Citation of rules affected by this order:

New: WAC 314-38-120
 Repealed:
 Amended:
 Suspended:

Statutory authority for adoption: RCW 66.08.030, RCW 66.20.010, RCW 66.98.070

Other authority:

PERMANENT RULE (Including Expedited Rule Making)

Adopted under notice filed as WSR 24-21-168 on October 23, 2024_ (date).
 Describe any changes other than editing from proposed to adopted version: None

If a preliminary cost-benefit analysis was prepared under RCW 34.05.328, a final cost-benefit analysis is available by contacting:

Name: Daniel Jacobs, Acting Rules & Policy Manager
 Address: 1025 Union Avenue SE, Olympia WA 98501
 Phone: 360-480-1238
 Fax: 360-664-3208
 TTY:
 Email: rules@lcb.wa.gov
 Web site: www.lcb.wa.gov
 Other:

**Note: If any category is left blank, it will be calculated as zero.
No descriptive text.**

**Count by whole WAC sections only, from the WAC number through the history note.
A section may be counted in more than one category.**

The number of sections adopted in order to comply with:

Federal statute:	New	___	Amended	___	Repealed	___
Federal rules or standards:	New	___	Amended	___	Repealed	___
Recently enacted state statutes:	New	1	Amended	___	Repealed	___

The number of sections adopted at the request of a nongovernmental entity:

New	___	Amended	___	Repealed	___
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The number of sections adopted on the agency's own initiative:

New	<u>1</u>	Amended	___	Repealed	___
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The number of sections adopted in order to clarify, streamline, or reform agency procedures:

New	___	Amended	___	Repealed	___
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The number of sections adopted using:

Negotiated rule making:	New	___	Amended	___	Repealed	___
Pilot rule making:	New	___	Amended	___	Repealed	___
Other alternative rule making:	New	1	Amended	___	Repealed	___

Date Adopted: December 18, 2024

Name: Jim Vollendroff

Title: Acting Board Chair

Signature:

Place signature here

NEW SECTION

WAC 314-38-120 Emergency liquor permits. (1) Per RCW 66.20.010, there is an emergency liquor permit for eligible licensees to authorize the sale, service, and consumption of liquor of their own production on the premises of another liquor licensee with retail sales privileges when an emergency has made the permit holder's premises inaccessible and unable to operate due to an emergency or road closure.

(2) There is no fee for the emergency liquor permit.

(3) The following licensees are eligible to obtain an emergency liquor permit:

(a) Distilleries, craft distilleries, and fruit and wine distilleries;

(b) Domestic breweries and microbreweries; and

(c) Domestic wineries.

(4) The following licensees are eligible to operate as a host of a permit holder:

(a) All the licensees identified in subsection (3) of this section;

(b) All liquor licensees with retail sales privileges, except for the following:

(i) Caterers, licensed under RCW 66.24.690;

(ii) Private clubs licensed under RCW 66.24.450 or 66.24.452; and

(iii) Sports entertainment facilities licensed under RCW 66.24.570.

(5) (a) To be eligible to host a permit holder, the host must have the authority to sell the type of products manufactured by the permit holder.

(b) If the permit holder is a distillery, craft distillery, or fruit and wine distillery, the host must comply with the food offerings requirements in WAC 314-28-067.

(6) The permit holder shall identify the host when applying to the board's licensing division for an emergency liquor permit.

(7) (a) The permit shall last for 30 days.

(b) If the emergency continues, the permit may be renewed for an additional 30 days.

(8) The permit holder may store no more than a 30-day supply of liquor at the host premises.

(a) The permit holder's liquor must be kept separate from the host liquor.

(b) Host employees and agents are permitted to serve liquor provided by the permit holder if they have the MAST permits required by RCW 66.20.310 and chapter 314-17 WAC.

(c) The permit holder's employees and agents must meet the same MAST permit requirements as the host's employees and agents.

(9) A host and permit holder may not enter into any type of agreement that would involve impermissible direct or indirect interests as provided in chapter 66.28 RCW.

(10) (a) A host may have no more than three permit holders operating on its premises at a time.

(b) A permit holder may only have one permit at a time.

(c) The permit holder must conspicuously post the emergency liquor permit at the host premises at all times the permit is in use and be available for inspection by liquor enforcement officers.

(11)(a) Hosts and permit holders must maintain separate records consistent with Titles 66 RCW and 314 WAC as it applies to the host and permit holder.

(b) Hosts and permit holders must comply with all tax payment and reporting requirements in Titles 66 RCW and 314 WAC.

(c) Hosts and permit holders must use distinctively marked glassware or serving containers to identify the source of any alcohol product being consumed on the host premises. The distinctive markings may be either permanent or temporary. Any temporary markings must remain on the glassware or serving containers through the duration of use by the customer.

(12) Hosts and all permit holders on the hosts' premises are jointly responsible for any violation or enforcement issues unless it can be demonstrated that the violation or enforcement issue was due to one or more licensee's specific conduct or action, in which case the violation or enforcement action applies only to those identified licensees.

(13) **Definitions:** For purposes of this section, the following definitions apply:

(a) "Emergency" means an emergency or disaster as defined in RCW 38.52.010.

(b) "Host" means a liquor licensee with the same retail sales privileges that allows a permit holder to operate on their premises pursuant to the terms of the emergency liquor permit.

(c) "Inaccessible" means unable to be safely entered, reached, or used for on-premises business purposes for more than 48 hours.

(d) "Permit holder" means a licensed manufacturer that has experienced an emergency that has made its premises inaccessible and unable to operate due to an emergency or road closure.

(e) "Road closure" means whenever the condition of any state highway, county road, city street, or right-of-way is such that its use by vehicles will be dangerous to traffic, or it is being constructed, altered, or repaired in such a manner as to require their use to be closed or restricted to all vehicles for more than 48 hours.

(f) "Unable to operate" means unable to perform the on-premises activities which the liquor license authorizes in Titles 66 RCW and 314 WAC.



Notice of Permanent Rules - HB 2204 – Emergency Liquor Permits

Concise Explanatory Statement

This concise explanatory statement concerns the Washington State Liquor and Cannabis Board's (LCB) adoption of rule amendments that creates a new section of Chapter 314-38 WAC (WAC 314-38-120) to implement [House Bill 2204 \(chapter 91, Laws of 2024\)](#), codified as [RCW 66.20.010\(19\)](#), which creates an emergency liquor permit for liquor manufacturers who are temporarily unable to access their premises, allowing them to operate in a retail capacity on the premises of another liquor licensee with retail privileges.

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. The concise explanatory statement must be provided to any person upon request, or from whom the LCB received comment.

The LCB appreciates and encourages your involvement in the rule making process. If you have questions, please e-mail at rules@lcb.wa.gov.

Background and reasons for adopting these rules:

Following the 2024 legislative session, the Washington State Legislature passed [House Bill \(HB\) 2204 \(chapter 91, Laws of 2024\)](#), codified as [RCW 66.20.010\(19\)](#), and went into effect on June 6, 2024. This law created an emergency liquor permit for liquor manufacturers who are temporarily unable to access their premises, allowing them to operate in a retail capacity on the premises of another liquor licensee with retail privileges. The Liquor & Cannabis Board (LCB) issued a [policy statement](#) on emergency liquor permits in early July 2024.

The project team consists of representation from the Attorney General's Office, Enforcement & Education division, Licensing division, and the Finance division. Two virtual stakeholder engagement sessions were recorded on [Monday, September 30](#) and [Thursday, October 3, 2024](#). The draft rule language was [posted](#) on the LCB's website and included in the stakeholder engagement invitation sent out via GovDelivery on September 16, 2024. Following the September 30 stakeholder engagement session, the [PowerPoint presentation](#) was posted to the Laws and Rules [webpage](#). Between the first and second stakeholder engagement, the Washington Wine Institute emailed the rules team to indicate their support for the proposed rule language.

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New Rule: WAC 314-38-120 – Emergency Liquor Permits

Section 1: This language mostly repeats [RCW 66.20.010\(19\)](#), except for expressly stating that the permit is to allow manufacturing licensees to sell alcohol “of their own production.” This is within the meaning of the permit and original legislation because it clarifies that this permit is intended to allow manufacturers, who otherwise may sell liquor of their own production on their own premises in a retail capacity, to continue these retail activities while being temporarily displaced, to sell their own liquor on the retail premises of another licensee.

Section 2: This language states that the LCB will not charge money for the issuance of this permit. There is no statutory requirement for LCB to charge a fee, nor a specific fee identified in statute, and the LCB has decided not to charge a fee to manufacturing licensees during a period that they are experiencing financial hardship.

Section 3: This language states that distilleries, craft distilleries, fruit and wine distilleries, domestic breweries, microbreweries and domestic wineries are allowed to obtain the emergency liquor permit, as stated in [RCW 66.20.010\(19\)](#) “where the application is for an emergency liquor permit by *a licensed manufacturer.*” (italics added).

Section 4: This language identifies all liquor licensees as eligible to host emergency liquor permit holders with a few exceptions: caterers, which do not have their own premises to host; private clubs, which are not open to the public per [RCW 66.24.450](#) and [RCW 66.24.452](#); and sports entertainment facilities, which are a unique type of liquor licensee that would be impracticable to host an emergency permit holder, as it would be more hassle than it would be worth to have a large football stadium host a winery on a temporary basis. All of these are prohibited from hosting emergency liquor permit holders.

Section 5: This language clarifies that a host must be authorized to sell the type of liquor manufactured by the permit holder. For example, a beer/wine restaurant not authorized to serve spirits may not host a distillery, as that would result in spirits being served on premises that would not be permitted to serve spirits without an emergency liquor permit holder temporarily operating there. This is a theme continued throughout the proposed rules: an emergency liquor permit shall not be used to allow licensees to operate in ways they are not otherwise permitted to operate.

This is also reflected in (5)(b), which states that distilleries must continue to satisfy the food offerings requirements identified in [WAC 314-28-067](#) and [RCW 66.24.1471](#), and the host must also satisfy those food offerings requirements to be eligible to host a distillery.

Section 6: This states that a permit holder shall identify the host when applying for an emergency liquor permit. This is consistent with existing practice and means that a

licensee interested in applying for a permit should identify a tentative host who agrees prior to applying for a permit.

Section 7: Per [RCW 66.20.010\(19\)](#), the permit shall be for 30 days, and can be extended for another 30 days so long as the emergency continues.

Section 8: The first two requirements in (8) and (8)(a) are dictated by statute in [RCW 66.20.010\(19\)](#). The MAST reciprocity requirements in (8)(b) and (8)(c) continue with the theme of ensuring that these permits are not used to engage in otherwise impermissible activity. The MAST permits required for a host's employees must be sufficient to allow them to serve the permit holder's liquor, as allowed by statute, and vice versa. This is not supposed to be used an opportunity to allow service of liquor by individuals not permitted to provide such service.

Section 9: Continuing with the theme of not allowing this to become an opportunity for an end-run around other alcohol laws and regulations, this section specifically identifies agreements involving impermissible direct or indirect interests, more commonly known as "undue influence," as remaining prohibited despite the existence of an emergency liquor permit.

Section 10: Section (10)(a) is dictated by statute at [RCW 66.20.010\(19\)](#). Section (10)(b) continues with the theme repeatedly identified above and provides that an emergency liquor permit holder can only have one permit at a time, so a manufacturer with one established premises cannot use this as an opportunity to temporarily operate out of three different hosts. Section (10)(c) borrows language from [WAC 314-11-060\(3\)](#) where liquor licenses are required to be conspicuously posted for public inspection and viewing by liquor enforcement officers. The same logic applies here in allowing public viewing and inspection of emergency liquor permits.

Section 11: This section operates generally on the theme of keeping everything separated between hosts and permit holders. The licensees remain distinct legal entities while operating on the same premises. As such, they need to maintain separate financial records (11)(a), they need to continue to pay taxes and make payments as separate entities (11)(b), and they need to use distinctively marked glassware to serve liquor (11)(c). The language of (11)(c) is borrowed from [WAC 314-03-200\(4\)](#) which identifies how licensees can share outdoor spaces.

Section 12: Continuing to borrow from [WAC 314-03-200\(4\)](#) on shared outdoor spaces, this language on joint liability explains that if a violation occurs, the default presumption will be that the host and permit holder share responsibility for the violation, and the responsibility of attributing fault or liability will be on the licensees themselves, not on the LCB.

Section 13: The definitions provided are identified in more detail in the table below. The time frame of 48 hours was used because a licensee that is closed for less than that may not find it worthwhile to make all the arrangements and apply for a permit, move all

the liquor and supplies etc., if the closure is only temporary. This also ensures that routine freeway closures or other periodic disruptions of the like do not rise to the level where an emergency liquor permit is warranted or necessary.

Rulemaking history for this adopted rule:

CR 101 – filed August 14, 2024, as [WSR #24-17-049](#)
CR 102 – filed October 23, 2024, as [WSR #24-21-168](#)
Public hearing held December 4, 2024

The effective date of this new rule is January 18, 2025.

One public comments were submitted on the rule proposal in the time leading up to the public hearing:

1. Josh McDonald, Executive Director, Washington Wine Institute

Dear Washington State Liquor and Cannabis Board Rules Team,

Thank you for the opportunity to comment on this CR 102. During the 2024 legislative session, the Washington Wine Institute supported the passage of HB 2204 establishing an emergency liquor permit for wineries, breweries and distillers allowing the licensee to share space with a “host” licensee whose retail space is not impacted by a disaster situation. We are excited to see the permit now available to wineries and other qualifying licensees. While we hope these permits are rarely needed, both natural and man-made disasters continue to impact the Washington wine industry thereby making the permit’s existence an important option if a winery finds itself closed for an indeterminate amount of time.

We do not have any concerns with the CR 102. The rules are clear, well written, and any questions we had were answered during the listening session. We want to call out two sections of the proposed rules for short comments:

Section 2: We are grateful to the WSLCB for suggesting there will not be a fee for this permit. A winery currently shut down due to a disaster situation is already experiencing financial loss, so adding another cost to incur to reopen in a host shared space would be frustrating to the licensee. Since HB 2204 does not require the WSLCB to charge a fee for this permit, we want to thank you for deciding not to charge the impacted licensee.

Section 13c: *"Inaccessible" means unable to be safely entered, reached, or used for on-premises business purposes for more than 48 hours.* We agree a time frame of 48 hours is reasonable for a licensee who finds their retail space inaccessible or similarly inoperable due to a disaster situation. A licensee will need a few days to make the decision on whether they want to utilize the permit, find a host licensed retail space that meets the requirements under HB 2204/WAC 314-28-120, and transport wine of their own production to that space once the permit is approved. A shorter amount of time does not make logistical sense, and a longer period of time may begin to force the licensee into revenue loss that we want to see avoided if possible.

Continued on next page →

We appreciate the WSLCB's work so far on this rulemaking effort. We also want to recognize and thank Daniel Jacobs and LCB rules team for their hard work on creating a set of reasonable, solution-oriented WAC rules meant to help implement and guide licensees and the LCB when one of these permits is needed. The emergency operations permit will be a significant help to small businesses like wineries when they find themselves unable to operate in their current tasting room due to a natural or man-made emergency.

Kind Regards

A handwritten signature in black ink that reads "Josh McDonald". The signature is written in a cursive, flowing style.

Josh McDonald
Executive Director
Washington Wine Institute

LCB response: The comments are appreciated and thank you for your feedback.

No testimony was provided during the public hearing held December 4, 2024.

There are no changes between the proposed and final rules.