



## 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](mailto: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.

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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.**