



## CR 103 Memorandum

### Implementing House Bill (HB) 2204 Regarding Emergency Liquor Permits

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

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#### 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

<b>WAC 314-38-120 Emergency liquor permits</b>		
<b>Section</b>	<b>Proposed Rule</b>	<b>Reason</b>
(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) <a href="#">RCW 66.24.140</a> , <a href="#">RCW 66.24.145</a> (b) <a href="#">RCW 66.24.244</a> , <a href="#">RCW 66.24.240</a> (c) <a href="#">RCW 66.24.170</a>
(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)	<b>Definitions:</b> 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.