



Washington State  
**Liquor and Cannabis Board**

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**Date:** March 4, 2026

**To:** Jim Vollendroff, Board Chair  
 Ollie Garrett, Board Member  
 Pete Holmes, Board Member

**From:** Daniel Jacobs, Policy & Rules Coordinator

**Copy:** Will Lukela, Agency Director  
 Toni Hood, Agency Deputy Director  
 Larry Grant, Director of Enforcement and Education  
 Becky Smith, Director of Licensing and Regulations  
 Justin Nordhorn, Director of Policy and External Affairs  
 Kevin Walder, Policy & Rules Manager

**Subject:** **Approval to file a notice of expedited rulemaking (CR 105) regarding Trade Practice Repeal.**

The Washington State Liquor and Cannabis Board (Board) is proposing to repeal [WAC 314-23-065](#), [WAC 314-23-080](#) and [WAC 314-23-085](#), consistent with a prior Washington state court decision that the Board chose not to appeal. The process will be expedited.

**Process**

The Director’s Office requests approval to file the notice of expedited rulemaking (CR 105) for the rule making described above. A CR 105 Memorandum was presented at the Board meeting on March 4, 2026 and is attached to this order.

If approved for filing, the **tentative timeline** for the rule making process is outlined below:

<p>March 4, 2026</p>	<p>Board approval is requested to file notice of expedited rulemaking (CR 105).</p> <p>CR-105 is filed with the Office of the Code Reviser.</p> <p>Webpage is updated and notice circulated by GovDelivery distribution list.</p>
<p>March 18, 2026</p>	<p>Notice published in the Washington State Register.</p> <p>45 day written objection period begins.</p>
<p>May 5, 2026</p>	<p>45 day written objection period ends.</p>

<p>May 6, 2026</p>	<p>Board approval is requested to file permanent rules (CR-103) if no objection has been filed.</p> <p>CR-103 and adopted rules are filed with the Office of the Code Reviser.</p> <p>LCB webpage updated and notice circulated to all LCB GovDelivery subscribers.</p> <p>Rules meet criteria to become effective immediately upon filing.</p>
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_____ Approve	_____ Disapprove	_____ Jim Vollendroff, Chair	_____ Date
_____ Approve	_____ Disapprove	_____ Ollie Garrett, Board Member	_____ Date
_____ Approve	_____ Disapprove	_____ Pete Holmes, Board Member	_____ Date

Attachments: CR 105 Memorandum  
RDS-6949.1



## CR 105 Memorandum

### Repeal of Trade Practice Rules

Date: March 4, 2026  
Presented by: Daniel Jacobs, Policy & Rules Coordinator

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#### Background

In 2019, the Washington State Court of Appeals ruled that [WAC 314-23-065](#), [WAC 314-23-080](#), and [WAC 314-23-085](#) were invalid because they exceeded the Board's rulemaking authority and conflicted with [RCW 66.28.170](#). See Wash. Rest. Ass'n v. Wash. State Liquor & Cannabis Bd., 448 P.3d 140 (Wash. Ct. App. 2019). The Board chose not to appeal that decision. The Board has further decided that it is not necessary to replace these rules with other regulations, in part because the statutory language at RCW 66.28.170 remains in place. Therefore, these rules should be repealed.

#### Rule Necessity

This rulemaking is needed to repeal rules that have been found invalid by a court of proper jurisdiction and which the Board chose not to appeal that decision.

#### Public Engagement

The proposed repeal is necessary because of a change in circumstance, namely that a court of competent jurisdiction determined that these three rules are invalid and the Board chose not to appeal that decision.

Consistent with the Administrative Procedure Act (APA) requirements for expedited rulemaking, stakeholder engagement will be limited. Written objections to the use of expedited rulemaking will be accepted for 45 days following the publication of the filing, providing an opportunity for interested parties to provide feedback.

#### Description of Rule Changes

The following three rules will be repealed: WAC 314-23-065, WAC 314-23-080 and WAC 314-23-085.

#### Conclusion

The Director's Office Staff is requesting the Board's approval to file the CR-105 to repeal WAC 314-23-065, WAC 314-23-080 and WAC 314-23-085, consistent with the Court's decision.



# EXPEDITED RULE MAKING

## CR-105 (June 2024) (Implements RCW 34.05.353)

**Agency:** Washington State Liquor and Cannabis Board (LCB)

**Title of rule and other identifying information:** (describe subject) Repealing three rules consistent with the Court's decision in Washington Restaurant Association v. Washington State Liquor & Cannabis Board, 448 P.3d 140 (Wash. Ct. App. 2019).

The following three rules will be repealed:

- WAC 314-23-065 What are "unfair trade practices"?
- WAC 314-23-080 Are licensed distributors or other licensed suppliers of spirits and wine allowed to provide volume discounts to on-premises or off-premises retail licensees?
- WAC 314-23-085 What types of discounts are not allowed?

**Purpose of the proposal and its anticipated effects, including any changes in existing rules:** The Liquor and Cannabis Board is proposing to repeal three rules consistent with the decision in Wash. Rest. Ass'n. v. Wash. State Liquor & Cannabis Bd., 448 P.3d 140 (Wash. Ct. App. 2019). The Board chose not to appeal this decision.

The three rules to be repealed are:

- WAC 314-23-065 What are "unfair trade practices"?
- WAC 314-23-080 Are licensed distributors or other licensed suppliers of spirits and wine allowed to provide volume discounts to on-premises or off-premises retail licensees?
- WAC 314-23-085 What types of discounts are not allowed?

**Reasons supporting proposal:** The proposed rule repeals are proper because a court of competent jurisdiction determined the rules were invalid and the Board chose not to appeal that decision.

**Statutory authority for adoption:** RCW 34.05.353

**Statute being implemented:** None

**Is rule necessary because of a:**

Federal Law?	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No
Federal Court Decision?	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No
State Court Decision?	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No

If yes, CITATION: Wash. Rest. Ass'n. v. Wash. State Liquor & Cannabis Bd., 448 P.3d 140 (Wash. Ct. App. 2019)

**Name of proponent:** (person or organization) Washington State Liquor and Cannabis Board

<input type="checkbox"/> Private
<input type="checkbox"/> Public
<input checked="" type="checkbox"/> Governmental

**Name of agency personnel responsible for:**

Name	Office Location	Phone
Drafting: Rules Coordinator	Daniel Jacobs, Policy & PO Box 43080, Olympia WA 98504	360-480-1238
Implementation:	Becky Smith, Director of Licensing and Regulations	PO Box 43080, Olympia WA 98504 360-664-1615

Enforcement: Larry Grant, Director of Enforcement and Education PO Box 43080, Olympia WA 98504 360-664-9878

**Agency comments or recommendations, if any, as to statutory language, implementation, enforcement, and fiscal matters:** None

**Expedited Adoption - Which of the following criteria was used by the agency to file this notice:**  
 Relates only to internal governmental operations that are not subject to violation by a person;  
 Adopts or incorporates by reference without material change federal statutes or regulations, Washington state statutes, rules of other Washington state agencies, shoreline master programs other than those programs governing shorelines of statewide significance, or, as referenced by Washington state law, national consensus codes that generally establish industry standards, if the material adopted or incorporated regulates the same subject matter and conduct as the adopting or incorporating rule;  
 Corrects typographical errors, make address or name changes, or clarify language of a rule without changing its effect;  
 Content is explicitly and specifically dictated by statute;  
 Have been the subject of negotiated rule making, pilot rule making, or some other process that involved substantial participation by interested parties before the development of the proposed rule; or  
 Is being amended after a review under RCW 34.05.328.

**Expedited Repeal - Which of the following criteria was used by the agency to file notice:**  
 The statute on which the rule is based has been repealed and has not been replaced by another statute providing statutory authority for the rule;  
 The statute on which the rule is based has been declared unconstitutional by a court with jurisdiction, there is a final judgment, and no statute has been enacted to replace the unconstitutional statute;  
 The rule is no longer necessary because of changed circumstances; or  
 Other rules of the agency or of another agency govern the same activity as the rule, making the rule redundant.

**Explanation of the reason the agency believes the expedited rule-making process is appropriate pursuant to RCW 34.05.353(4):** The Court ruled that WAC 314-23-065, WAC 314-23-080 and WAC 314-23-085 exceeded the Board's rulemaking authority and conflict with RCW 66.28.170. The Board chose not to appeal this court decision. Because this court decision is final, the circumstances have changed in that these rules are no longer valid and therefore should be repealed to reduce potential confusion about what is current and valid regulation of alcohol.

**NOTICE**

**THIS RULE IS BEING PROPOSED UNDER AN EXPEDITED RULE-MAKING PROCESS THAT WILL ELIMINATE THE NEED FOR THE AGENCY TO HOLD PUBLIC HEARINGS, PREPARE A SMALL BUSINESS ECONOMIC IMPACT STATEMENT, OR PROVIDE RESPONSES TO THE CRITERIA FOR A SIGNIFICANT LEGISLATIVE RULE. IF YOU OBJECT TO THIS USE OF THE EXPEDITED RULE-MAKING PROCESS, YOU MUST EXPRESS YOUR OBJECTIONS IN WRITING AND THEY MUST BE SENT TO**

Name: Daniel Jacobs, Policy & Rules Coordinator  
Agency: Washington State Liquor and Cannabis Board  
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Email: rules@lcb.wa.gov  
Other: lcb.wa.gov

**BEGINNING** (date/time) 12:00 pm March 18, 2026 **AND RECEIVED BY** (date/time) 5:00 pm May 5, 2026

<b>Date:</b> March 4, 2026	<b>Signature:</b>  Place signature here
<b>Name:</b> Jim Vollendroff	
<b>Title:</b> Chair	

REPEALER

The following sections of the Washington Administrative Code are repealed:

- |                |  |
|----------------|--|
| WAC 314-23-065 | What are "unfair trade practices"?   |
| WAC 314-23-080 | Are licensed distributors or other licensed suppliers of spirits and wine allowed to provide volume discounts to on-premises or off-premises retail licensees? |
| WAC 314-23-085 | What type of discounts are not allowed?  |