



CR 102 Memorandum

Regarding implementation of SSB 5448 concerning liquor licensee privileges for the delivery of alcohol.

Date: May 24, 2023
Presented by: Dr. Kathy Hoffman, Research Manager

Background

Prior Legislation and Rule Development

In 2021, the Legislature codified certain liquor license privileges, similar to the allowances the Washington State Liquor and Cannabis Board (LCB) had temporarily provided to liquor licensees during the COVID-19 pandemic through Engrossed Second Substitute House Bill (E2SHB) 1480 (chapter 48, Laws of 2021). These privileges were set to expire July 1, 2023. The CR 102 Memorandum from implementation of E2SHB 1480 describing these changes is attached hereto as Attachment A and incorporated herein by this reference.

Current Legislation and Rule Development

In 2023, the Legislature revised the liquor license privileges codified in E2SHB 1480 through Substitute Senate Bill (SSB) 5448 (chapter 279, Laws of 2023). SSB 5448 made the following revisions:

- The July 1, 2023, expiration of the temporary liquor license privileges for takeout was removed, and the privileges made permanent.
- The authorization to sell alcohol products curbside and the authorization for spirits, beer, and wine restaurant licensees to sell cocktail kits with mini-bottles for takeout and delivery was removed.
- The authorization for specified licensees to sell alcohol for delivery under the temporary privileges was extended only until July 1, 2025. No alcohol products may be sold by delivery under the privileges after July 1, 2025.
- While delivery sales are authorized, alcohol delivery must be performed only by an employee of an alcohol delivery endorsement holder who is 21 years of age or older and possesses a class 12 alcohol server permit. The employee must have completed an approved alcohol server permit course with a curriculum component on best practices for alcohol delivery. The signature requirement is extended so that upon delivery of any alcohol product the signature of the person age 21 or over receiving the delivery must be obtained.

- Delivery and takeout services conducted by restaurant licensees must be accompanied by a purchased meal prepared and sold by the license holder. Any alcohol product sold for takeout or delivery pursuant to the privileges must be in a factory sealed container or a tamper-resistant container.

Stakeholder Engagement

The Board wishes to expeditiously align existing rules with statutory language to provide business continuity and regulatory stability. However, Governor Inslee signed SSB 5448 on May 4, 2023. The bill has an effective date of July 1, 2023. Given the effective date of the legislation, the standard rulemaking process and its procedural requirements would have extended the rule development timeline beyond that effective date.

Under certain circumstances, a rule or rules may be exempt from certain procedural requirements. These exceptions are described in RCW 34.05.310(4). Exceptions include but are not limited to rules that adopt or incorporate by reference state statutes or rules of other state agencies. Exceptions also include rules where the content is explicitly and specifically dictated by statute.

These exceptions frame process that shortens the time it takes to develop a rule by eliminating the analytical requirements and the filing time associated with the standard rulemaking process. The exception process retains the public hearing component, which enables interested parties to object to the rule without delaying the process.

As provided in RCW 34.05.310(4)(c), this proposal adopts or incorporates by reference, without material change, a Washington state statute. Additionally, consistent with RCW 34.05.310(4)(e), this proposal offers rules where the content is explicitly and specifically dictated by statute. For that reason, this proposal is exempt from public from prenotice inquiry requirements, and the opportunity for stakeholder engagement will occur at the public hearing.

Diversity, Equity, Inclusion and Belonging

The agency relies on a continuous policy analysis process centered on the overarching domains of stakeholder engagement and education. These are surrounded by continuous evaluation and framed by the following additional domains:

- Problem identification;
- Policy analysis;
- Strategy and policy development;
- Policy enactment; and
- Policy implementation.

To evaluate a problem and analyze its policy implications, the agency relies on a policy framing tool designed to view the problem and associated analysis through seven different criteria. These are:

- Diversity, equity and inclusion;
- Licensing Division impacts/perspectives;
- Public Safety (WSLCB Education and Enforcement) impacts/perspectives;
- Public Health/Prevention impact/perspectives;
- Feasibility (the likelihood that the policy can be successfully adopted and implemented);
- Economic and budgetary impacts, including a comparison of the costs to enact, implement, and enforce the policy with the value of the benefit; and
- A legal assessment to assure that the rule is authorized by statute.

Each of these criteria are reviewed under different analysis focus areas. The analysis:

CRITERIA	Analysis Focus
Diversity, Equity, Inclusion, and Belonging	<ul style="list-style-type: none"> • Diversity: Does the policy consider race and ethnicity, gender and gender identity, sexual orientation, socioeconomic status, language, culture, national origin, religious commitments, age, (dis)ability status and political perspectives across the authorizing environment? • Equity: Does the policy support the agency’s commitment to work actively in challenging and responding to bias, harassment, and discrimination? Does the policy extend the agency’s commitment to equal opportunity for all persons and does not discriminate on the basis of race, color, national origin, age, marital status, sex, sexual orientation, gender identity, gender expression, disability, religion, height, weight, or veteran status? • Inclusion: Does the policy support the agency’s commitment to pursuing deliberate efforts to respectfully honor and acknowledge different perspectives, where every individual feels a sense of inclusion that leverages collective capabilities? • Belonging: Does the policy identify and remove barriers that limit or prevent equity and justice for all, particularly for those who have been historically excluded and oppressed? Does the policy move toward replacing old systems with new systems that are just, equitable, diverse and inclusive for the benefit of all?

Responses to each of these analysis elements as they relate to this rule proposal are offered below:

Analysis Focus	Agency Response
<p>Diversity: Does the policy embodied in proposed rule consider race and ethnicity, gender and gender identity, sexual orientation, socioeconomic status, language, culture, national origin, religious commitments, age, (dis)ability status and political perspectives across the authorizing environment?</p>	<p>The agency recognizes that race, gender, sexual orientation, socioeconomic status, language, culture, national origin, religious commitments, age, ability and political perspectives are deeply connected. This understanding informs the agency’s commitment to shifting repressive power dynamics and strengthening the influence of those most affected by the impact of such dynamics. That shift was represented in ways that the agency worked to find temporary ways for businesses to expand their operations, to mitigate the economic impacts of the COVID-19 pandemic, while not placing the health of employees or customers at risk. Temporary allowances that eventually became legislation were framed in a way that reduced barriers to participation in the regulated market, while honoring the four pillars of public administration (economy, efficiency, effectiveness, and social equity),¹</p>
<p>Equity: Does the policy embodied in proposed rule support the agency’s commitment to work actively in challenging and responding to bias, harassment, and discrimination? Does the policy extend the agency’s commitment to equal opportunity for all persons and does not discriminate on the basis of race, color, national origin, age, marital status, sex, sexual orientation, gender identity, gender expression, disability, religion, height, weight, or veteran status?</p>	<p>Equal access to inequitable systems does not advance social equity. Disparities in structures and systems ensures barriers to access. By reverse engineering regulatory frameworks to align with statute, the agency has been able to proactively dismantle them, allowing the agency to enable conditions that can lead to social equity. These efforts are embedded in the agency’s approach to rule and policy development. The policy represented in this rule proposal demonstrates the agency’s continued commitment to regulation that supports socially equitable conditions, realizing and operationalizing the intent of the legislation, and supporting business stability through regulatory continuity.</p>
<p>Inclusion: Does the policy embodied in the proposed rule support the agency’s commitment to pursuing deliberate efforts to respectfully honor and acknowledge different perspectives, where every individual feels a sense of inclusion that leverages collective capabilities?</p>	<p>The policies embodied in the original allowances developed by the agency in collaboration with licensees and other partners during the COVID-19 pandemic were codified in E2HSB 1480 and now in SSB 5448. These policies were developed through an inclusive, collaborative, deliberative process. Collective community knowledge and capabilities were leveraged during that process to assure that all voices were heard, acknowledged, and included in policy.</p>
<p>Belonging: Does the policy embodied in proposed rule identify and remove barriers that limit or prevent equity and justice for all, particularly for those who have been historically excluded and oppressed? Does the policy move toward replacing old systems with new systems that are just, equitable, diverse and inclusive for the benefit of all?</p>	<p>Belonging is difficult to quantitatively measure. Cultivating a sense of belonging hinges on building trust and effective working relationships that support positive business outcomes. The cultivation process includes creating space for information sharing between regulators and those who are regulated or thinking about becoming part of the regulated community. The rule proposal supports a culture of belonging because it reflects the contributions and thinking of licensees, their representatives, and the communities in which those licensees conduct business, providing policy continuity and regulatory stability.</p>

Estimated Costs of Compliance

There are no estimated costs of compliance. The proposed rules are exempt from the Regulatory Fairness Act's (RFA) Small Business Economic Impact Statement (SBEIS) under RCW 34.05.310(4)(c) and (e).

Description of Rule Changes & Rule Necessity

The proposed revisions incorporate legislation that will become effective on July 1, 2023, and do not materially or substantively change existing rules. The proposed rule revisions are needed to align existing rules with and implement the law as established by SSB 5448 as described in the table below:

Rule section	Description of proposed rule amendments	Rule necessity
<i>Category: Outdoor Alcohol Service Areas</i>		
WAC 314-03-200 "Outside or extended alcohol service" (AMENDED)	<p>This existing rule was amended to implement E2SHB 1480 by adding a cross-reference to temporary rule WAC 314-02-205, which added more flexibility and options for licensees wishing to have outdoor alcohol service areas.</p> <p>The current proposal removes temporary references throughout the section and removes the sunset date of July 1, 2023.</p> <p>No substantive changes are proposed, and all other requirements remain the same.</p>	To implement SSB 5448, section 1(7) and 8, chapter 279, Laws of 2023.
WAC 314-03-205 "Temporary rules for outdoor alcohol service by on-premises licensees" (AMENDED IN PART; MADE PERMANENT IN PART)	<p>This rule was created to implement E2SHB 1480. The section applies to all on-premises licensees that want to have ongoing outdoor alcohol service areas. There are different requirements for outdoor alcohol service areas in private spaces versus public spaces. SSB 5448 makes the allowances in this rule permanent.</p> <p>The current proposal removes temporary references throughout section and removes the sunset date of July 1, 2023.</p> <p>No substantive changes are proposed, and all other requirements remain the same.</p>	To implement SSB 5448, section 1(7) and 8, chapter 279, Laws of 2023.
<i>Category: Endorsements for "To Go" Alcohol Sales</i>		
WAC 314-03-500 "Temporary and permanent endorsements for sale of manufacturer sealed alcohol products through takeout, or delivery service" (AMENDED IN PART; MADE PERMANENT IN PART)	<p>This was a new rule section to implement the temporary endorsement for sale of alcohol products through curbside, takeout, or delivery service created by E2SHB 1480.</p> <p>As set forth in SSB 5448, the current proposal:</p> <ul style="list-style-type: none"> Removes references to curbside service and cocktail kits. Makes the takeout services endorsement available for listed license types. Makes the <i>delivery services endorsement</i> available from July 1, 2023 to July 1, 2025 for listed license types. Maintains the requirement that delivery must still be made by employees of the licensed business who are at least 21 years of age and hold a MAST 12 permit. Removes allowance for third party delivery service. Updates statutory references to SSB 5448. <p>These endorsements remain available to the following licensees: Spirits, Beer, and Wine (SBW) Restaurants, Beer and/or Wine (BW) Restaurants, Taverns, Wineries, Breweries, Microbreweries, Distilleries, Snack Bars, Nonprofit Arts Licensees, and Caterers.</p> <p>No substantive changes are proposed, and all other requirements remain the same.</p>	To implement SSB 5448, section 1(2), chapter 279, Laws of 2023.
WAC 314-03-505 "Temporary endorsement for the sale of premixed"	<p>This was a new rule section to implement the new temporary endorsement for sale of premixed cocktails, cocktail kits, wine by the glass, premixed wine and spirits cocktails, or premixed wine drinks through curbside, takeout, or delivery service created by E2SHB 1480.</p>	To implement SSB 5448, section 1(2) and (3), chapter 279, Laws of 2023.

<p><i>cocktails, cocktail kits, wine by the glass, premixed wine and spirits cocktails, or premixed wine drinks through curbside, takeout, or delivery service” (AMENDED IN PART; MADE PERMANENT IN PART).</i></p>	<p>As set forth in SSB 5448, the current proposal:</p> <ul style="list-style-type: none"> • Removes reference to curbside service, mini-bottles, and cocktail kits. • Makes the <i>takeout services endorsement</i> available for the sale of premixed cocktails, cocktail kits, wine by the glass, premixed wine and spirits cocktails, or premixed wine drinks permanent for the listed license types. • Makes the <i>delivery services endorsement</i> available from July 1, 2023 to July 1, 2025 for premixed cocktails, cocktail kits, wine by the glass, premixed wine and spirits cocktails, or premixed wine drinks. • Updates statutory references to SSB 5448. <p>These endorsements remain available to SBW restaurants (for all of the above drinks), BW restaurants (for wine or premixed wine drinks by the glass).</p> <p>No substantive changes are proposed, and all other requirements remain the same.</p>	
<p><u>WAC 314-03-510</u> <i>“Temporary endorsement for the sale of growlers through curbside, takeout, or delivery service” (AMENDED IN PART; MADE PERMANENT IN PART)</i></p>	<p>This was a new rule section to implement the new temporary endorsement for sale of growlers through curbside, takeout, or delivery service created by E2SHB 1480.</p> <p>Consistent with SSB 5448, the current proposal accomplishes the following:</p> <ul style="list-style-type: none"> • Removes reference to curbside service. • Makes the <i>takeout services endorsement</i> available for the sale growlers. • Makes the <i>delivery services endorsement</i> available from July 1, 2023 to July 1, 2025 for the sale of growlers. • Adds that delivery may not be made by common carriers. <p>These endorsements remain available to the licensees that were authorized by statute or rule before January 1, 2020, to sell growlers, including Taverns, BW restaurants, SBW restaurants, Grocery Stores, Beer and Wine Specialty Shops, Breweries, Microbreweries, Wineries, Combination SBW Licensees, and Hotel Licensees.</p> <p>No substantive changes are proposed, and all other requirements remain the same.</p>	<p>To implement SSB 5448, section 1(4) and (8), chapter 279, Laws of 2023.</p>

Additional rulemaking under standard rulemaking processes will be initiated at a later date to address additional provisions of SSB 5448.

Attachments:

Attachment A: CR 102 Memo – E2SHB 140 COVID-19 Alcohol Allowances



CR 102 Memorandum

Regarding Implementation of 2021 Legislation – E2SHB 1480 (COVID-19 Alcohol Allowances).

Date: September 29, 2021
Presented by: Audrey Vasek, Policy and Rules Coordinator

Background

In March of 2020, as the coronavirus (COVID-19) pandemic began to spread rapidly in Washington, the state announced restrictions that impacted the operations of many Washington State Liquor and Cannabis Board (WSLCB) licensees, particularly on-premises licensees. Some licensees were required to close entirely and others had significant limitations on sales and customer service. The WSLCB worked to find temporary ways for businesses to expand their operations using methods that would not put the health of employees or customers at risk. Engrossed Second Substitute House Bill (E2SHB) 1480 (chapter 48, Laws of 2021) took effect on April 14, 2021, providing legislative authorization extending certain temporary privileges that the WSLCB granted to liquor licensees to mitigate the impact of the COVID-19 pandemic.

The WSLCB began to consider rule revisions to implement E2SHB 1480 by filing a pre-proposal statement of inquiry (CR 101) under WSR 21-11-035 on May 12, 2021. The purpose of this rule proposal (CR 102) is to implement E2SHB 1480 by: (1) creating rules for the temporary “to-go” alcohol endorsements; (2) creating and revising rules for the temporary outdoor alcohol service area requirements; and (3) revising food service requirement rules to provide licensees with greater flexibility. The E2SHB 1480 rulemaking has several components:

Temporary Rules Creating Endorsements for “To-Go” Alcohol Sales

E2SHB 1480 creates temporary alcohol to-go endorsements that allow certain licensees to engage in curbside, takeout, or delivery sales of cocktails and wine by the glass, growlers, and other alcohol products. These new endorsements are set to expire July 1, 2023. There are no fees for licensees to obtain these endorsements. See E2SHB 1480, section 2(2)-(7) and (11).¹ The rule proposal creates three new temporary rule sections (intended to expire July 1, 2023) that describe the requirements for licensees to obtain these endorsements.

¹ Section 2 of E2SHB 1480 creating the temporary endorsements for “to-go” alcohol sales is uncoded due to its temporary nature (expiration July 1, 2023). However, section 3 (related to rulemaking authority with respect to food service menu requirements) is codified as RCW 66.08.071.

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Temporary Rules for Outdoor Alcohol Service Areas

E2SHB 1480 requires the WSLCB to adopt or revise current rules to allow for temporary outdoor service of alcohol by certain on-premises licensees, and provides the WSLCB with authority to adopt requirements providing for clear accountability at locations where multiple licensees use a shared space for serving customers. These outdoor alcohol service area rules are set to expire July 1, 2023. See E2SHB 1480, section 2(8) and (11). The rule proposal creates a new temporary rule section (intended to temporarily replace the current outdoor alcohol service area rules until July 1, 2023) describing the requirements for outdoor alcohol service areas, including shared spaces.

Permanent Rules Updating Food Service Menu Requirements

E2SHB 1480 requires the WSLCB to consider revising current rules in order to provide greater flexibility regarding the food service menu requirements that licensees must provide in conjunction with alcohol sales. These food service menu requirement changes are permanent. See RCW 66.08.071 (E2SHB 1480, section 3). The rule proposal amends a series of rule sections in chapter 314-02 WAC related to food service menu requirements, including the definitions of “complete meal” and “minimum food service.”

Stakeholder Engagement

The CR 102 rule proposal was developed through a collaborative rule development process involving both internal and external stakeholders. During the initial CR 101 public comment period from May 12 through July 2, 2021, three public comments were received.² These comments were considered as the conceptual draft rules were developed through a series of collaborative internal project team meetings with WSLCB staff from the Licensing Division, Enforcement and Education Division, and the Public Health and Prevention Liaison.

After the conceptual draft rules were developed, the WSLCB Policy and Rules Unit held two virtual Listen and Learn sessions through Microsoft Teams to gather public feedback and suggestions for revisions. The first Listen and Learn session was held on August 5, 2021, from 1:00 to 3:30 PM, and the second session was held on September 2, 2021, from 1:00 to 3:15 PM. At a peak, there were around 60 people in attendance at the first event and 55 people in attendance at the second event. Messages inviting any interested members of the public to participate in the Listen and Learn sessions were sent to GovDelivery subscriber lists two weeks prior to each event, and reminder emails were sent the day before each event.³

² See Attachments D, Table containing public feedback received during the CR 101 public comment period from May 12 through July 2, 2021, as well as comments received after CR 101 public comment period closed that are not related to the Listen & Learn Sessions.

³ See Attachments A & B, Tables containing public feedback received during the Listen and Learn Sessions & GovDelivery Messaging.

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The feedback received during Listen and Learn Sessions is provided in Attachments A and B to this memo. The WSLCB incorporated feedback received at the Listen and Learn sessions into the proposed rule language by making a number of changes including, but not limited to, the following:

- *For the temporary manufacturer sealed alcohol products “to-go” endorsement:*
 - The requirement that delivery must be made by employees of the licensed business who are at least 21 years of age is removed. The rule proposal allows delivery by third-party service providers under the existing consumer orders, internet sales, and delivery rules with approval by the WSLCB Licensing Division of an added activity application requesting internet sales privileges.
 - An exception is provided to the requirement that the exterior of to-go bags/packages containing manufacturer-sealed alcohol products be marked with the words “CONTAINS ALCOHOL, FOR PERSONS 21+.” Under the rule proposal, brewery, winery, and distillery licensees are not required to mark or label the exterior of the to-go bag/packaging if the to-go bag/packaging containing the manufacturer-sealed alcohol product is provided to customers through takeout service.
 - Both of the above changes are intended to address the concerns expressed during the first Listen and Learn session about inconsistencies between existing licensee privileges and the new privileges allowed by HB 1480 for certain licensees.
- *For the temporary growlers “to-go” endorsement:*
 - The rule proposal adds language stating that brewery and microbrewery products that meet federal alcohol and tobacco tax and trade bureau labelling requirements are not considered prefilled growlers and are not subject to the overnight storage prohibition on prefilled growlers. This change is intended to address the concern expressed during the first Listen and Learn session about potential confusion between prefilled growlers (as the term is used in E2SHB 1480) and manufacturer sealed products that meet TTB labelling requirements but look similar to growlers.
- *For the temporary cocktails/wine by the glass “to-go” endorsement:*
 - The rule proposal incorporates a reference to the existing consumer orders, internet sales, and delivery rules in response to the suggestion provided during the first Listen and Learn session to add language stating that all transactions need to take place at the licensed premises and that no money may be exchanged between the delivery person and customer upon delivery. The existing consumer orders, internet sales, and delivery rules already contain language stating that “Only a licensee or a licensee's direct employees may accept and process orders and payments.” and “All orders and payments shall be fully processed before liquor transfers ownership or, in the case of delivery, leaves a licensed premises.” (See e.g. WAC 314-03-020 through 314-03-040).
- *For all three temporary “to-go” endorsements:*

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- The rule proposal states that delivery sales records must meet the requirements in the consumer orders, internet sales, and delivery rules as well as general record retention requirements in WAC 314-11-035. This change is intended to clarify requirements in response to questions about delivery record requirements received at the first Listen and Learn Session.
- *For the temporary outdoor alcohol service area rules:*
 - The rule proposal clarifies that producers (e.g. breweries, wineries, and distilleries) can qualify for outdoor alcohol service areas without needing indoor dining capacity (i.e. “The licensee must have a building that provides indoor dining or production in order to qualify for an outdoor alcohol service area”). This change is intended to address the concerns expressed during the second Listen and Learn session that the conceptual draft rules would have prevented many producers from having outdoor alcohol service areas.
- *For the food service menu requirement rules:*
 - The rule proposal revises the definitions of “complete meal” and “minimum food service” to clarify that the restriction on menu items that consist solely of precooked frozen food applies to *meals* rather than *food* that is precooked and frozen. The revision is intended to clarify that ingredients or components of meals might be precooked and frozen, and then later used by the food service establishment to prepare a menu item that qualifies as a complete meal/ minimum food service item, in response to feedback and questions received in connection with the second Listen & Learn session.

Estimated Costs of Compliance

For the purpose of the minor cost analysis required by the Regulatory Fairness Act in chapter 19.85 RCW, the CR 102 includes estimated business costs of compliance with the proposed rules. In order to estimate these costs of compliance, WSLCB Policy and Rules Coordinators interviewed twelve volunteer licensees for 45 minutes each from September 15 through September 21, 2021. In order to recruit volunteer interviewees, a GovDelivery message was sent to all liquor licensee subscribers on September 3, 2021, asking for interview volunteers impacted by the alcohol to-go endorsements to provide feedback to help estimate the costs of compliance associated with the draft rules to implement HB 1480.⁴ The estimated costs of compliance and the relevant minor cost thresholds are described in detail in the CR 102 form.

Description of Rule Changes & Rule Necessity

The proposed rules are needed to align existing rules with and implement the law as established by E2SHB 1480, as described in the table below:

Rule section	Description of proposed rule changes	Rule necessity
Category: <i>Food Service Menu Requirements</i>		
WAC 314-02-010	The definitions of “complete meal,” “minimum food service,” and “snack food”	To implement

⁴ See Attachment C, GovDelivery Message re WSLCB Seeking Licensee Interview Volunteers Impacted by HB 1480.

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<p>“Definitions.” (AMENDED)</p>	<p>are revised to provide greater flexibility for licensees. (“Complete meal” was previously defined in WAC 314-02-035.) The definition of “limited food service” is removed and consolidated with “minimum food service.” New, culturally diverse food examples are added to all three of these definitions, and the definition of complete meal is expanded to include a “small plates” option in addition to the “entree with at least one side dish available” option.</p>	<p>section 3 of E2SHB 1480 (codified as RCW 66.08.071), which directs the WSLCB to “consider revising current rules in order to provide greater flexibility regarding food service menu requirements.”</p>
<p>WAC 314-02-035 “Food service requirements for a spirits, beer, and wine restaurant license.” (AMENDED)</p>	<p>The required number of complete meals is reduced from eight to four. The section is streamlined by removing content that is repeated in the definition section and replacing it with references to the appropriate definitions in WAC 314-02-010. The section caption is revised from a question to a statement.</p>	<p>To improve clarity of the rules by streamlining and making technical corrections to language and numbering, without changing its effect.</p>
<p>WAC 314-02-0411 “Food service requirements for a hotel license.” (AMENDED)</p>	<p>The required number of complete meals is reduced from eight to four. The section is streamlined by removing content that is repeated in the definition section and replacing it with references to the appropriate definitions in WAC 314-02-010. The section caption is revised from a question to a statement.</p>	<p>To improve clarity of the rules by streamlining and making technical corrections to language and numbering, without changing its effect.</p>
<p>WAC 314-02-065 “Snack bar license.” (AMENDED)</p>	<p>The cross-reference in subsection (2) to the definition of snack food in WAC 314-02-010 is updated. The section caption is revised from a question to a statement.</p>	<p>To improve clarity of the rules by streamlining and making technical corrections to language and numbering, without changing its effect.</p>
<p>WAC 314-02-087 “Spirits, beer, and wine theater license.” (AMENDED)</p>	<p>The section is streamlined by removing food service requirements that are repeated in WAC 314-02-035, the spirits, beer, and wine restaurant license, and replacing that language with a cross-reference. The effect of this change is that the required number of complete meals is reduced from eight to four. The section caption is revised from a question to a statement.</p>	<p>To improve clarity of the rules by streamlining and making technical corrections to language and numbering, without changing its effect.</p>
<p>WAC 314-02-112 “Caterer’s license.” (AMENDED)</p>	<p>The required number of complete meals is reduced from eight to four. The section is streamlined by removing content that is repeated in the definition section and replacing it with references to the appropriate definitions in WAC 314-02-010. The section caption is revised from a question to a statement. The subsection numbering is also revised throughout the section.</p>	<p>To improve clarity of the rules by streamlining and making technical corrections to language and numbering, without changing its effect.</p>
<p>WAC 314-02-114 “Senior center license.” (AMENDED)</p>	<p>The section is streamlined by removing content that is repeated in the definition of “minimum food service” and replacing it with a reference to the definition of “minimum food service” in WAC 314-02-010. The section caption is revised from a question to a statement.</p>	<p>To improve clarity of the rules by streamlining and making technical corrections to language and numbering, without changing its effect.</p>
<p><i>Category: Outdoor Alcohol Service Areas</i></p>		
<p>WAC 314-03-200 “Outside or extended alcohol service.” (AMENDED)</p>	<p>A cross-reference to the proposed temporary rules for outdoor alcohol service in WAC 314-03-205 is added to the first paragraph.</p>	<p>To implement section 2(8) of E2SHB 1480, which directs the WSLCB to “adopt or revise current rules to allow for outdoor service of alcohol by on-premises licensees.”</p>
<p>WAC 314-03-205 “Temporary rules for outdoor alcohol service by on-premises licensees.” (NEW)</p>	<p>Creates a new section. The section applies to all on-premises licensees that want to have ongoing outdoor alcohol service areas. As before, licensees must apply to the WSLCB Licensing Division for approval/alteration request. There are different requirements for outdoor alcohol service areas in private versus public spaces.</p> <p>As compared to the existing rules, the temporary rules provide more flexibility and options for licensees that want to have outdoor alcohol service areas:</p> <p>Outdoor service areas in public spaces (e.g. sidewalk cafes) are no longer limited to restaurants—all licensees are eligible if they have local jurisdiction approval.</p> <p>The outdoor service area does not have to be contiguous to the licensed premises but must be on the same property or parcel.</p> <p>Interior access to the licensed premises from the outdoor service area is no longer required, but there must be a direct line of sight to the outdoor area from within the licensed premises or an employee must be present in the outdoor area at all times when customers are present to monitor alcohol consumption.</p> <p>Requirements for shared outdoor alcohol service areas are established as follows:</p>	<p>To improve clarity of the rules by streamlining and making technical corrections to language and numbering, without changing its effect.</p>

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	<ul style="list-style-type: none"> • Licensees' property parcels/buildings must be located in direct physical proximity to one another; • Licensees must maintain separate storage of products and separate financial records for the shared outdoor alcohol service area; • Licensees must use distinctly marked glassware or serving containers in the shared outdoor area to identify the source of any alcohol product being consumed. The distinctive marking may be either permanent or temporary; and • Licensees must complete an operating plan for the shared outdoor alcohol service area. 	
<i>Category: Temporary Endorsements for "To-Go" Alcohol Sales</i>		
<p>WAC 314-03-500 "Temporary endorsement for sale of manufacturer-sealed alcohol products through curbside, takeout, or delivery service." (NEW)</p>	<p>Creates a new rule section to implement the new temporary endorsement for sale of alcohol products through curbside, takeout, or delivery service created by E2SHB 1480. The endorsement is available to the licensees specified in E2SHB 1480: Spirits, Beer, and Wine (SBW) Restaurants, Beer and/or Wine (BW) Restaurants, Taverns, Wineries, Breweries, Microbreweries, Distilleries, Snack Bars, Nonprofit Arts Licensees, and Caterers. The endorsement includes the following requirements:</p> <ul style="list-style-type: none"> • Alcohol products must be manufacturer-sealed or factory-sealed. • 21+ Labelling requirement: If the alcohol product is enclosed in a bag, box, or other packaging, the exterior of the packaging must be marked with the words "CONTAINS ALCOHOL, FOR PERSONS 21+". Producers (breweries, wineries, and distilleries) selling alcohol products through takeout are exempt from this requirement. • Delivery requirements: Delivery must be made by persons who are 21+. Third-party service providers are allowed if licensees comply with the existing consumer orders, internet sales, and delivery rules. Delivery person must verify that person receiving the alcohol is 21+ and obtain their signature. Alcohol products may not be left unattended. Delivery may not be made to intoxicated persons. • Signage requirements: Signs regarding public consumption and transportation of alcohol products sold through curbside, takeout, or delivery service will be provided electronically by the WSLCB and must be posted at the main entrance and areas of the premises where customers pick up alcohol products for takeout or curbside service. 	<p>To implement E2SHB 1480, section 2(2), (6), and (9).</p>
<p>WAC 314-03-505 "Temporary endorsement for sale of premixed cocktails, cocktail kits, wine by the glass, premixed wine and spirits cocktails, or premixed wine drinks through curbside, takeout, or delivery service." (NEW)</p>	<p>Creates a new rule section to implement the new temporary endorsement for sale of premixed cocktails, cocktail kits, wine by the glass, premixed wine and spirits cocktails, or premixed wine drinks through curbside, takeout, or delivery service created by E2SHB 1480. The endorsement is available to the licensees specified in E2SHB 1480: SBW restaurants (for all of the above drinks), BW restaurants (for wine or premixed wine drinks by the glass). The endorsement includes the following requirements:</p> <ul style="list-style-type: none"> • Food requirements: For SBW restaurants, a complete meal must be sold with the "to-go" cocktail, wine, etc. Up to 3 ounces of spirits may be sold per complete meal. For BW restaurants, a minimum food service item must be sold with the "to-go" wine or premixed wine drink. • Container requirements: The "to-go" cocktails, wine, etc, must be packaged in containers that are sealed in a manner designed to prevent consumption without removal of a tamper-evident lid, cap, or seal. A non-comprehensive list of examples is provided. • 21+ Labelling requirements: The individual "to-go" containers must be clearly marked or labelled with the words "CONTAINS ALCOHOL, FOR PERSONS 21+". If the individual "to-go" containers are enclosed in a bag, box, or other packaging, the exterior of the packaging must be marked with the words "CONTAINS ALCOHOL, FOR PERSONS 21+" • To deter public consumption or consumption in a vehicle, licensees may not put ice directly into the alcohol "to-go" containers. Ice may be provided separately with the order. • Alcohol "to-go" containers must be placed in the trunk of a vehicle or beyond the immediate reach of the driver and any passengers in compliance with open container requirements in RCW. • Delivery requirements: Delivery must be made by employees of the licensed business who are 21+. Delivery may not be made by third-party service providers. Delivery person must verify that person receiving the alcohol is 21+ and obtain their signature. Alcohol products may not be left unattended. Delivery may not be made to intoxicated persons. 	<p>To implement E2SHB 1480, section 2(3), (4), (6), and (9).</p>

ATTACHMENT A

	<ul style="list-style-type: none"> Signage requirements: Signs regarding public consumption and transportation of alcohol products sold through curbside, takeout, or delivery service will be provided electronically by the WSLCB and must be posted at the main entrance and areas of the premises where customers pick up alcohol products for takeout or curbside service. <p>The following terms used in E2SHB 1480 are defined: "premixed cocktail," "premixed wine and spirits cocktail," and "premixed wine drink."</p>	
<p>WAC 314-03-510 "Temporary endorsement for sale of growlers through curbside, takeout, or delivery service." (NEW)</p>	<p>Creates a new rule section to implement the new temporary endorsement for sale of growlers through curbside, takeout, or delivery service created by E2SHB 1480. The endorsement is available to the licensees specified in E2SHB 1480: licensees that were authorized by statute or rule before January 1, 2020, to sell growlers, including Taverns, BW restaurants, SBW restaurants, Grocery Stores, Beer and Wine Specialty Shops, Breweries, Microbreweries, Wineries, Combination SBW Licensees, and Hotel Licensees. The endorsement includes the following requirements:</p> <ul style="list-style-type: none"> As specified in E2SHB 1480, sales of growlers must meet federal TTB requirements. Growlers must be filled at the tap by the licensee at the time of sale, except that beer and wine specialty shops and breweries can prefill growlers as allowed by E2SHB 1480. Delivery requirements: Delivery must be made by employees of the licensed business who are 21+. Delivery may not be made by third-party service providers. Delivery person must verify that person receiving the alcohol is 21+ and obtain signature. Alcohol products may not be left unattended. Delivery may not be made to intoxicated persons. Signage requirements: Signs regarding public consumption and transportation of alcohol products sold through curbside, takeout, or delivery service will be provided electronically by the WSLCB and must be posted at the main entrance and areas of the premises where customers pick up alcohol products for takeout or curbside service. 	<p>To implement E2SHB 1480, section 2(5)-(7), and (9).</p>

Attachments:

Attachment A. *Table containing public feedback received during Listen and Learn Session 1 on August 5, 2021 & GovDelivery Messaging.*

Attachment B. *Table containing public feedback received during Listen and Learn Session 2 on September 2, 2021 & GovDelivery Messaging.*

Attachment C. *GovDelivery Messaging re WSLCB Seeking Licensee Interview Volunteers Impacted by HB 1480.*

Attachment D. *Table containing public feedback received during the CR 101 public comment period from May 12 through July 2, 2021, as well as comments received after CR 101 public comment period closed that are not related to the Listen & Learn Sessions.*