



CR103 Memorandum

Regarding implementation of SSB 5448 concerning liquor license privileges and the delivery of alcohol.

Date: July 5, 2023
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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.

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 aged 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.

Rule Necessity

The adopted rule amendments incorporate legislation that became effective on July 1, 2023, and do not materially or substantively change existing rules. The adopted rule amendments are needed to align existing rules with and implement the law as established by SSB 5448.

Additionally, as provided in RCW 34.05.310(4)(c), the adopted rule amendments adopt or incorporate by reference, without material change, a Washington state statute. Also, consistent with RCW 34.05.310(4)(e), the adopted rule amendments provide content that is explicitly and specifically dictated by statute.

Description of Rule Changes

Rule section	Description of adopted 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,</p>	To implement SSB 5448, section 1(2), chapter 279, Laws of 2023.

	Microbreweries, Distilleries, Snack Bars, Nonprofit Arts Licensees, and Caterers.	
	No substantive changes are proposed, and all other requirements remain the same.	
WAC 314-03-505 "Temporary endorsement for the 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" (AMENDED IN PART; MADE PERMANENT IN PART).	<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> <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>	To implement SSB 5448, section 1(2) and (3), chapter 279, Laws of 2023.
WAC 314-03-510 "Temporary endorsement for the sale of growlers through curbside, takeout, or delivery service" (AMENDED IN PART; MADE PERMANENT IN PART)	<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>	To implement SSB 5448, section 1(4) and (8), chapter 279, Laws of 2023.

Variance between proposed rule (CR102) and final rule:

There is no variance between the proposed and final rules.

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 WSLCB will:

- Email notice with the adoption materials to persons who commented on the rules, the rule making and licensee distribution lists, and the general WSLCB 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))

WSLCB will promote and assist voluntary compliance through technical assistance.

- WSLCB 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 have will be supported.
- Rule and guidance documents will be available on the WSLCB website.
- WSLCB 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 WSLCB Staff

Several WSLCB 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 WSLCB 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))

The WSLCB will evaluate the effectiveness of these rules in the following ways, including but not limited to:

- Monitoring questions received after the effective date of these rules, and adjusting training and guidance accordingly;
- Monitoring the number of enforcement actions, including type, resolution, and final 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.