



A RESOLUTION OF THE WASHINGTON STATE LIQUOR AND CANNABIS BOARD RECOGNIZING THE CITY OF TACOMA'S WEST END ALCOHOL IMPACT AREA

Whereas, the Board recognizes its statutory mandate to protect the public's welfare, health, peace, and safety and its responsibility to work with communities to help mitigate negative impact of chronic public inebriation associated with the sale of alcohol by the businesses it regulates,

Whereas, the Board recognizes its statutory mandate to protect the public's welfare, health, peace, and safety, and its responsibility to work with communities to help mitigate negative impact of chronic public inebriation associated with the sale of alcohol by the businesses it regulates.

Whereas, in recognition of this mandate, in 1999, the Liquor Control Board adopted the Alcohol Impact Area rules, Washington Administrative Code (WAC) 314-12-210 through WAC 314-12-225. These rules establish a framework for the Liquor Control Board, working in partnership with local government and community organizations, to mitigate the negative impacts that result from the presence of chronic public inebriation. Preventing and reducing the harm caused by untenable alcohol consumption requires a comprehensive, multi-dimensional response by neighborhood residents, businesses, and government agencies, including coordinated treatment services, health care, housing services and vocational training. Mandatory restrictions on alcohol sales imposed by the Board are a key element in the effort to mitigate the negative impacts of chronic public inebriation.

Whereas, WAC 314-12-215 sets forth the requirements that the government subdivision must satisfy in order for the Liquor Control Board to recognize the proposed Alcohol Impact Areas.

Whereas, the city of Tacoma's request meets the requirements for Board recognition, as outlined in WAC 314-12-215 includes findings of fact pertaining to the presence of chronic public inebriation. Data submitted by the city of Tacoma finds that crime statistics, police reports, emergency response data, sanitation reports, and public health records demonstrate that chronic public inebriation and illegal activity associated with alcohol sales and consumption within the Downtown Core and the Lincoln District continue to contribute to the deterioration of the general quality of life within these areas.

Whereas, the city of Tacoma has designated by Ordinance No. 28135 the proposed Alcohol Impact Area. The boundaries of the proposed Alcohol Impact Area is understandable to the public, and liquor licensees within the area are determinable, per the requirements of WAC 314-12-215.

Tacoma West End Boundaries

That area within the city limits on the north by the waters of Puget Sound and commencement Bay, on the east by a line running due south from Commencement Bay to the intersection of Schuster Parkway and North 30th Street, then west on North



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30th Street to North Alder Street, then south on Alder Street to the Cedar Street transition and continuing south to SR 16, on the south by the south side of SR 16 to South 19th Street, then west on South 19th Street to the waters of Puget Sound, on the west by the waters of Puget Sound and the west and north along 6th Avenue to the Narrows Drive transition and continuing north to North 26th Street, the east on North 26th Street to Pearl Street/SR 163 to the waters of Puget Sound. Any boundary formed by a street includes the parcels on either side of the street.

Whereas; the city of Tacoma requests that the Liquor and Cannabis Board impose mandatory restrictions on the off-premises sale of alcohol by the licensees in the West End Alcohol Impact Area. Specifically, the city requests no sales of certain low cost/high alcohol content beer and wine products identified by a banned products list.

Whereas, in reaching our decision, the board has duly considered the city of Tacoma's December 4, 2014, letter requesting the Board establish a mandatory Alcohol Impact Area in the West End, written comments from stakeholders and the public regarding Tacoma's request, the Liquor and Cannabis Board staff presentation, and public hearings held on July 15, 2015, and August 26, 2015..

Now therefore, be it resolved,

The Board resolves to impose the following mandatory restrictions requested by the city of Tacoma, to take effect October 15, 2015.

No sales of the following beer and wine products listed. All flavors, alcohol content, and container sizes of the following names products are hereby banned from off-premises sale by licensees in the West End Alcohol Impact Area.

Banned Product List
City of Tacoma West End Alcohol Impact Area

WINE

- Cisco
- MD 20/20
- Night Train Express
- Richard's Wild Irish Rose
- Thunder Bird

MALT BEVERAGE

- Big Bear
- Blast by Colt 45
- Bud Ice
- Bull Ice
- Bush Ice

MALT BEVERAGE (CONTINUED)

- Mike's Harder Lemonade (or other flavors)
- Mickey's Ice Brewed Ale
- Milwaukee's Best Ice
- Milwaukee's Best Premium Ice Beer
- Molson Ice
- Natty Daddy
- Natural Ice
- Old Milwaukee Ice
- Olde English 800
- Rainier Ale
- Red Dog



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- | | |
|---------------------------|-----------------------------------|
| Camo | Schlitz High Gravity |
| Colt 45 Ice | Schmidt's Ice |
| Colt 45 Malt Liquor & HG | Smirnoff Black Ice |
| Core High Gravity | Sparks |
| Dog Bite* | Special 800 Reserve |
| Earthquake HG | Stacks HG |
| Edge by Icehouse* | St Ide's Liquor and Special Brews |
| Four Loco | Steele Reserve |
| Hurricane High Gravity | Tilt |
| HG 800 | |
| Hurricane Ice Malt Liquor | |
| Ice House | |
| Joose | |
| Keystone Ice | |
| King Cobra Malt Liquor | |
| Labatt Max Ice | |
| Liquid Charge | |

The Board resolves that these restrictions are reasonably related to addressing the problem of chronic public inebriation demonstrated to exist within the West End Alcohol Impact Area.

The Board further resolves that such restrictions are a reasonable control measure aimed at mitigating the negative effects of chronic public inebriation, and are necessary to augment the city of Tacoma's efforts to address such problems within the defined Alcohol Impact Areas.

The city of Tacoma shall submit annual updates of data demonstrating how the restrictions imposed by this resolution have mitigated the negative impacts associated with chronic public inebriation within the West End Alcohol Impact Area. The first report for the West End Alcohol Impact Area to the Liquor and Cannabis board is due by October 31, 2016.

Signed and Dated: September 9, 2015

Jane Rushford, Chairman Ruthann Kurose, Board Member Russ Hauge, Board Member



Washington State
Liquor and Cannabis Board

Date: September 9, 2014

To: Jane Rushford, Board Chair
 Ruthann Kurose, Board Member
 Russ Hauge, Board Member

From: Karen McCall, Agency Rules Coordinator

Copy: Rick Garza, Agency Director
 Randy Simmons, Deputy Director
 Justin Nordhorn, Chief of Enforcement
 Becky Smith, Licensing Director

Subject: **Approval of final rulemaking (CR 103) for new rules in Chapter 314-23 WAC to clarify RCW 66.28.170 Discrimination in price to purchaser for resale prohibited—Price differentials.**

At the Board meeting on August 26, 2015, the rules coordinator requests that the Liquor and Cannabis Board approve the final rulemaking (CR 103) for new rules in **Chapter 314-23 WAC to clarify RCW 66.28.170 Discrimination in price to purchaser for resale prohibited – Price differentials.**

The Board was briefed on the rule making background and public comment for this rule making. An issue paper and text of the rules is attached.

If approved, the Rules Coordinator will send an explanation of the rule making to all persons who submitted comments.

After sending this explanation, the Rules Coordinator will file the rules with the Office of the Code Reviser. The effective date of the rules will be 31 days after filing.

<input type="checkbox"/> Approve	<input type="checkbox"/> Disapprove	_____	_____
		Jane Rushford, Chairman	Date
<input type="checkbox"/> Approve	<input type="checkbox"/> Disapprove	_____	_____
		Ruthann Kurose, Board Member	Date
<input type="checkbox"/> Approve	<input type="checkbox"/> Disapprove	_____	_____
		Russ Hauge, Board Member	Date

Attachment: Issue Paper
 Proposed Rules

Issue Paper

Rulemaking on Fair Trade Practices

Date: September 9, 2015

Presented by: Karen McCall, Agency Rules Coordinator

Description of the Issue

The purpose of this issue paper is to recommend that the Washington State Liquor and Cannabis Board (WSLCB) proceed with final rule making and adopt the new rules in **Chapter 314-23 WAC to clarify RCW 66.28.170 Discrimination in price to purchaser for resale prohibited—Price differentials.**

Why is rule making necessary?

A petition for rulemaking was submitted by a stakeholder requesting the board adopt rules to clarify RCW 66.28.170 regarding prohibited practices and price differentials.

Public comment.

On these proposed rules, the third supplemental proposed rules, four comments were received at the public hearing held on August 26, 2015. Five written comments in opposition of the rules were received and thirty-six written comments in support of the rules were received.

What changes are being proposed?

New Section. WAC 314-23-060 What are "volume discounts"? Defines "volume discounts".

New Section. WAC 314-23-065 What are "unfair trade practices"? Defines "unfair trade practices".

New Section. WAC 314-23-070 What is "local market"? Defines "local market". For purposes of volume discounts, sales to on-premises retailers and off-premises retailers constitute separate markets.

New Section. WAC 314-23-075 Are licensed distributors or other suppliers of spirits and wine allowed to provide discounts to on-premises or off-premises retail licensees based on a commitment from the retailer to

purchase a particular percentage of the spirits back-bar, well-drinks, wine by the glass, or any combination of these? Addresses exclusivity.

New Section. 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? Explains what is allowed under “volume discounts”. Exceptions are granted for different volume pricing on spirits to on-premises retailers and off-premises retailers for new products to the market. Wine may be sold at different prices to on-premises retailers and off-premises retailers.

New Section. WAC 314-23-085 What type of discounts are not allowed?

Explains the following practices are not allowed under “volume discounts”:

- Discounts for purchases over time. Combining volumes of spirits and wine purchased beyond the day of purchase period to qualify for a volume discount is considered an extension of credit under 27 CFR 6.65 because state law does not allow the extension of credit; and
- Discounts on a combined order that is delivered to multiple sites (central warehousing rules were written to allow separate licensed entities to lease warehouse space and request a discount on goods delivered to a single warehouse location), unless the order is delivered to multiple liquor licensed locations owned and operated by the same liquor licensed entity.

NEW SECTION

WAC 314-23-060 What are "volume discounts"? Volume discounts are discounts that are based solely on the volume of the spirits and/or wine that is purchased by a retailer from a distributor or supplier. However, the limitations on interactions between the levels of licenses remain including, but not limited to, the prohibition on undue influence and sales below cost.

NEW SECTION

WAC 314-23-065 What are "unfair trade practices"? (1) "Unfair trade practice" means one retailer or industry member directly or indirectly influencing the purchasing, marketing, or sales decisions of another retailer or industry member by any agreement written or unwritten or any other business practices or arrangements such as, but not limited to, the following:

(a) Any form of coercion between industry members and retailers or between retailers and industry members through acts or threats of physical or economic harm, including threat of loss of supply or threat of curtailment of purchase;

(b) A retailer on an involuntary basis purchasing less than it would have of another industry member's product;

(c) Purchases made by a retailer or industry member as a prerequisite for purchase of other items;

(d) A retailer purchasing a specific or minimum quantity or type of a product or products from an industry member;

(e) An industry member requiring a retailer to take and dispose of a certain product type or quota of the industry member's products;

(f) A retailer having a continuing obligation to purchase or otherwise promote or display an industry member's product;

(g) An industry member having a continuing obligation to sell a product to a retailer;

(h) A retailer having a commitment not to terminate its relationship with an industry member with respect to purchase of the industry member's products or an industry member having a commitment not to terminate its relationship with a retailer with respect to the sale of a particular product or products;

(i) An industry member being involved in the day-to-day operations of a retailer or a retailer being involved in the day-to-day operations of an industry member in a manner that violates the provisions of this subsection;

(j) Discriminatory pricing practices as prohibited by law or other practices that are discriminatory in that the product is not offered to all retailers in the local market at the same price.

(2) The exercise of undue influence is an unfair trade practice and is prohibited.

NEW SECTION

WAC 314-23-070 What is "local market"? Local market is limited to businesses in geographic recognized market areas such as town, city, county or other recognized geographic area in which distribution services are provided. For the purposes of differential pricing, sales to on-premises retailers and off-premises retailers constitute separate markets.

NEW SECTION

WAC 314-23-075 Are licensed distributors or other suppliers of spirits and wine allowed to provide discounts to on-premises or off-premises retail licensees based on a commitment from the retailer to purchase a particular percentage of the spirits back-bar, well-drinks, wine by the glass, or any combination of these? (1) It is unlawful for a distributor or other supplier of spirits or wine to offer a lower price to an on-premises or off-premises retailer if the retailer is required to purchase a specific portion of some or all of its wine or spirits from that distributor or supplier in order to qualify for the lower price. Such requirements include, but are not necessarily limited to, agreeing to devote certain percentage of the spirits back-bar, well-drinks, wine by the glass, or any combination of these or other types of purchases to products sold by that distributor or supplier.

(2) Such exclusive discounts are prohibited under RCW 66.28.170 and federal law 27 C.F.R. 6.72.

NEW SECTION

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? (1) Yes, distributors or other licensed suppliers are allowed to provide volume discounts to licensed on-premises and off-premises retailers. The discounts must be based solely on the volume of the spirits and/or wine that is purchased by a retailer from a distributor or other licensed suppliers. However, the limitations on interactions between the levels of licenses remain, including the prohibition on undue influence and sales below cost of acquisition.

(2) Differential pricing between on-premises licensed retailers and off-premises licensed retailers is allowed under the following exceptions:

(a) For spirits: A new product to the market may be sold to on-premises retailers at an "introductory price" for a maximum of six months. After the six-month introductory period the price for on-premises and off-premises retailers must be the same price for the same volume purchased.

(i) "New product" means the product has not previously been offered for sale to retailers.

(ii) "Introductory price" means the price of the spirits product when it first becomes available for purchase.

(b) For wine: Wine may be sold to on-premises retailers and off-premises retailers at different prices.

NEW SECTION

WAC 314-23-085 What type of discounts are not allowed? The following types of discounts are not allowed. Please note that this list is representative and not inclusive of all practices that are not allowed:

- (1) **Volume discounts that violate local, state, or federal laws.**
- (2) **Discounts on purchases over time.** Prices must be based on the spirits or wine delivered in a single shipment or single invoice.
- (3) **Discounts on a combined order that is delivered to multiple licensed sites.** Volume discounts may only be provided based on combined orders by one or more licensees to the "central warehouse" or a single location to which the order is delivered. The delivery of product to multiple sites cannot be used in determining the volume discount for a combined order unless the order is delivered to multiple liquor licensed locations owned and operated by the same liquor licensed entity.



Washington State
Liquor and Cannabis Board

Date: September 9, 2014

To: Jane Rushford, Board Chair
 Ruthann Kurose, Board Member
 Russ Hauge, Board Member

From: Karen McCall, Agency Rules Coordinator

Copy: Rick Garza, Agency Director
 Randy Simmons, Deputy Director
 Justin Nordhorn, Chief of Enforcement
 Becky Smith, Licensing Director

Subject: Approval to file proposed rules (CR 102) to implement 2015 liquor legislation.

This rulemaking is the result of 2015 legislation. New rules and revisions to current rules are needed to implement the following legislation:

- **HB 1004 Alcohol Tasting by Students**
- **HB 1342 Microbrewery Sale of Cider**
- **ESSHB 1807 Small Businesses Selling Spirits**
- **SSB 5280 Beer and Cider Growlers in Grocery Stores**
- **E2SSB 5353 Allowances for WA Distilleries**
- **SSB 5504 Liquor Stocking by Distributors**
- **SSB 5596 Winery Special Permit**
- **SB 5662 Promotional Items to Special Occasion Licensees by Domestic Breweries and Microbreweries**

Process

The Rules Coordinator requests approval to file the proposed rules (CR 102) for the rule making described above. An issue paper on this rule was presented at the Board meeting on September 9, 2015, and is attached to this order.

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

September 9, 2015	Board is asked to approve filing the proposed rules (CR 102 filing)
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Washington State
Liquor and Cannabis Board

October 7, 2015	Code Reviser publishes notice, LCB sends notice to rules distribution list
November 4, 2015	Public Hearing held
November 4, 2015	End of written comment period
November 18, 2015	Board is asked to adopt rules
November 18, 2015	Agency sends notice to those who commented both at the public hearing and in writing.
November 18, 2015	Agency files adopted rules with the Code Reviser (CR 103)
December 19, 2016	Rules are effective (31 days after filing)

_____ Approve _____ Disapprove _____
 Jane Rushford, Chairman Date

_____ Approve _____ Disapprove _____
 Ruthann Kurose, Board Member Date

_____ Approve _____ Disapprove _____
 Russ Hauge, Board Member Date

Attachment: Issue Paper

Issue Paper

2015 Liquor Legislation Implementation

Date: September 9, 2015

Presented by: Karen McCall, Agency Rules Coordinator

Description of the Issue

The purpose of this Issue Paper is to request approval from the Board to file proposed rules (CR 102) to implement 2015 liquor legislation.

Why is rule making necessary?

New rules and revisions to current rules are needed to implement the following legislation that passed during the 2015 legislative session:

- **HB 1004 Alcohol Tasting by Students**
- **HB 1342 Microbrewery Sale of Cider**
- **ESSHB 1807 Small Businesses Selling Spirits**
- **SSB 5280 Beer and cider Growlers in Grocery Stores**
- **E2SSB 5353 Allowances for WA Distilleries**
- **SSB 5504 Liquor Stocking by Distributors**
- **SSB 5596 Winery Special Permit**
- **SB 5662 Promotional Items to Special Occasion Licensees by Domestic Breweries and Microbreweries**

What changes are being proposed?

Amended Section. WAC 314-02-100 What is a grocery store? Added requirements for beer and wine growler sales. (SSB 5280)

Amended Section. WAC 314-02-104 Central warehousing. Added requirements for spirits retail licensees having spirits product delivered to another spirits retail licensees premises. (ESSHB 1807)

Amended Section. WAC 314-02-109 What are the quarterly reporting and payment requirements for a spirits retail licensee? Change the penalty amount on late payments from 2% to 1%. (ESSHB 1807)

Amended Section. WAC 314-05-025 Application process for a special occasion license. Changed the name of the board to liquor and cannabis board.

New Section. WAC 314-05-035 Branded promotional items. Created a rule to allow special occasion licensees to accept branded promotional items from domestic breweries and microbreweries and associated requirements. (SB 5662)

Amended Section. WAC 314-12-140 Prohibited practices – Contracts – gifts – Rebates. Added language allowing nonretail licensees employees between 18 and 21 years old to handle liquor under certain conditions and requirements. (SSB 5504)

Amended Section. WAC 314-20-015 Licensed brewers – Retail sales of beer on brewery premises – Beer served without change on premises – Spirits, beer, and wine restaurant operation. Added language allowing domestic breweries and microbreweries to sell cider produced by a domestic winery for on and off premises. Also included the allowance from past legislation allowing breweries and microbreweries to sell beer produced by another domestic brewery or microbrewery under certain conditions. (HB 1342)

Amended Section. WAC 314-28-010 Records. Changed the name of the board to liquor and cannabis board.

New Section. WAC 314-28-095 Farmer's market spirits sales. Added language clarifying the conditions and requirements regarding spirits sales at farmer's markets. (E2SSB 5353)

New Section. WAC 314-28-100 Consumer orders, internet sales, and delivery for distillery and craft distillery licensees. Created a rule clarifying the conditions and requirements for internet sales and delivery of spirits to customers by distillers and craft distillers. (E2SSB 5353)

Amended Section. WAC 314-38-060 Special permit for technic Ia or community colleges, regional university, or state university, as authorized by RCW 66.20.010 (12) shall be called a class 15 permit. Revised rule to include regional university and state university. (HB 1004)

New Section. WAC 314-38-080 Class 18 special winery permit. Created a rule clarifying the requirements for the new special winery permit. (SSB 5596)

New Section. WAC 314-38-090 Class 19 special distillery permit.
Created a rule clarifying the requirements for the new special distillery permit.
(E2SSB 5353)

WAC 314-02-104 Central warehousing. (1) Each retail liquor licensee having a warehouse facility where they intend to receive wine and/or spirits must register their warehouse facility with the board and include the following information:

(a) Documentation that shows the licensee has a right to the warehouse property;

(b) If a warehouse facility is to be shared by more than one licensee, each licensee must demonstrate to the board that a recordkeeping system is utilized that will account for all wine and/or spirits entering and leaving the warehouse for each license holder. The system must also account for product loss;

(c) Licensees in a shared warehouse may consolidate their commitment for the amount of product they plan to order, but their orders must be placed separately and paid for by each licensee; and

(d) Alternatively, if the warehouse does not have a recordkeeping system that provides the required information, wine and/or spirits for each licensee in a shared warehouse must be separated by a physical barrier. Where physical separation is utilized, a sketch of the interior of the warehouse facility must be submitted indicating the designated area the licensee will be storing product. (Example: If ABC Grocery and My Grocery, each licensed to a different ownership entity, both lease space in a warehouse facility, the wine and/or spirits must be in separate areas separated by a physical barrier.)

(2) Spirits retail licensees may have spirits product delivered to their individual licensed premises, at any other spirits retail licensed premises, or at a warehouse facility registered with the board.

(a) Spirits retail licensees may negotiate a volume discount price with a spirits distributor to order spirits product as a group and have all product delivered to one spirits retail licensed premises.

(b) Spirits distributors may accept a group order for spirits and deliver to one spirits retail licensed premises and collect individual checks for payment from each spirits retail licensee that participated in the group order.

(c) Each spirits retail licensee will pick up their spirits product from the spirits retail licensed premises where the spirits product was delivered.

(3) Upon the request of the board, the licensee must provide any of the required records for review. Retail liquor licensees must keep the following records for three years:

(a) Purchase invoices and supporting documents for wine and/or spirits purchased;

(b) Invoices showing incoming and outgoing wine and/or spirits (product transfers);

(c) Documentation of the recordkeeping system in a shared warehouse as referenced in subsection (1)(b) of this section; and

(d) A copy of records for liquor stored in the shared warehouse.

~~((3))~~ (4) Each licensee must allow the board access to the warehouse for audit and review of records.

~~((4))~~ (5) If the wine and/or spirits for each licensee in a shared warehouse is not kept separate, and a violation is found, each licensee that has registered the warehouse with the board may be held accountable for the violation.

AMENDATORY SECTION (Amending WSR 14-12-101, filed 6/4/14, effective 7/5/14)

WAC 314-02-109 What are the quarterly reporting and payment requirements for a spirits retailer license? (1) A spirits retailer must submit quarterly reports and payments to the board.

The required reports must be:

(a) On a form furnished by the board;
(b) Filed every quarter, including quarters with no activity or payment due;

(c) Submitted, with payment due, to the board on or before the twenty-fifth day following the tax quarter (e.g., Quarter 1 (Jan., Feb., Mar.) report is due April 25th). When the twenty-fifth day of the month falls on a Saturday, Sunday, or a legal holiday, the filing must be postmarked by the U.S. Postal Service no later than the next postal business day; and

(d) Filed separately for each liquor license held.

(2) **What if a spirits retailer licensee fails to report or pay, or reports or pays late?** Failure of a spirits retailer licensee to submit its quarterly reports and payment to the board as required in subsection (1) of this section will be sufficient grounds for the board to suspend or revoke the liquor license.

A penalty of (~~two~~) one percent per month will be assessed on any payments postmarked after the twenty-fifth day quarterly report is due. When the twenty-fifth day of the month falls on a Saturday, Sunday, or a legal holiday, the filing must be postmarked by the U.S. Postal Service no later than the next postal business day.

Absent a postmark, the date received at the Washington state liquor control board, or designee, will be used to determine if penalties are to be assessed.

AMENDATORY SECTION (Amending WSR 11-23-045, filed 11/9/11, effective 12/10/11)

WAC 314-02-100 What is a grocery store license? (1) Per RCW 66.24.360, a grocery store license allows a licensee to sell beer and/or wine for off-premises consumption.

(2) The annual fee for this license is one hundred fifty dollars.

(3) In order to obtain and maintain a grocery store license, the premises must be stocked with an inventory of at least three thousand dollars wholesale value of food for human consumption, not including soft drinks, beer, or wine. This minimum inventory must be:

(a) Stocked within the confines of the licensed premises; and

(b) Maintained at the premises at all times the business is licensed, with the exception of:

(i) The beginning and closing inventory for seasonal operations; or

(ii) When the inventory is being sold out immediately prior to discontinuing or selling the business.

(4) A grocery store licensee may sell beer in kegs or other containers holding at least four gallons and less than five and one-half gallons of beer. See WAC 314-02-115 regarding keg registration requirements.

(5) A grocery store licensee may sell beer and wine over the internet. See WAC 314-03-020 regarding internet sales and delivery.

(6) A grocery store applicant or licensee may apply for an international exporter endorsement for five hundred dollars a year, which allows the sale of beer and wine for export to locations outside the United States.

(7) A grocery store applicant or licensee may apply for a beer and wine tasting endorsement which allows beer and wine tastings on the grocery store premises. The annual fee for this endorsement is two hundred dollars.

(8) A grocery store licensee may apply for an endorsement to sell beer and cider growlers.

(a) The licensee must have sales from beer and wine exceeding fifty percent of their total revenues or maintain an alcohol inventory of not less than fifteen thousand dollars.

(b) Beer and cider must be sold in sanitary containers provided by the purchaser, licensee or the manufacturer and filled by the employee at the time of purchase.

(c) The taps must be located behind a counter where only employees have access or the taps must have locks preventing use unless unlocked and operated by an employee.

(d) Only employees of the licensee are permitted to operate the taps.

(e) All employees operating a tap must hold a class 12 alcohol server permit.

(f) The cost for the endorsement is one hundred twenty dollars.

AMENDATORY SECTION (Amending WSR 11-23-046, filed 11/9/11, effective 12/10/11)

WAC 314-05-025 Application process for a special occasion license. (1) Special occasion applications normally take forty-five days to process. The liquor (~~(control)~~) and cannabis board may not be able to process your application in time for your event if you do not apply at least forty-five days before the event.

(2) Per RCW 66.24.010(8), when the liquor and cannabis board receives a special occasion application, it must send a notice to the local authority. The local authority has twenty days to respond with any input, and they may request an extension for good cause.

(3) The liquor (~~(control)~~) and cannabis board may run a criminal history check on the organization's officers and/or managers.

(4) The liquor (~~(control)~~) and cannabis board requires documentation to verify the organization is a (~~(bona-fide)~~) bona fide nonprofit, who the true party(ies) of interest are in the organization, and that the organization meets the guidelines outlined in WAC 314-05-020 and 314-05-025.

(5) See chapter 314-07 WAC regarding possible reasons for denial of a special occasion license. Denials are subject to the provisions of the Administrative Procedure Act, chapter 34.05 RCW.

NEW SECTION

WAC 314-05-035 Branded promotional items. (1) Nothing in RCW 66.28.305 prohibits a licensed domestic brewery or microbrewery from providing branded promotional items which are of nominal value, singly or in the aggregate, to a nonprofit charitable corporation or association, exempt from taxation under 26 U.S.C. Sec. 501 (c)(3) of the Internal Revenue Code as it existed on the effective date of this section for use consistent with the purpose entitling it to such exemptions. Branded promotional items may not be targeted to or be especially appealing to youth.

(2) If the nonprofit charitable corporation or association applies for and receives a special occasion license, they are considered a liquor retailer and are required to comply with RCW 66.28.305. Branded promotional items:

(a) Must be used exclusively by the retailer in a manner consistent with its license;

(b) Must bear imprinted advertising matter of the industry member only, except imprinted advertising matter of the industry member can include the logo of a professional sports team which the industry member is licensed to use;

(c) May be provided by industry members only to retailers and their employees and may not be provided by or through retailers or their employees to retail customers; and

(d) May not be targeted to or be especially appealing to youth.

(3) An industry member is not obligated to provide such branded promotional items as a condition for selling alcohol to the retailer.

(4) Any industry member or retailer or any other person asserting the provision of branded promotional items as allowed in this section has resulted or is more likely than not to result in undue influence

or an adverse impact on public health and safety, or is otherwise inconsistent with the criteria of this section, may file a complaint with the liquor and cannabis board. Upon receipt of a complaint, the liquor and cannabis board may conduct such investigation as it deems appropriate.

(a) The liquor and cannabis board may issue an administrative violation notice to the industry member, the retailer, or both.

(b) The recipient of the administrative violation notice may request a hearing under chapter 34.05 RCW.

AMENDATORY SECTION (Amending WSR 10-01-090, filed 12/16/09, effective 1/16/10)

WAC 314-12-140 Prohibited practices—Contracts—Gifts—Rebates, etc. (1) No industry member or retailer shall enter into any agreement which causes undue influence over another retailer or industry member. This regulation shall not be construed as prohibiting the placing and accepting of orders for the purchase and delivery of liquor which are made in accordance with the usual and common business practice and which are otherwise in compliance with the regulations.

(2) No industry member shall advance and no retailer, any employee thereof, or applicant for a retail liquor license shall receive money or money's worth under any written or unwritten agreement or any other business practice or arrangement such as:

- (a) Gifts;
- (b) Discounts;
- (c) Loans of money;
- (d) Premiums;
- (e) Rebates;
- (f) Free liquor of any kind; or
- (g) Treats or services of any nature whatsoever except such services as are authorized in this regulation.

(3) Pursuant to RCW (~~66.28.010~~) 66.28.310 and 66.44.318 an industry member or licensed agent may perform the following services for a retailer:

(a) Build, rotate, and restock displays, utilizing filled cases, filled bottles or filled cans of its own brands only, from stock or inventory owned by the retailer.

(b) Rotate, rearrange or replenish bottles or cans of its own brands on shelves or in the refrigerators but is prohibited from rearranging or moving displays of its products in such a manner as to cover up, hide or reduce the space of display of the products of any other industry member.

(c) Industry members or any employees thereof may move or handle in any manner any products of any other manufacturer, importer or distributor on the premises of any retail licensee when a two-day notice is given to other interested industry members or their agents and such activity occurs during normal business hours or upon hours that are mutually agreed.

(d) Provide price cards and may also price goods of its own brands in accordance with the usual and common business practice and which are otherwise in compliance with the regulations.

(e) Provide point of sale advertising material and brand signs.

(f) Provide sales analysis of beer and wine products based on statistical sales data voluntarily provided by the retailer involved for the purpose of proposing a schematic display for beer and wine products. Any statistical sales data provided by retailers for this purpose shall be at no charge.

(g) Such services may be rendered only upon the specific approval of the retail licensee. Displays and advertising material installed or supplied for use on a retailer's premises must be in conformity with the board's advertising rules as set forth in chapter 314-52 WAC.

(h) Licensees holding nonretail class liquor licenses are permitted to allow their employees between the ages of eighteen and twenty-one to stock, merchandise, and handle liquor on or about the:

(i) Nonretail premises if there is an adult twenty-one years of age or older on duty supervising such activities on the premises; and
(ii) Retail licensee's premises, except between the hours of 11:00 p.m. and 4:00 a.m., as long as there is an adult twenty-one years of age or older, employed by the retail licensee, and present at the retail licensee's premises during the activities.

Any act or omission of the nonretail class liquor licensee's employee occurring at or about the retail licensee's premises, which violates any provision of this title, is the sole responsibility of the nonretail class liquor licensee.

(4) No industry member or employee thereof shall, directly or indirectly, give, furnish, rent or lend to, or receive from, any retailer, any equipment, fixtures, supplies or property of any kind, nor shall any retail licensee, directly or indirectly, receive, lease or borrow from, or give or offer to, any industry member any equipment, fixtures, supplies or property of any kind. Sales authorized in this regulation shall be made on a cash on delivery basis only.

(5) No industry member or employee thereof shall sell to any retail licensee or solicit from any such licensee any order for any liquor tied in with, or contingent upon, the retailer's purchase of some other beverage, alcoholic or otherwise, or any other merchandise, property or service.

(6) In selling equipment, fixtures, supplies or commodities other than liquor, no industry member shall grant to any retailer, nor shall such retailer accept, more favorable prices than those extended to nonlicensed retailers. The price thereof shall be not less than the industry member's cost of acquisition. In no event shall credit be extended to any retailer.

(7) Any industry member who sells what is commonly referred to as heavy equipment and fixtures, such as counters, back bars, stools, chairs, tables, sinks, refrigerators or cooling boxes and similar articles, shall immediately after making any such sales have on file and available for inspection, records including a copy of the invoice covering each such sale, which invoice shall contain the following information:

- (a) A complete description of the articles sold;
- (b) The purchase price of each unit sold together with the total amount of the sale;
- (c) Transportation costs and services rendered in connection with the installation of such articles; and
- (d) The date of such sale and affirm that full cash payment for such articles was received from the retailer as provided in subsection (4) of this section.

(8) If the board finds in any instance that any licensee has violated this regulation, then all licenses involved shall be held equally responsible for such violation.

Note: WAC 314-12-140 is not intended to be a relaxation in any respect of section 90 of the Liquor Act (RCW 66.28.010). As a word of caution to persons desiring to avail themselves of the opportunity to sell to retail licensees fixtures, equipment and supplies subject to the conditions and restrictions provided in section 90 of the act and the foregoing regulation, notice is hereby given that, if at any time such privilege is abused or experience proves that as a matter of policy it should be further curtailed or eliminated completely, the board will be free to impose added restrictions or to limit all manufacturers and distributors solely to the sale of liquor when dealing with retail licensees. WAC 314-12-140 shall not be considered as granting any vested right to any person, and persons who engage in the business of selling to retail licensees property or merchandise of any nature voluntarily assume the risk of being divested of that privilege and they will undertake such business subject to this understanding. The board also cautions that certain trade practices are prohibited by rulings issued under the Federal Alcohol Administration Act by the United States Bureau of Alcohol, Tobacco and Firearms, and WAC 314-12-140 is not intended to conflict with such rulings or other requirements of federal law or regulations.

WAC 314-20-015 Licensed brewers—Retail sales of beer on brewery premises—Beer served without charge on premises—Spirit, beer and wine restaurant operation. (1) A licensed brewer (~~((holding a proper retail license, pursuant to chapter 66.24 RCW,))~~) may sell:

(a) Beer of its own production at retail on the brewery premises(~~(+.)~~);

(b) Beer produced by another microbrewery or a domestic brewery for on- and off-premises consumption from its premises as long as the other breweries brands do not exceed twenty-five percent of the microbrewery's on-tap offering of its own brands. Beer not of its own production must be purchased through normal distribution channels; and

(c) Cider produced by a domestic winery. Cider must be purchased through normal distribution channels.

(2) In selling beer and/or cider at retail, as provided in subsection (1) of this (~~((regulation))~~) section, a brewer shall conduct such operation in conformity with the statutes and regulations applicable to holders of such beer and/or wine retailers' licenses. The brewer shall maintain records of such retail operation separate from other brewery records.

(3) Upon written authorization of the board, pursuant to RCW 66.04.011, beer of a licensed brewer's own production may be consumed in designated parks and picnic areas adjacent to and held by the same ownership as the licensed brewer.

(4) A licensed brewer or a lessee of a licensed brewer operating a spirit, beer and wine restaurant, licensed pursuant to RCW 66.28.010, shall conduct such operation in conformity with the statutes and regulations which apply to holders of such spirit, beer and wine restaurant licenses.

(5) A brewer may serve its own beer and beer not of its own production without charge on the brewery premises, as authorized by RCW 66.28.040.

(6) No retail license or fee is required for the holder of a brewer's license to serve beer without charge on the brewery premises as set forth in subsection (5) of this (~~((regulation))~~) section. Before exercising this privilege, however, such brewer shall obtain approval of the proposed service area and facilities from the board. Such brewer shall maintain a separate record of all beer so served.

(7) A brewery is required to obtain the appropriate retail license to sell beer, wine, or spirits on the brewery premises that is not of its own production except as set forth in subsection (1) of this section pursuant to RCW 66.24.244.

AMENDATORY SECTION (Amending WSR 14-03-078, filed 1/15/14, effective 2/15/14)

WAC 314-38-060 Special permit for technical or community colleges, regional university, or state university as authorized by RCW 66.20.010(12) shall be called a class 15 permit. (1) The class 15 permit allows tasting of alcohol by persons between eighteen and twenty years old. The requirements for a class 15 permit are as follows:

(a) The permit applicant is a technical or community college, regional university, or state university;

(b) The permit allows tasting, not consuming of alcohol as part of the class curriculum with approval of the educational provider;

(c) The student must be enrolled in a required or elective class at the college premises as part of a culinary, sommelier, wine business, enology, viticulture, beer technology, wine technology, or spirituous technology-related degree program;

(d) The alcohol served to any person in the program under twenty-one years of age is tasted but not consumed for the purpose of educational training as part of the class curriculum with the approval of the educational provider;

(e) Faculty or staff of the educational provider must be at least twenty-one years of age, supervise the service and tasting, and hold a class 12 or class 13 alcohol server permit; and

(f) Students may not purchase the alcoholic beverages.

(2) There is no annual fee for this permit.

NEW SECTION

WAC 314-38-080 Class 18 special winery permit. (1) The special winery permit is for domestic wineries.

(2) A special winery permit allows a manufacturer of wine to have a private event not open to the general public at a specific place and date for the purpose of tasting wine and selling wine of its own production for off-premises consumption.

(3) The activities at the event are limited to the activities allowed on the winery premises.

(4) The winery must obtain the special permit by submitting an application for a class 18 special winery permit to the board with a ten dollar permit fee.

(a) The application must be submitted to the board at least ten days prior to the event.

(b) The special permit must be posted at the event.

(5) The winery is limited to twelve events per calendar year.

NEW SECTION

WAC 314-38-090 Class 19 special distillery permit. (1) A special distillery/craft distillery permit is for Washington distillers only.

(2) A special distillery/craft distillery permit allows a manufacturer of spirits to have a private event not open to the general public at a specific place and date for the purpose of tasting spirits and selling spirits of its own production for off-premises consumption.

(3) The activities at the event are limited to the activities allowed on the winery premises.

(4) The distillery or craft distillery must obtain the special permit by submitting an application for a class 19 special distillery/craft distillery permit to the board with a ten dollar permit fee.

(a) The application must be submitted to the board at least ten days prior to the event.

(b) The special permit must be posted at the event.

(5) The licensee is limited to twelve events per calendar year.

AMENDATORY SECTION (Amending WSR 12-12-065, filed 6/5/12, effective 7/6/12)

WAC 314-28-010 Records. (1) All distilleries licensed under RCW 66.24.140 and 66.24.145, including craft, fruit, and laboratory distillers must:

(a) Keep records regarding any spirits, whether produced or purchased, for three years after each sale. A distiller is required to report on forms approved by the liquor and cannabis board;

(b) In the case of spirits exported or sold, preserve all bills of lading and other evidence of shipment;

(c) Submit duplicate copies of transcripts, notices, or other data that is required by the federal government to the liquor and cannabis board if requested, within thirty days of the notice of such request. A distiller shall also furnish copies of the bills of lading, covering all shipments of the products of the licensee, to the board within thirty days of notice of such request;

(d) Preserve all sales records to spirits retail licensees, sales to spirits distributors, and exports from the state; and

(e) Submit copies of its monthly records to the liquor and cannabis board upon request.

(2) In addition to the above, a craft distiller must:

(a) Preserve all sales records of retail sales to consumers; and

(b) Submit its monthly records to the liquor and cannabis board upon request.

NEW SECTION

WAC 314-28-095 Farmer's market spirits sales. To conduct bottled spirits sales at a farmer's market, the following criteria must be met:

(1) The farmer's market must be authorized to allow distilleries and craft distilleries to sell bottled spirits at retail.

(2) The farmer's market endorsement does not allow sampling of spirits.

(3) A distillery or craft distillery selling bottled spirits at a farmer's market must have an endorsement from the liquor and cannabis board to sell bottled spirits of its own production at a farmer's market (see RCW 66.24.145).

(4) The distillery or craft distillery is required to send a list of the dates, times, and locations where bottled spirits may be offered for sale to the liquor and cannabis board at the beginning of each month.

(5) The farmer's market is required to provide a sketch to the licensing division of the area where spirits bottle sales will be conducted.

NEW SECTION

WAC 314-28-100 Consumer orders, internet sales, and delivery for distillery and craft distillery licensees. A distillery or craft distillery licensee may accept orders for spirits from, and deliver spirits to, customers.

(1) **Resale.** Spirits shall not be for resale.

(2) **Stock location.** Spirits must come directly from a licensed distillery or craft distillery possession.

(3) **How to place an order.** Spirits may be ordered in person at a licensed location, by mail, telephone, or internet, or by other similar methods.

(4) **Sales and payment.**

(a) Only a spirits distillery or craft distillery licensee or a licensee's direct employees may accept and process orders and payments. A contractor may not do so on behalf of a spirits distillery or craft distillery licensee, except for transmittal of payment through a third-party service. A third-party service may not solicit customer business on behalf of a spirits distillery or craft distillery licensee.

(b) All orders and payments shall be fully processed before spirits transfers ownership or, in the case of delivery, leaves a licensed distillery's or craft distillery's possession.

(c) **Payment method.** Payment methods include, but are not limited to: Cash, credit or debit card, check or money order, electronic funds transfer, or an existing prepaid account. An existing prepaid account may not have a negative balance.

(d) **Internet.** To sell spirits via the internet, a new spirits distillery or craft distillery license applicant must request internet sales privileges in his or her application. An existing spirits distillery or craft distillery licensee must notify the board prior to beginning internet sales. A corporate entity representing multiple stores may notify the board in a single letter on behalf of affiliated spirits distillery or craft distillery licensees, as long as the liquor license numbers of all licensee locations utilizing internet sales privileges are clearly identified.

(5) **Delivery location.** Delivery shall be made only to a residence or business that has an address recognized by the United States postal service; however, the board may grant an exception to this rule at its discretion. A residence includes a hotel room, a motel room, or other similar lodging that temporarily serves as a residence.

(6) **Hours of delivery.** Spirits may be delivered each day of the week between the hours of 6:00 a.m. and 2:00 a.m. Delivery must be fully completed by 2:00 a.m.

(7) **Age requirement.**

(a) Under chapter 66.44 RCW, any person under twenty-one years of age is prohibited from purchasing, delivering, or accepting delivery of liquor.

(b) A delivery person must verify the age of the person accepting delivery before handing over liquor.

(c) If no person twenty-one years of age or older is present to accept a liquor order at the time of delivery, the liquor shall be returned.

(8) **Intoxication.** Delivery of liquor is prohibited to any person who shows signs of intoxication.

(9) **Containers and packaging.**

(a) Individual units of spirits must be factory sealed in bottles. For the purposes of this subsection, "factory sealed" means that a unit is in one hundred percent resalable condition, with all manufacturer's seals intact.

(b) The outermost surface of a liquor package, delivered by a third party, must have language stating that:

(i) The package contains liquor;

(ii) The recipient must be twenty-one years of age or older; and

(iii) Delivery to intoxicated persons is prohibited.

(10) **Required information.**

(a) Records and files shall be retained at the licensed premises. Each delivery sales record shall include the following:

(i) Name of the purchaser;

(ii) Name of the person who accepts delivery;

(iii) Street addresses of the purchaser and the delivery location; and

(iv) Time and date of purchase and delivery.

(b) A private carrier must obtain the signature of the person who receives liquor upon delivery.

(c) A sales record does not have to include the name of the delivery person, but it is encouraged.

(11) **Web site requirements.** When selling over the internet, all web site pages associated with the sale of liquor must display the spirits distillery or craft distillery licensee's registered trade name.

(12) **Accountability.** A spirits distillery or craft distillery licensee shall be accountable for all deliveries of liquor made on its behalf.

(13) **Violations.** The board may impose administrative enforcement action upon a licensee, or suspend or revoke a licensee's delivery privileges, or any combination thereof, should a licensee violate any condition, requirement, or restriction.

