



Washington State  
**Liquor and Cannabis Board**

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Date: October 21, 2015

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 314-03 Allowed Activities.**

At the Board meeting on October 21, 2015, the rules coordinator requests that the Liquor and Cannabis Board approve the final rulemaking (CR 103) for new rules in Chapter 314-03 Allowed Activities.

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.

\_\_\_\_\_ Approve      \_\_\_\_\_ Disapprove      \_\_\_\_\_  
Jane Rushford, Chairman      Date

\_\_\_\_\_ Approve      \_\_\_\_\_ Disapprove      \_\_\_\_\_  
Ruthann Kurose, Board Member      Date

\_\_\_\_\_ Approve      \_\_\_\_\_ Disapprove      \_\_\_\_\_  
Russ Hauge, Board Member      Date

Attachment: Issue Paper  
Proposed Rules

Washington State Liquor and Cannabis Board

## **Issue Paper**

# **Rules for Internet Sales & Delivery by Beer/Wine Restaurants and Taverns with an off-premises endorsement**

Date: October 21, 2015

Presented by: Karen McCall, Agency Rules Coordinator

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## **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 314-03 WAC Allowed Activities**

## **Why is rule making necessary?**

A petition for rulemaking was submitted by Doug Engler, the licensee of Malt & Vine. Mr. Engler holds a beer/wine tavern license with an off-premises endorsement. The petition requests the board adopt a rule to allow a beer/wine on-premises licensee holding an off-premises endorsement to sell beer and wine over the internet and deliver the product to their customers.

There are no current rules that allow a beer/wine on-premises licensee holding an off-premises endorsement to sell beer and wine over the internet and deliver the beer and wine to their customers. There are rules that allow grocery stores and beer/wine specialty shops to sell beer and wine over the internet and deliver to their customers.

## **Public comment.**

One written comment was received in support of the proposed rules. One written comment was received opposing the proposed rules.

Three comments were received at the public hearing held on October 7, 2015, requesting revisions to the proposed rules.

## **What changes are being proposed?**

**New Section. WAC 314-03-035 Consumer orders, internet sales, and delivery for on-premises beer and/or wine liquor licensees.** Outlines requirements for a beer and/or wine on-premises licensee with an off-premises endorsement to sell beer and/or wine over the internet and deliver product to their customers.

NEW SECTION

**WAC 314-03-035 Consumer orders, internet sales, and delivery for on-premises beer and/or wine liquor licensees.** An on-premises beer and/or wine licensee may accept orders for beer or wine from, and deliver beer or wine to, customers.

(1) **Resale.** Beer and wine shall not be for resale.

(2) **Stock location.** Beer and wine must come directly from a licensed on-premises retail location.

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

(4) **Sales and payment.**

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

(b) All orders and payments shall be fully processed before liquor transfers ownership or, in the case of delivery, leaves a licensed premises.

(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 beer and wine via the internet, a new license applicant must request internet-sales privileges in his or her application. An existing 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 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.** Beer and wine 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) Per chapter 66.44 RCW, any person under twenty-one years of age is prohibited from purchasing, delivering, or accepting delivery of beer and wine.

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

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

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

(9) **Containers and packaging.**

(a) Individual units of beer and wine must be factory sealed in bottles, cans or other like packaging. Delivery of growlers, jugs or other similar, nonfactory sealed containers is prohibited. Delivery of malt liquor in kegs or other containers capable of holding four gal-

lons or more of liquid is allowed, provided that kegs or containers are factory sealed and that the keg sales requirements (see WAC 314-02-115) are met prior to delivery. 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 beer and wine 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 a 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) Times and dates of purchase and delivery.

(b) A private carrier must obtain the signature of the person who receives beer and wine 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 beer and wine must display a licensee's registered trade name.

(12) **Accountability.** A licensee shall be accountable for all deliveries of beer and wine 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.