



Washington State
Liquor and Cannabis Board

Date: January 25, 2017

To: Jane Rushford, Board Chair
Ollie Garrett, Board Member

From: Joanna Eide, Policy and Rules Coordinator

Copy: Rick Garza, Agency Director
Peter Antolin, Deputy Director
Justin Nordhorn, Chief of Enforcement
Becky Smith, Licensing Director
Karen McCall, Agency Rules Coordinator
Peter Corier, Marijuana Examiners Unit

Subject: **Approval of final rules (CR 103) creating a new section in Chapter 314-55 WAC to establish a marijuana research license.**

At the Board meeting on January 25, 2017, the Rules Coordinator requests that the Liquor and Cannabis Board approve the final rulemaking (CR 103) for a new section regarding marijuana research licenses in Chapter 314-55 WAC, Marijuana licenses, application process, requirements, and reporting.

The Board was briefed on the rule making background and public comment for this rule making. An issue paper and text of the rules are 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, on February 26, 2017.

_____ Approve	_____ Disapprove	_____	_____
		Jane Rushford, Chairman	Date
_____ Approve	_____ Disapprove	_____	_____
		Ollie Garrett, Board Member	Date

Attachment: Issue Paper

Issue Paper

Rules to Implement the Marijuana Research License

Date: January 25, 2017

Presented by: Joanna Eide, Policy and 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 rules creating a new section regarding marijuana research licenses in Chapter 314-55 WAC, Marijuana licenses, application process, requirements, and reporting.

Why is rule making necessary?

Rule changes are needed to implement the marijuana research license established by RCW 69.50.372. Changes to RCW 69.50.372 were passed during the 2016 legislative session making it possible for the WSLCB to proceed with implementing the new license. RCW 69.50.372 gives the WSLCB authority to adopt rules related to the implementation of the marijuana research license in RCW 69.50.372(5), including application requirement and administrative provisions relating to the license. These rules are needed to be able to fully implement and issue the license.

Public Comment

One question was received at the public hearing held on December 28, 2016. All comments received are summarized in the Concise Explanatory Statement, prepared under RCW 34.05.325 accompanying this issue paper.

What changes are being proposed?

New Section. WAC 314-55-106 Marijuana warning symbol requirement.

A new WAC section is proposed to create and implement the marijuana research license. Much of this rule draft is administrative in nature as it delineates the process that applicants must follow to obtain a marijuana research license.

Specific requirements for application materials are included. These must be detailed and allow for flexibility in document submittal as research projects that will be proposed by applicants will vary significantly. Since multiple projects may be allowed under a single license, the rule includes requirements related to adding additional research projects. Each project must be reviewed similar to the initial review the WSLCB's scientific reviewer will complete for initial applications for a license. Incomplete applications will not be considered and will be withdrawn.

Provisions are included for the WSLCB's scientific reviewer to follow as part of the applicant and project review process. The reviewer must identify any existing conflicts of interest and take steps to ensure that those reviewer members that have a conflict of interest are screened appropriately. The draft rule also provides restrictions on when a research license application will be recommended by the scientific reviewer. Specifically, the WSLCB will not grant a license to an applicant that has outstanding fees owing to the reviewer since review fees will be paid directly to the reviewer by an applicant under RCW 69.50.372.

Security restrictions are included, as well as requirements relating to traceability. Research licensees must follow the same requirements as other licensed marijuana businesses to ensure that no marijuana is diverted to the illegal market. The rule also provides parameters that research licensees that also hold other marijuana licenses must follow to allow research to be conducted at those licensed premises where it does not conflict with the nature of the other marijuana license the research licensee holds, so long as plants or products held for research purposes are not comingled with other marijuana or plants on the premises. Research licensees must follow disposal requirements in WAC 314-55-097 for disposal of marijuana no longer needed for research purposes.

The rule includes reporting and auditing requirements that will apply to both licensees and the scientific reviewer so the WSLCB can ensure the proper functioning of the license and monitor progress. The rules also require the scientific reviewer report information regarding any violations of rule requirements to the WSLCB. Reports and reviews are required for the renewal of the research license, which the scientific reviewer will play a role in.

The draft rule includes provisions relating to administrative appeal should an application be withdrawn, denied, or revoked.

Minor adjustments were made to the proposed rules prior to requesting adoption. These changes address that research license applicants are not subject to the prioritization requirements for other marijuana licensees, and clarify that research licensees may use funds sourced from outside Washington State for research efforts.

Attachment: Proposed Rules

NEW SECTION

WAC 314-55-073 Marijuana research license. A marijuana research license allows a holder of the license to produce, process, and possess marijuana for the limited research purposes provided in RCW 69.50.372. The WSLCB designates a scientific reviewer (reviewer) to review research applications and make recommendations for the approval or denial of research projects and to assess licensed research activities. The following provisions are in addition to the requirements for marijuana research licensees provided in RCW 69.50.372.

(1) Eligibility and continuing requirements for research license applications, prohibitions and restrictions.

(a) Other than the restrictions listed in this subsection, any person, organization, agency, or business entity may apply for a marijuana research license.

(b) Other marijuana licensees may apply for a research license. Facilities at which the research is conducted must be wholly separate and distinct from the marijuana business, except:

(i) Licensed producers with a research license and approved research project may grow marijuana plants or possess marijuana for research purposes at the producer's licensed premises. However, all marijuana grown or possessed for research purposes or purposes other than those related to the research project must be kept wholly separated and distinct from commercial operations and must not be comingled with or diverted to marijuana grown for commercial purposes or purposes other than those related to the research project; and

(ii) Licensed processors with a research license and approved research project may possess marijuana for research purposes at the processors licensed premises. However, all marijuana possessed for research purposes must be kept wholly separated and distinct from all marijuana possessed for commercial purposes or purposes other than those related to the research project and must not be comingled with or diverted to marijuana possessed for commercial purposes or purposes other than those related to the research project. Licensed processors who do not also hold a producer license may not grow marijuana plants for the purposes of research under a research license at the processor's licensed location.

(c) Labs certified to perform quality assurance testing on marijuana and marijuana products by the WSLCB may apply for a research license. Certified labs with a research license and approved research project must ensure that all marijuana possessed for research purposes is wholly separated from and is not comingled with marijuana possessed for state required testing purposes for licensed producers or processors or marijuana possessed for any reason other than research purposes.

(d) All research license applicants and persons conducting research under the research license must be twenty-one years of age or older.

(e) All research license applicants and those persons that have managing control over an organization, agency, or business entity must pass a criminal background check and financial investigation prior to being eligible to receive a research license.

(f) Except as otherwise provided by chapter 69.50 RCW and agency rule, no applicant for a research license may possess any marijuana plants or marijuana for research purposes unless and until the re-

search project is approved and the applicant is notified that the research license is approved in writing by the WSLCB.

(g) No research licensee may conduct research unless and until the research project is approved by the reviewer and the WSLCB in writing.

(2) Initial applications.

(a) Application made with business licensing services (BLS).

(i) Applicants for a research license must apply through BLS to begin the application process for a research license.

(ii) Upon submitting an application for a research license through BLS, the applicant will receive an application letter from the WSLCB directing the applicant to submit the additional application materials directly to the WSLCB's designated scientific reviewer (reviewer).

(A) The applicant must submit complete and accurate additional application materials directly to the reviewer within thirty days of the date of the application letter from the WSLCB or by the date indicated on the application letter. It is the responsibility of the research license applicant to comply with the application requirements in this section and ensure the application is complete, accurate, and successfully submitted to the reviewer.

(B) Incomplete or incorrect additional application materials, materials that do not adhere to the content requirements in this section, or materials not received by the reviewer by 5:00 p.m. on the 30th day or the application date as indicated on the letter from the WSLCB will not be considered by the reviewer and the WSLCB will withdraw the application after receiving notice in writing from the reviewer.

(b) Additional application materials requirements.

(i) Application materials that do not adhere to the content requirements in this section or incomplete or incorrect applications will be withdrawn.

(ii) The applicant is responsible for ensuring that no information is included in the research plan that may compromise the applicant's ability to secure patent, trade secret, or other intellectual property protection. All application documents must be submitted by a person who has the legal authority to represent the entity if the applicant is an entity other than an individual person.

(iii) All documents must be submitted to the reviewer in a legible PDF format.

(iv) All of the following information and documents are required for each initial application:

(A) A completed cover page form, marijuana research license application form, and signature page form created by the WSLCB and available at the WSLCB's web site at www.lcb.wa.gov.

(B) A research plan limited to four pages that includes the following information:

(I) Purpose and goal(s) of the proposed research project(s);

(II) Key milestones and timelines for the research project(s);

(III) Background and preliminary studies;

(IV) Amount of marijuana to be grown, if applicable, including the justification with respect to milestone tasks;

(V) Anticipated cost of the proposed research project(s) and funding available for the work;

(VI) Key personnel and organizations, including names and roles;

(VII) Facilities, equipment, and other resources required and available for conducting the proposed research project(s).

(C) A biosketch for each individual involved in executing the proposed research project limited to two pages per individual performing technical and administrative functions essential to performing the proposed research, including proof that the individual is twenty-one years of age or older. Biosketches must be prepared using the National Institutes of Health (NIH) biographical sketch format, available at <http://grants.nih.gov/grants/forms/new-renewal-revisions.htm>.

(D) Letters of support limited to two pages per letter confirming the commitment of time and resources from external personnel or organizations if external personnel or organizations will participate in research activities under an approved research project. Letters of support are required to confirm the commitment of time and resources from personnel involved in the proposed research project(s) who are not employed at the applicant organization. Letters of support must include specific details regarding the type(s) and magnitude of the time and resources being committed to the proposed research project(s) and must be signed by individuals having the authority to make such commitments.

(E) For all project(s) involving human or animal subjects, documentation of all required institutional review board (IRB) or institutional animal care and use committee (IACUC) approvals. Documents must be provided on IRB or IACUC letterhead and be signed by authorized officials of those regulatory bodies.

(v) Documents that do not conform to the requirements in subsection (b) of this section may be withdrawn. All nonform documents must conform to the following requirements:

(A) Eight and one-half by 11-inch portrait-oriented page dimensions;

(B) Single-spaced with all margins measuring at least one inch; and

(C) At least 12-point font in Times New Roman or Arial, not proportionately reduced.

(c) **Review by the WSLCB's designated scientific reviewer.**

(i) If the applicant submits application materials to the reviewer by the required deadline specified by the WSLCB's application letter and the reviewer determines the additional application materials are complete and meet the document requirements specified in this section, the reviewer will proceed with reviewing the research project to evaluate whether the project complies with the provisions of RCW 69.50.372 (1) and (2).

(ii) When evaluating research projects, the reviewer must:

(A) Ensure confidentiality; and

(B) Screen members of the reviewer panel for any conflicts of interest and take appropriate measures if a conflict of interest is identified.

(iii) The reviewer will assess fees for the review of the research project proposal directly to the applicant pursuant to RCW 69.50.372(7). The reviewer will not recommend approval of an application for any research license for which an unpaid balance of fees to the reviewer is due regardless of the recommendation of the reviewer regarding the sufficiency of the research project.

(iv) If at any time during the process of review the reviewer finds that the additional application materials are not complete, the reviewer will notify the WSLCB in writing and the WSLCB will withdraw the application.

(v) The reviewer will supply a written evaluation to the WSLCB in writing after completing review of the research project. Evaluations

will provide the approval recommendation status; determination(s) of the applicable research category or categories; and, as applicable, the reasons for a "Not Approved" recommendation. The WSLCB will provide written evaluations to applicants following completion of the review process by the reviewer along with the WSLCB's approval or denial of the research license.

(d) **WSLCB requirements and licensing process.** If the reviewer indicates the application for a research license should be approved, the following requirements must be met prior to final approval of the license by the WSLCB.

(i) The WSLCB will request criminal background and financial information from the research license applicant and evaluate the applicant(s) pursuant to the standards and requirements established in WAC 314-55-020 except that research license applicants are not subject to prioritization under subsection (3) of that section;

(ii) Funding of the proposed research must be disclosed by the applicant(s) in amount, timing and source(s). Funding sources may include organizational resources and individuals and organizations that are not part of the person, organization, agency, or business entity applying for the research license. Out-of-state resources may be included, but must be identified;

(iii) The applicant(s) must adhere to the notice posting requirements under WAC 314-55-020;

(iv) The applicant must demonstrate access to and proficiency with the traceability system; and

(v) The applicant must meet facility security requirements as provided in WAC 314-55-083 prior to being granted a license.

(3) **Research license withdrawal and denials.**

(a) The WSLCB will withdraw an application if:

(i) The application or additional application materials are determined incomplete or incorrect by the WSLCB or its designated reviewer;

(ii) The additional application materials are not timely received by the reviewer as provided in this section; or

(iii) The applicant(s) request withdrawal of a research license application at any time in the application process. The applicant must request the withdrawal in writing and is responsible for any review costs due to the reviewer. The voluntary withdrawal of a research license application does not result in a hearing right.

(b) The WSLCB will deny a research license if:

(i) The scientific reviewer does not recommend approval of the license after reviewing the research proposal for compliance with this section or RCW 69.50.372;

(ii) The applicant does not meet the requirements for a license under this section or RCW 69.50.372; or

(iii) The applicant provides false or misleading information in any of the materials it submits to the WSLCB or the reviewer.

(c) If the WSLCB denies a research application for the reasons provided in (b)(iii) of this subsection or for failing to meet criminal history or administrative violations requirements under this section, the applicant(s) is prohibited from reapplying for a research license for one calendar year from the date of the WSLCB's denial of the license.

(d) A person or entity that has outstanding unpaid review fees owing to the scientific reviewer is prohibited from reapplying for a research license until all review fees are paid to the scientific reviewer.

(4) Reporting required.

(a) The WSLCB or the WSLCB's designated reviewer may require reporting by or auditing of research licensees as necessary.

(b) The WSLCB's designated reviewer must submit an annual status report of all completed and ongoing research projects for the previous year to the WSLCB by December 31st of each calendar year.

(c) The licensee must adhere to the reporting requirements in the traceability system under WAC 314-55-083.

(d) The reviewer must immediately notify the WSLCB if it receives information indicating that a research licensee is operating outside the scope of the projects approved under a research license.

(5) Adding an additional research project or changing existing approved research project process (after licensure).

(a) A research licensee is restricted to only those research activities under a research project that has been reviewed and approved by reviewer.

(b) Applications to add a new project or change an existing approved project is the same as what is required for initial application except that a new license application through BLS is not required. To apply to add a new research project or change an existing approved project, a research licensee must submit all materials to the reviewer as required under subsection (2)(b) of this section. Incomplete project applications will not be considered.

(c) The reviewer will review the application for a new research project or change to an existing approved research project pursuant to subsection (2)(c) of this section. The reviewer will supply a written evaluation to the WSLCB and the licensee in writing after completing review of the application for a new research project or a change to an existing approved research project. Evaluations will provide the approval recommendation status; determination(s) of the applicable research category or categories; and, as applicable, the reasons for a "Not Approved" recommendation.

(6) Research license renewals.

(a) Research license renewals operate on an annual basis, based on the license issuance date. A licensee must have an ongoing approved research project or an application for a new research project to be eligible for license renewal. The WSLCB will notify the licensee and reviewer ninety days prior to the license renewal date. The licensee must provide a status report to the reviewer or an application for a new research project if the licensee's ongoing approved research project will end within thirty days prior to or after the renewal date. The status report or application must be received by the reviewer within thirty days of the ninety-day renewal notice from the WSLCB or the license will not be renewed.

(b) The reviewer will notify the WSLCB in writing if the licensee meets the requirements for renewal not later than fifteen days prior to the licensee's renewal date.

(c) If the reviewer determines that the research project does not meet requirements for renewal due to lack of an ongoing project or for failure to meet the requirements of RCW 69.50.372 or this section for a proposed new project, the reviewer will recommend the WSLCB not renew the license.

(d) The WSLCB will review the licensee's violation history and criminal background check prior to renewal. If the violation history or criminal records disqualifies the licensee from eligibility for a research license under WAC 314-55-050, the WSLCB will not renew the license.

(7) License revocation.

(a) The WSLCB may revoke an application for the following reasons:

(i) The WSLCB has reason to believe that marijuana is being diverted from the research licensee;

(ii) The research licensee operates outside the scope of the research project(s) approved under the license issued to the licensee;

(iii) The applicant makes a misrepresentation of fact, or fails to disclose a material fact to the WSLCB during the application process or any subsequent investigation after a license has been issued;

(iv) The WSLCB finds that the licensee possesses marijuana plants, marijuana, or marijuana products that are not accounted for in the traceability system;

(v) The research licensee makes changes to their operating plan, entity structure, or location without prior approval from the WSLCB;

(vi) The research licensee fails to maintain security requirements for the licensed research facility; or

(vii) The licensee violates any provision of chapter 69.50 RCW or this chapter.

(b) A licensee may request voluntary cancellation of a license at any time. The licensee must request cancellation of a research license to the WSLCB in writing. The voluntary cancellation of a research license does not result in a hearing right.

(8) Marijuana disposal requirements.

(a) Licensees must dispose of marijuana as provided in WAC 314-55-097.

(b) Licensees must dispose of marijuana if the research license is discontinued for any reason. A licensee may transfer plants to another marijuana research licensee. A licensee may work with the WSLCB to dispose of marijuana or marijuana plants.

(9) An applicant or licensee may request an administrative hearing to contest the withdrawal, denial, nonrenewal, or revocation of a research license pursuant to chapter 34.05 RCW. A request for a hearing must be made in writing and received by the WSLCB no later than twenty days after the date the notification of withdrawal, denial, nonrenewal, or revocation was mailed to the applicant or licensee. Appeal requests submitted in paper form may be delivered to the WSLCB in person during normal business hours at 3000 Pacific Avenue S.E., Olympia, WA 98501, or mailed to the WSLCB. Mailed appeal requests must be addressed to: WSLCB, ATTN: Adjudicative Proceedings Coordinator, P.O. Box 43076, Olympia, WA 98504-3076 or, for certified mail, WSLCB, ATTN: Adjudicative Proceedings Coordinator, 3000 Pacific Avenue S.E., Olympia, WA 98501.



Notice of Permanent Rules for the Marijuana Research License

This explanatory statement concerns the Washington State Liquor Control Board's adoption of rules for the Marijuana Research License.

The Administrative Procedure Act (RCW 34.05.325(6)) requires agencies to complete a concise explanatory statement before filing adopted rules with the Office of the Code Reviser. This statement must be provided to anyone who gave comment about the proposed rulemaking.

The Liquor and Cannabis Board appreciates your involvement in the rule making process. If you have questions, please contact Joanna Eide, Policy and Rules Coordinator, at (360) 664-1622 or e-mail at rules@lcb.wa.gov.

Background and reasons for adopting this rule.

Rule changes are needed to implement the marijuana research license established by RCW 69.50.372. Changes to RCW 69.50.372 were passed during the 2016 legislative session making it possible for the WSLCB to proceed with implementing the new license. RCW 69.50.372 gives the WSLCB authority to adopt rules related to the implementation of the marijuana research license in RCW 69.50.372(5), including application requirement and administrative provisions relating to the license. These rules are needed to be able to fully implement and issue the license.

Summary of public comments received on this rule proposal.

CR-101 – filed August 24, 2016, as WSR 16-17-149.

CR 102 – filed November 17, 2016, as WSR 16-23-105.

Public Hearing held December 28, 2016.

Written Comments Received:

Below is a summary of the comments received as part of this rulemaking.

- 1. Concerns about the residency requirements for applicants and holders of a marijuana research license. Does this include corporations headquartered outside of Washington State, but with facilities that are licensed to do business within Washington? If yes, then we interpret section the law to require the manager and research personnel of that facility to have resided in the state for at least three months prior to applying for a research license.**



WSLCB response: Thank you for your comments. Washington state residency requirements apply to applicants for a marijuana research license. It is a 6 month residency requirement and applies to the applicant and holder of the license, including members of a business or organization entity.

Was the comment reflected in the final rule? The residency requirements for marijuana licensees, including research licensees, are provided in statute and cannot be changed through rulemaking. As such, the rule language was not changed.

- 2. Comments were received regarding the inability to transfer marijuana plants back into the regulated market. Currently, there is no legal means to transfer new genetic material into the regulated market. It would be a shame if there couldn't be some way to allow discoveries/technologies that come out of the research system to bear fruit in the industry. Allow the transfer of immature plant material between research and producer licenses to facilitate access to research discoveries.**

WSLCB response: Thank you for your comments. The prohibition on transfer of material by research licensees to anyone other than a research licensee is included in statute and cannot be changed through rulemaking. RCW 69.50.372(3) says "[a] marijuana research licensee may only sell marijuana grown or within its operation to other marijuana research licensees. The liquor and cannabis board may revoke a marijuana research license for violations of this subsection." If the Legislature changes the law surrounding plant or material transfers from a research licensee into the regulated market, the WSLCB will adjust rule requirements accordingly.

Was this comment reflected in the final rule? No. Since the prohibition is included in statute, it cannot be changed through rulemaking.

- 3. What are the mechanisms for researchers to acquire marijuana? RCW mentions it will be donated. This could place limitations on access to quality material if producers are only willing to donate material that is very old or suspected to fail microbial or pesticide analysis. Please allow researchers to purchase on the existing traceable wholesale market from producers and processors. Researchers should not be allowed to sell cannabis material at an excessive price that cannot be justified by research costs and a science faculty-level wage for time spent. I agree with the limitation of selling only to other research licensees and UW/WSU, however, I recommend to expand that to allow sale from researchers to certified testing labs. The purpose is to foster scientific collaboration and cross access specialized equipment.**

WSLCB response: The WSLCB is seeking amendments to RCW 69.50.372 by the Legislature in the 2017 Legislative Session to allow for research licensees to source



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material from both producers and processors. Currently, the statute only mentions processors. Certified labs cannot sell or donate product to research licensees as state law requires that excess material left over from quality assurance testing be returned to the licensee or destroyed.

Was this comment reflected in the final rule? No. The WSLCB is seeking statutory changes that may allow for changes to rule language in the future.

4. **What are the limits for project timelines? Is there a simple method to renew projects for continuing research? The process is often cumbersome in academia and there is the opportunity to make this a lightweight process to better accelerate research.**

WSLCB response: No project timeline limits are included in statute or rule. The scientific reviewer will evaluate the projects on an individual basis and determine whether the project timeline meets the requirements of RCW 69.50.372 and WSLCB rules.

Was this comment reflected in the final rule? No changes to language are necessary to address this comment at this time.

5. **Is this license subject to the same public space proximity restrictions? If possible, making the research license exempt from location restrictions would broaden access to many more scientists, many of whom maintain personal labs of high caliber.**

WSLCB response: Research licensees are subject to the same requirements as other marijuana licensees established in RCW 69.50.331 and WSLCB rule.

Was this comment reflected in the final rule? No. Since the requirement is included in statute, it cannot be changed through rulemaking.

6. **Flexibility in funding sources should be included in the rules to clarify that out of state funds may be used by research licensees for research conducted under the license.**

WSLCB response: Thank you for your comments.

Was this comment reflected in the final rule? Yes. Clarifying changes to language were made regarding funding sources in the rules to accommodate comment requests and ensure that no additional prohibitions other than what is provided in statute apply regarding funding sources.

7. **Section (1)(c) requires labs applying for a marijuana research license to clearly separate research materials from marijuana that is being tested according to LCB purity and potency requirements. To clarify organizational eligibility**



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concerns, we suggest adding a new section ahead of the current 1()(d) and 1)(e) that define personnel requirements.

WSLCB response: The rules do not prohibit the scenario you describe.

Was this comment reflected in the final rule? No. No changes were needed to accommodate this comment.

8. **By requiring licensee applicants to delineate the scope of their project/investigation, it assumes a track of investigation that may yield unexpected breakthroughs and new avenues of opportunity. From the perspective of privately funded research, Research and Development (R&D) almost always takes unexpected twists and turns. R&D is the process of answering a series of unanswered questions. We are very supportive of the efforts to create a Cannabis Research License. Our one concern is the requirement to “know” what the research project may result in. We recommend the LCB include and/or allow flexibility in the R&D investigation process. Undoubtedly new insights will pop up that may provide new pathways of opportunity, and the State can foster this development by allowing entities some latitude in their investigation process.**

WSLCB response: Current marijuana licensees may conduct their own R&D without the need for a research license. Project proposals are required under RCW 69.50.372 for applications for marijuana research licenses, which cannot be changed through rulemaking. However, there would not be a prohibition for research licensees to ignore findings and research licensees would be able to submit a new research proposal for review to add to their efforts under their research license if approved. The research licenses were created to generate data that is needed regarding cannabis and it is not the WSLCB's understanding that the research licenses were created for R&D purposes. Additionally, research proposals do not have to “know” what the result may be, but must have a goal in mind. The scientific reviewer will review each research project proposal and determine whether it meets the requirements in RCW 69.50.372 and agency rule requirements. It is possible that some degree of flexibility may be acceptable in proposals, and the scientific reviewer will be tasked with that assessment.

Was this comment reflected in the final rule? The requirements were unchanged from the CR-102 filing.

9. **I'm very glad this subject is being addressed. Research is necessary for scientific credibility and also for innovation. I'm also very glad that the reviewer looks for conflict of interest. Be ruthlessly scrutinizing. Scrutiny makes for credible research. The applicant should be notified immediately by email if minor issues not related to content, like their application's format or font, are incorrect, so they can correct it. They should also be encouraged to**



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have their application proofread to avoid any unnecessary "bumps in the road."

WSLCB response: Thank you for your comments. The rules are proposed in order to implement the license as created under state law and adjusted by the Legislature during the 2016 legislative session allowing the WSLCB the flexibility in selecting a scientific reviewer and proceed with creating the license. The rule requirements for the applications are very clear so as to fully communicate requirements to an applicant, including font size, etc. As far as encouraging proofreading, that is something that we can do outside rule requirements.

Was this comment reflected in the final rule? No changes to rule language were needed to accommodate this comment.

10. Please create a marijuana research license so that there can be scientific data to back up the claims made about medical marijuana.

WSLCB response: Thank you for your comments. The WSLCB is currently in the rulemaking process to implement the marijuana research license under RCW 69.50.372. You can find more information about the proposed rules on our Proposed Rules webpage, here: <http://lcb.wa.gov/rules/proposed-rules>.

Was this comment reflected in the final rule? No changes to rule language were needed to accommodate this comment.

11. Regarding required "barrier" between research operations and commercial enterprises: It would be beneficial to provide further clarification regarding what constitutes a "barrier". Does this mean a firewall? A plastic partition? Does the barrier need to be secured by doors and locks? We suggest keeping this simple with plastic partition.

WSLCB response: Thank you for your comments. Each operation will be different, and we did not include specific requirements for ensuring that marijuana is not comingled. Each layout will be assessed as part of the license application process and will be considered on a case-by-case basis to address each different instance as they will vary.

Was this comment reflected in the final rule? No changes were needed to rule language to address this comment.

12. "All research license applicants and persons conducting research under the research license must be 21 years of age or older." Comment: It seems this provision is unnecessarily broad in restriction, and would be especially problematic at research universities. Given that not all roles in a research project will involve direct contact with the cannabis plant, it may be useful to include language that provides for interns or students to participate in



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research that does not require them to come in contact with flowers or flowering plants.

WSLCB response: RCW 69.50.331 requires that all applicants, licensees, and employees of licensees be 21 years of age or older. Rulemaking cannot change requirements established in statute.

Was this comment reflected in the final rule? The requirements were unchanged from the CR-102 filing. Rulemaking cannot change requirements established in statute.

13. "No applicant for a research license may possess any marijuana plants or marijuana unless and until the research project is approved and the applicant is notified that the research license is approved in writing by the WSLCB."

Comment: This paragraph could be interpreted to mean that adults over the age of 21 who participate in research projects would be prohibited from possessing cannabis for personal or medical use.

WSLCB response: Thank you for your comments. We agree that the language was somewhat broad and may have that unintended interpretation.

Was this comment reflected in the final rule? Rule language was adjusted to include caveats for "except as otherwise allowable under laws and rules."

14. "Upon submitting an application for a research license through BLS, the applicant will receive an application letter from the WSLCB directing the applicant to submit the additional application materials directly to the WSLCB's designated scientific reviewer (reviewer)." **Comment:** It will be very important to allow applicants an opportunity to make positive or negative recommendations on prospective reviewers, insofar as some reviewers may pose conflicts or competitive concerns that only applicants may be aware of.

WSLCB response: The scientific reviewer will have to have proper procedures in place to identify and solve for conflicts of interest.

Was this comment reflected in the final rule? Rule language already requires the scientific reviewer to have procedures for identifying and solving for any conflicts of interest.

15. The fact that applicants must pay for the costs of review would invite major conflict of interest. It sets up a model where reviewers are essentially government consultants, and would perform as arbiters of the process with little restriction or oversight. The potential for abuse here is high. Review costs should defined, fixed, and affordable. For example, they can be part of a nominal application fee of between \$500 and \$1000. This would ensure that research groups are not unduly burdened with arbitrarily-high fees before they



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have a chance to conduct any research. Similarly fees for reviewers should be fixed. Reviewers of federal research grants and local programs like the former LSDF received stipends ~\$400/day for reviews. Suggest looking at other models and determining a standard, flat rate determined by the assigning agency.

WSLCB response: Thank you for your comments. RCW 69.50.372 requires that applicants pay for the costs of review directly to the scientific reviewer, which cannot be changed through rulemaking. The WSLCB is currently soliciting bids for third-party scientific reviewers and will be assessing costs as part of the bidding process.

Was this comment reflected in the final rule? No changes to rule language are necessary to accommodate this comment. The WSLCB is currently soliciting bids for third-party scientific reviewers and will be assessing costs as part of the bidding process.

16. The confidentiality requirements in the rule appear unenforceable.

Recommend more strict language that a reviewer be subject to enforceable non-disclosure. Also recommend that all application materials be exempt from public disclosure.

WSLCB response: Thank you for your comments. The WSLCB feels that the rule language addresses confidentiality. Exemptions from disclosure are included in RCW 42.56.270 for proprietary financial, commercial, operations, and technical and research information and data submitted to or obtained by the liquor and cannabis board in applications for marijuana research licenses under RCW 69.50.372, or in reports submitted by marijuana research licensees in accordance with rules adopted by the liquor and cannabis board under RCW 69.50.372. Exemption from public disclosure for research licensee reports is provided in RCW 42.56.620. There is also direction in the rules to ensure that applicants do not include information that would undermine the applicant's ability to secure patent, trade secret, or other intellectual property protection.

Was this comment reflected in the final rule? No changes to rule language are necessary to accommodate this comment.

17. Paragraph (3)(d) A person or entity that has outstanding unpaid review fees owing to the scientific reviewer is prohibited from reapplying for a research license until all review fees are paid to the scientific reviewer.”

Comment: Recommend that applications should have a reasonable application fee to offset costs and eliminate excessive fees, which seems about the only way an issue regarding delinquent payments may arise.

WSLCB response: RCW 69.50.372(7) sets application and renewal fees and also requires that the scientific reviewer be paid directly for costs of review. (7) The application fee for a marijuana research license is two hundred fifty dollars. The



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annual fee for issuance and renewal of a marijuana research license is one thousand dollars. The applicant must pay the cost of the review process directly to the scientific reviewer as designated by the liquor and cannabis board. It would be improper to allow a research licensee to renew a license or receive approval for an additional project if the licensee has outstanding review costs owing.

Was this comment reflected in the final rule? No. The WSLCB chose to maintain the language as proposed.

- 18. Paragraph (9) “An applicant or licensee may request an administrative hearing...” Comment: Recommend developing a process to request a review of a denied project. As written, rule only provides an option to request a hearing if license is revoked.**

WSLCB response: Administrative hearings are the appropriate mechanism for an applicant or licensee to appeal a decision by the WSLCB and is standard practice and requirements as provided in chapter 34.05 RCW.

Was this comment reflected in the final rule? No. The WSLCB chose to maintain the language as proposed.

- 19. Some research projects will involve investment in seed varieties and large-scale, living plant repositories. Recommend provisions that would allow materials to be transferred or preserved in the event that a research project seeks continuation, expansion, or relocation.**

WSLCB response: This is accommodated in the procedures in the rules.

Was this comment reflected in the final rule? No. No change to language is needed to accommodate this comment.

- 20. Many plant samples must be immediately transferred to laboratory or other facilities after samples are taken. Standard quarantine rules for plants would be problematic in these instances. Recommend allowances for immediate transfer of non-narcotic tissue, root, soil and other samples with conditions that minimize possibilities of diversion.**

WSLCB response: The 24-hour wait time requirement prior to transferring will apply the same as for other marijuana licensees.

Was this comment reflected in the final rule? No. The WSLCB chose to maintain the language as proposed.

- 21. I think the best part of WAC 314-55-073 is that research will not be limited to a few entities but instead anyone can suggest and then conduct an approved research study: a free market approach to research can only lead to greater**



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discovery. My only concern is the broadness of how RCW 69.50.372 defines "scientific reviewer." Particularly, I would like to see the law be more specific on how scientific reviewers will be assigned to each submitted research project. I think some thought needs to be put into, and the law eventually amended, to assure that no bias exist in approving or disapproving suggested studies.

WSLCB response: The WSLCB is currently soliciting bids for third-party scientific reviewers and will be assessing the reviewer processes.

Was this comment reflected in the final rule? No. This comment can be addressed through the selection of a scientific reviewer if necessary.

- 22. Sourcing of Marijuana and Marijuana Extracts:** we believe it is important that the rules are very clear on the procedures in which a Lab can source materials for testing. While we agree that Labs should be able to grow their own material we also believe that they should be able to freely source materials from licensed entities throughout the state (complying with all existing laws governing the wholesale distribution of marijuana, including but not limited to the use of BioTrack). The reason for this is that our researchers would like to have access to a vast array of plant genetics and do not want to have to become specialist in the growing and extraction of marijuana.

WSLCB response: There are no restrictions in the rule language regarding variety of sourcing material. The statute has a limitation (technicality) that material can only be sourced from licensed processors (RCW 69.50.372). We are looking to allow for both licensed producers and processors to be able to supply material (along with other research licensees) in agency request legislation that we are bringing to the Legislature in the 2017 session. Part of the idea behind establishing this state research license was to allow for a greater variety of strains for research.

Was this comment reflected in the final rule? No changes to rule language were needed to accommodate this comment.

- 23. Stream Lining the Clinical Investigation Process:** we are hopeful that the State recognizes that the goal of a Lab will be able to create and analyze products that will be useful for humanity (particularly for people suffering from various ailments). As such we urge that the clinical trial aspect of any law be geared to more, not less, testing. As such we think that, as in almost all research areas, that the Lab, working within the parameters of Washington Law and the standards of scientific research, should be the entity that designs and approves research studies. Of course, in any medical studies an Institutional Review Board (IRB) would be incorporated into the process.

WSLCB response: The scientific reviewer will evaluate the clinical investigation process proposed under each project and make recommendations to the WSLCB.



Was this comment reflected in the final rule? No changes to rule language were needed to accommodate this comment.

- 24. Patient Population:** we would like to see in the law clear guidelines on: a) who we can use as test subjects (i.e. would minors be allowed in the patient population); b) the rules governing the relationship between a Lab and medical facilities and professionals; c) whether or not we can give our test subjects products for free; and, d) the procedures for how we physically provide the products to patients (do they have to be picked up in person or can they be mailed, can multiple doses be provided, etc.).

WSLCB response: Each research project will be developed and proposed on an individual basis, and reviewed by the scientific reviewer in a similar fashion. Whether there is more or less testing will depend on the individual project, and the assessment of the scientific reviewer in determining whether a license should be granted and a project be approved. The other points you raise, b through d, would likely be addressed through the review of the research proposal. It would also be important to assess whether there are other legal prohibitions outside of chapter 69.50 RCW and chapter 314-55 WAC against some of the activities you mention.

Was this comment reflected in the final rule? No changes to rule language were needed to accommodate this comment.

- 25. Cooperation and Reporting of Findings:** while this is ultimately a business endeavor we are also excited about forging forward in an unexplored area that promises great potential discoveries. As such, we believe cooperation and a central depository of information is crucial for Washington State and the United States to become the leader in marijuana research. As such, we recommend that the State create an optional, but strongly encouraged, central depository for all research studies to be published. In addition, a system that encourages the use of government resources, such as State Universities, would benefit the process and jump start progress in this field.

WSLCB response: The idea you have wouldn't be prohibited. It sounds like something that licensees would be able to get together and do themselves if they wish to do so without any need for action on the part of the WSLCB.

Was this comment reflected in the final rule? No changes to rule language were needed to accommodate this comment.

Public Hearing Comments:

No public testimony was offered. Once clarifying question was raised about the transfer of plants: how research licensees may obtain material and whether and to whom



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research licensees may transfer marijuana or marijuana plants. WSLCB staff provided a response consistent with the comments raised in this Concise Explanatory Statement.

WAC Changes from Proposed Rules (CR-102) to the Rules as Adopted:

Minor adjustments were made to the proposed rules prior to requesting adoption. These changes address that research license applicants are not subject to the prioritization requirements for other marijuana licensees, and clarify that research licensees may use funds sourced from outside Washington State for research efforts. The WSLCB also made changes to language regarding the possession of marijuana to ensure no conflicts with personal possession of marijuana (discussed in comments above).



Washington State
Liquor and Cannabis Board

Date: January 25, 2017

To: Jane Rushford, Board Chair
Ollie Garrett, Board Member

From: Karen McCall, Agency Rules Coordinator

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

Subject: **Approval for filing revised proposed rules (2nd Supplemental CR 102) to revise several chapters in 314 WAC**

This rulemaking is the result of 2016 legislation. New rules and revisions to current rules are needed to implement the following legislation:

- **SHB 2831 Creates a wine retailer reseller endorsement for qualifying beer and/or wine specialty shop licenses**
- **HB 2605 Creates a special permit for breweries to conduct private tasting and sales events**
- **ESSB 6470 Allows domestic wineries to sell their own product at Special Occasion licensed events; Creates a special permit to allow an individual or business to sell a private collection of wine or spirits**

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 January 25, 2017, and is attached to this order.

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

January 25, 2017	Board is asked to approve filing the revised proposed rules (2 nd Supplemental CR 102 filing)
February 15, 2017	Code Reviser publishes notice, LCB sends notice to rules distribution list
March 8, 2017	Public Hearing held
March 8, 2017	End of written comment period
March 22, 2017	Board is asked to adopt rules

March 22, 2017	Agency sends notice to those who commented both at the public hearing and in writing.
March 22, 2017	Agency files adopted rules with the Code Reviser (CR 103)
April 23, 2017	Rules are effective (31 days after filing)

_____ Approve _____ Disapprove _____
 Jane Rushford, Chair Date

_____ Approve _____ Disapprove _____
 Ollie Garrett, Board Member Date

Attachment: Issue Paper

Issue Paper

2016 Liquor Legislation Implementation

Date: January 25, 2017

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 revised proposed rules (2nd Supplemental CR 102) to revise the following:

- **WAC 314-02-103 What is a wine retailer reseller endorsement?**
- **Chapter 314-05 WAC Special Occasion licenses**
- **Chapter 314-38 WAC Permits**
- **Chapter 314-24 WAC Domestic Wineries and Domestic Wine Distributors**

Why is rule making necessary?

New rules and revisions to current rules are needed to implement the following legislation that passed during the 2016 legislative session:

- **SHB 2831 Creates a wine retailer reseller endorsement for qualifying beer and/or wine specialty shop licenses**
- **HB 2605 Creates a special permit for breweries to conduct 12 private tasting and sales events per year**
- **ESSB 6470 Allows domestic wineries to sell their own product at Special Occasion licensed events; Creates a special permit to allow an individual or business to sell a private collection of wine or spirits to another individual or business**

What changes are being made?

Amended Section. WAC 314-02-103 What is a wine retailer reseller endorsement? Added beer and/or wine specialty shop license to this rule. Removed the on sale a day limit for sales to an on-premises licensee.

Amended Section. WAC 314-05-020 What is a special occasion license? Added language that allows a special occasion licensee to sell wine in original, unopened containers for on-premises consumption at a special occasion event. Prior board approval is required. Added a requirement that the special occasion licensee must notify the board if a winery will be selling their own product at the special occasion event.

New Section. WAC 314-24-240 Domestic wineries at special occasion licensed events. Created a new rule to outline the requirements a winery must meet to sell wine of their own production for off-premises consumption at special occasion licensed events.

Amended section. WAC 314-38-020 Permits—Fees established. Added the permits established in the 2014 and 2015 legislative session:

- **Alcohol tasting by students;**
- **Winery special permit;**
- **Distillery special permit;**
- **Brewery special permit.**

Amended Section. WAC 314-38-080 Class 18 special winery permit. Made a correction to this rule.

Amended Section. WAC 314-38-090 Class 19 special distillery permit. Made a correction to this rule.

New Section. WAC 314-38-095 Class 20 special brewery permit. Clarified the requirements the brewery must meet for this permit.

New Section. WAC 314-38-100 Accommodation sale permit. Clarified the requirements and process for an accommodation sale permit.

AMENDATORY SECTION (Amending WSR 84-14-028, filed 6/27/84)

WAC 314-38-020 Permits—Fees established. The fees for permits authorized under RCW 66.20.010 are hereby established as follows:

(1) A fee of five dollars is established for a special permit as authorized by RCW 66.20.010(1).

(2) The fee for a special permit as authorized by RCW 66.20.010(2) for purchase of five gallons or less is established as five dollars and for purchase of over five gallons is established as ten dollars.

(3) A fee for a banquet permit, as authorized by RCW 66.20.010(3), is established in WAC 314-18-040.

(4) The fee for a special business permit, as authorized by RCW 66.20.010(4), is established in WAC 314-38-010(2).

(5) The fee of ten dollars is established for a special permit as authorized by RCW 66.20.010(5).

(6) A fee of five dollars is established for a special permit as authorized by RCW 66.20.010(6).

(7) A special permit as authorized by RCW 66.20.010(7) shall be issued without charge to those eligible entities.

(8) The fee of twenty-five dollars is established for a special permit as authorized by RCW 66.20.010(8).

(9) The fee of twenty-five dollars is established for a special permit as authorized by RCW 66.20.010(9).

(10) The fee of thirty dollars is established for a special permit as authorized by RCW 66.20.010(10).

(11) The fee of seventy-five dollars is established for a special permit as authorized by RCW 66.20.010(11).

(12) The fee of ten dollars is established for a special permit as authorized by RCW 66.20.010(13).

(13) The fee of ten dollars is established for a special permit as authorized by RCW 66.20.010(14).

(14) The fee of ten dollars is established for a special permit as authorized by RCW 66.20.010(15).

(15) The fee of twenty-five dollars is established for a special permit as authorized by RCW 66.20.010(16).

AMENDATORY SECTION (Amending WSR 16-01-102, filed 12/16/15, effective 1/16/16)

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))~~ be present at 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))~~ (4) The winery is limited to twelve events per calendar year.

AMENDATORY SECTION (Amending WSR 16-01-102, filed 12/16/15, effective 1/16/16)

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))~~ be present at 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 distillery/craft distillery 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.

NEW SECTION

WAC 314-38-095 Class 20 special brewery permit. (1) A special brewery/microbrewery permit is for Washington brewers only.

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

(3) The brewery or microbrewery must obtain the special permit by submitting an application for a class 20 special brewery/microbrewery 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.

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

NEW SECTION

WAC 314-38-100 Accommodation sale permit. (1) An accommodation sale permit is for an individual or business to sell a private collection of wine or spirits to another individual or business.

(2) The seller must complete an application for accommodation sale permit and submit with a fee of twenty-five dollars to the WSLCB.

(3) Once the WSLCB verifies the information on the application, a permit for the sale will be issued to the seller.

(4) The seller must wait at least five business days after receiving the permit to release the wine and/or spirits to the buyer.

(5) Within twenty calendar days of the sale, the seller must complete an accommodation sale inventory report and submit it to the WSLCB.

(6) The following are definitions for the purpose of this section:

(a) "Accommodation sale" means the sale of a private collection of wine or spirits to an individual or business. Both the seller and the buyer must be located in Washington state.

(b) "Buyer" means the individual or business buying a private collection of wine or spirits. A buyer may be a liquor licensee.

(c) "Private collection" means a privately owned collection of wine or spirits. There is no minimum or maximum quantity to be considered a collection.

(d) "Seller" means the individual or business selling a private collection of wine or spirits. The seller cannot be a liquor licensee.

WAC 314-02-103 What is a wine retailer reseller endorsement?

(1) A wine retailer reseller endorsement is issued to the holder of a grocery store liquor license or the holder of a beer and/or wine specialty shop license to allow the sale of wine at retail to on-premises liquor licensees.

(2) For holders of a grocery store license: No single sale to an on-premises liquor licensee may exceed twenty-four liters. ~~((Single sales to an on-premises licensee are limited to one per day.))~~

(3) For holders of a beer and/or wine specialty shop license:

(a) No single sale may exceed twenty-four liters, unless the sale is made by a licensee that was formerly a state liquor store or contract liquor store.

(b) May sell a maximum of five thousand liters of wine per day for resale to retailers licensed to sell wine for consumption on the premises.

(4) A grocery store licensee or a beer and/or wine specialty shop licensee with a wine retailer reseller endorsement may accept delivery at its licensed premises or at one or more warehouse facilities registered with the board.

~~((+4+))~~ (5) The holder of a wine retailer reseller endorsement may also deliver wine to its own licensed premises from the registered warehouse; may deliver wine to on-premises licensees, or to other warehouse facilities registered with the board. A grocery store licensee or a beer and/or wine specialty shop licensee wishing to obtain a wine retailer reseller endorsement that permits sales to another retailer must possess and submit a copy of their federal basic permit to purchase wine at wholesale for resale under the Federal Alcohol Administration Act. A federal basic permit is required for each location from which the grocery store licensee or beer and/or wine specialty shop licensee holding a wine retailer reseller endorsement plans to sell wine to another retailer.

~~((+5+))~~ (6) The annual fee for the wine retailer reseller endorsement for a grocery store licensee is one hundred sixty-six dollars.

(7) The annual fee for the wine retailer reseller endorsement for a beer and/or wine specialty shop licensee is one hundred ten dollars.

(8) Sales made under the reseller endorsement are not classified as retail sales for taxation purposes.

WAC 314-05-020 What is a special occasion license? (1) Per RCW 66.24.380, a special occasion license allows a nonprofit organization to sell, at a specified date, time, and place:

(a) Spirits, beer, and wine by the individual serving for on-premises consumption; ~~((and))~~

(b) Spirits, beer, and wine in original, unopened containers for off-premises consumption; and

(c) Wine in original, unopened containers for on-premises consumption if permission is obtained from the WSLCB prior to the event.

(2) Special occasion licensees are limited to twelve days per calendar year (see RCW 66.24.380(1) for an exception for agricultural fairs).

(3) The fee for this license is \$60 per day, per event. Multiple alcohol service locations at an event are an additional sixty dollars per location.

(4) Per RCW 66.24.375, all proceeds from the sale of alcohol at a special occasion event must go directly back into the nonprofit organization, except for reasonable operating costs for actual services performed at compensation levels comparable to like services within the state.

(5) A charitable nonprofit organization or a local winery industry association is not disqualified from obtaining a special occasion license even if its board members are also officers, directors, owners, or employees of either a licensed domestic winery or a winery certificate of approval holder. The charitable nonprofit organization must be registered under section 501 (c)(3) of the Internal Revenue Code, and the local wine industry association must be registered under section 501 (c)(6) of the Internal Revenue Code.

(6) If a winery is taking orders and accepting payment for product of its own production from consumers at a special occasion event to be delivered at a later date from one of its authorized locations, the special occasion shall include the name of the winery on the special occasion license application.

NEW SECTION

WAC 314-24-245 Domestic wineries at special occasion licensed events. (1) A domestic winery may take orders and accept payment for product of its own production from consumers at a special occasion event, to be delivered at a later date from one of its authorized locations.

(2) A domestic winery must be invited and/or authorized by the special occasion licensee in order to attend the special occasion event in this capacity.

(3) The special occasion licensee is the only licensee allowed to sell wine to be consumed on the premises.

(4) The winery is not allowed to give free tastings of wine of their own production to consumers.