



Washington State
Liquor and Cannabis Board

Date: May 2, 2018

To: Jane Rushford, Board Chair
Ollie Garrett, Board Member
Russ Hauge, 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) for changes to Marijuana Packaging and Labeling Rules.**

At the Board meeting on May 2, 2018, the Rules Coordinator requests that the Liquor and Cannabis Board approve the final rulemaking (CR 103) for amendments to marijuana packaging and labeling rules in chapter 314-55 WAC. 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. The Rules Coordinator will also bring a Board Interim Policy to the Board at the May 2, 2018, Board Meeting to detail the phased-in implementation of the changes to packaging and labeling rules.

If approved, the Rules Coordinator will send an explanation of the rule making to all persons who submitted comments and file the rules with the Office of the Code Reviser. The effective date of the rules will be January 1, 2019, with additional allowances for licensees to use some or all of the new requirements and allowances prior to the effective date as detailed in the separate Board Interim Policy, if approved by the Board.

_____ Approve	_____ Disapprove	_____	_____
		Jane Rushford, Chair	Date
_____ Approve	_____ Disapprove	_____	_____
		Ollie Garrett, Board Member	Date
_____ Approve	_____ Disapprove	_____	_____
		Russ Hauge, Board Member	Date

Attachment: Issue Paper

Issue Paper

Marijuana Packaging and Labeling Rules

Date: May 2, 2018

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 changes to packaging and labeling rules in Chapter 314-55 WAC.

Why is rule making necessary?

The WSLCB has received feedback from industry members, the public, staff, and other agency members regarding concerns or changes needed with packaging, labeling, warning statements, and other related rules. Industry members and others have stated that labeling requirements are too onerous, while others have stated that the labels are difficult to read, do not contain desired information that would better inform a consumer or member of the public, or are confusing. Additionally, the WSLCB recognized that packaging and labeling rules, and rules related to warning statements, could be clearer and better organized and that many technical changes are needed to ensure, packaging, labeling, and warning statement rules are effective.

The WSLCB engaged in a project to take a global look at packaging and labeling requirements to clarify, streamline, and make necessary changes to rules. The WSLCB convened a work group of industry members, the Department of Health, and the Washington Poison Center over much of 2017 to gather information and receive feedback on packaging and labeling rules requirements and proposals. These rule changes are a product of what was learned from this work group and other states that regulate marijuana, as well as through consumer surveys.

Public Comment

Comments received are summarized in the Concise Explanatory Statement, prepared under RCW 34.05.325 accompanying this issue paper.

What changes are being proposed?

Amendatory Section. WAC 314-55-105, Packaging and labeling requirements.

Adjustments to packaging requirements include:

- Allowing certain infused solid edible products such as lozenges and capsules and other similar products on a case by case basis to be packaged loosely (not individually wrapped) in a resealable child resistant exterior package.

- Requiring that infused liquid edible products in packages with more than one serving be resealable, though do not have to be child resistant due to challenges with packaging carbonated liquids.
- Only infused liquid edibles in packages containing a single serving may be packaged with a non-resealable closure, such as a crown-style cap.

Streamlining and paring down of warning statements to ensure critical information is communicated effectively while reducing pressure on label “real estate.”

Removal of harvest date, manufactured date, and best by date from required information on labels. This information may still be placed on the label as an option, but is proposed to be removed as a requirement.

Removal of the retailer business/trade name and UBI on label requirements in anticipation of the passage of legislation that will remove it from required information on labels in statute. Producers and processors business/trade names and UBI numbers must still be listed on the label.

Changing the UBI requirement to the nine-digit number rather than the sixteen-digit UBI number.

Removal of all accompanying material requirements except for pesticides information to reduce label crowding issues seen by licensees putting it on the label. Accompanying materials may be given to consumers via electronic format, including using a url or QR code on the label. The WSLCB is working with DOH to explore potential signage requirements for other warning statements not on the label at retail locations separately, similar to requirements for liquor licensees.

Enhanced definition providing additional clarity for what is considered “especially appealing to children.” Creation of a new definition for the term “cartoon.”

General improvements to organization of the rule to enhance clarity.

Amendatory Section. WAC 314-55-106, Marijuana warning symbol requirement.

New provisions are added to propose the adoption of a universal symbol for marijuana and marijuana products, similar to the universal symbol requirements in Colorado and Oregon. The universal symbol is proposed to be required on all products on the front or principal display panel to ensure that a person viewing a package is notified that the product is or contains marijuana. Minimum size requirements similar to the size requirements for the “Not for Kids” warning symbol are included.

Were there changes to the language as proposed in the CR-102?

No changes were made from the proposed rules to the rules as presented for adoption.

Attachment: Proposed Rules



Notice of Permanent Rules for Cannabis Packaging and Labeling Rules

This explanatory statement concerns the Washington State Liquor Control Board's adoption of amendments to marijuana advertising rules.

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.

The WSLCB has received feedback from industry members, the public, staff, and other agency members regarding concerns or changes needed with packaging, labeling, warning statements, and other related rules. Industry members and others have stated that labeling requirements are too onerous, while others have stated that the labels are difficult to read, do not contain desired information that would better inform a consumer or member of the public, or are confusing. Additionally, the WSLCB recognized that packaging and labeling rules, and rules related to warning statements, could be clearer and better organized and that many technical changes are needed to ensure, packaging, labeling, and warning statement rules are effective.

The WSLCB engaged in a project to take a global look at packaging and labeling requirements to clarify, streamline, and make necessary changes to rules. The WSLCB convened a work group of industry members, the Department of Health, and the Washington Poison Center over much of 2017 to gather information and receive feedback on packaging and labeling rules requirements and proposals. These rule changes are a product of what was learned from this work group and other states that regulate marijuana, as well as through consumer surveys.

CR-101 – filed January 11, 2017, as WSR 17-03-072.

CR 102 – filed February 7, 2018, as WSR 18-04-113.

Public Hearing held March 21, 2018.



Summary of public comments received on this rule proposal.

1. Harvest dates are one of the most important pieces of information that I look for, as well as my customers. It is important that consumers know as much about a product before purchasing it. Products lose freshness, potency, and quality after time, leaving customers uncertain of what they'll get with their purchases. The vast majority of recreational marijuana is not packaged or stored in a way which allows it to age well, it is often package too wet and due to problems with the microbial testing system, product tainted with potentially harmful microbes does get packaged sometimes can fester and become more potentially harmful.
2. Other comments were received supporting the removal of harvest date as a required item on labels and making the information optional to include on labels. Some licensees stated that the inclusion of harvest date misleads consumers to thinking "fresher is better" and stated that marijuana is best cured for several weeks. Other statements that harvest dates disproportionately favor indoor growers above outdoor growers.
3. Comments were received stating that harvest date is important information for medical marijuana patients and that it should remain as a requirement on the label.

WSLCB response: While the proposed rules remove the requirement that harvest date appear on the label, it is still included as allowable optional information that licensees may choose to place on the label. It will be up to each producer/processor to determine whether to place that information on the label should the Board approve the draft rule changes as proposed.

As for concerns about microbial testing, tests for water activity (how likely bacteria is to grow) and water content (how much moisture/water is contained in the material) are required under quality assurance testing rules. The limits for test results help to ensure that product will remain acceptable while on the shelf and not exceed microbial limits in testing requirements.

Was the comment reflected in the final rule? The rules were adopted including harvest date as an optional piece of information to include on the label.

4. "Especially appealing to children" is subjective, hard to enforce, and will likely lead to litigation. Use current knowledge of developmental science to guide decision making over colors, fonts, graphics, etc.

WSLCB response: The changes included in rule amendments to further define and clarify the "especially appealing to children" standard are intended to incorporate items already used to determine whether a product, package, or label is especially



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appealing to children and promote more objectivity, consistency, and clarity in the term's application.

Was the comment reflected in the final rule? No changes were made to the proposed definitions prior to adoption.

5. **Making information available only through a URL/QR code is not convenient for customers when they go into a store to purchase products, and they aren't useful for consumers who are not tech savvy. Concerns that certificates of analyses (quality assurance testing results) are not onsite or given to consumers upon request, though they are required to do both.**

WSLCB response: Current rule (WAC 314-55-105(11)) already allows licensees to provide accompanying materials to consumers in a format other than paper. The requirement states that accompanying materials must be "attached to the package or is given separately to the consumer," but does not specify how the materials "may be given separately to the consumer." The rule change included in this proposal is to clarify this. We appreciate the concerns that this is not convenient for consumers that are not tech savvy. Producers/processors are required to include lab testing results to licensees purchasing their products, and retailers are still required to provide lab testing results to consumers upon request under the rules. The WSLCB will look to including some reminders to licensees about these requirements in upcoming planned communications.

Was the comment reflected in the final rule? No changes was made to the language as the change itself was technical in nature and intended to clarify existing requirements/allowances.

6. **I am concerned that this rule on not allowing adulteration of usable marijuana is being struck with no replacement. This rule protects the efficacy of useable marijuana in its natural state and without this rule, opens up the practice of treating usable marijuana with all sorts of compounds that are not naturally occurring in the plant material. Chemical or other compounds that could be used to adulterate the product are vast, untested for safety and unnatural to the plant which likely could lead to unsafe product for consumption and test results that are misleading. It is assumed that an easy open tab makes the product more accessible by youth while most of I502 products use packaging that is designed with an easy open tab; it is the way most packaging is available to us. Any person, no matter age, can access contents with or without the tab making this rule ineffective in preventing use by minors. A 5 year old can use scissors or teeth; we cannot regulate how packages are treated once the product is sold to the consumer. This rule is in-effective, poses additional costs to create custom packaging and is not enforced currently.**



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WSLCB response: Thank you for your comments. Subsection (9) in WAC 314-55-105 regarding treating or adulterating useable marijuana was removed in these rule amendments because the requirement/prohibition is being moved to the producer and processor rule sections in another separate rulemaking currently underway. This change is being proposed as it is more closely associated with production and processing of marijuana, rather than packaging and labeling. The separate rulemaking will not have the same extended effective date as the packaging and labeling rules, so the requirement will remain in place without disruption. There is no intent by the WSLCB to remove this as a requirement applying to licensees.

The requirement that a product packaged in 4 mil plastic must not have an easy open tab, dimple, corner, or flap has been in place for some time and was included as an option for licensees who wanted an alternative to child resistant packaging requirements (16 C.F.R. 1700). The WSLCB and Packaging and Labeling Work Group discussed whether there was another option other than 4 mil plastic that would meet the packaging safety requirements, and did not find any other reasonable alternatives. Again, licensees can choose to package in child resistant packaging that meets 16 C.F.R. 1700 or choose the 4 mil plastic packaging option under both current rules and rules as amended in this rulemaking.

Was the comment reflected in the final rule? No changes to the rule language were necessary to accommodate the issues raised in these comments.

7. **Proposed symbol does not make it clear that marijuana products are unlawful outside Washington, and is hard to know which dimensions to measure. The color clashes with product designs, and color is more expensive to print on branding. It is too large, and the symbol proposed by the Cannabis Alliance should be adopted. There should be a WA emphasis on the universal symbol. Two symbols shouldn't be required for edibles – should merge the two into one symbol.**

WSLCB response: The universal symbol is similar to those adopted by other marijuana regulating states and Canada as included in the 3/21/18 presentation to the Board. The symbol is not intended to take the place of the warning “This product is illegal outside Washington state.” It is intended to readily inform a consumer or any person viewing the package that the product is or contains marijuana, takes the place of the warning statement “This product contains marijuana,” and the inclusion of “21+” takes the place of the warning “For use only by persons 21 of age or older.” The color of the symbol is intended to ensure that it is visible and draws the eyes of the viewer, and color was emphasized in consumer surveys. We understand that color is more expensive to print with, which is why there is included flexibility in requirements to incorporate the symbol on pre-printed labels or on stickers that are placed on the product to reduce impacts to licensees. The public safety interest and effectiveness of using color was deemed appropriate in this case. The warning statement “Unlawful outside Washington state” is required on all products in the rule amendments – a shortened version of the statement required under current rules –



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to continue to make it clear that marijuana products are unlawful outside Washington. The measurement requirements are from point to point, top to bottom and side to side. We will ensure this is clear in guidance materials. Efforts were made to reduce size impacts while still ensuring that the symbol was of a minimum size so as to be legible and immediately visible to a person viewing the package, as well as make the symbol consistent with the “Not For Kids” warning symbol already required on marijuana-infused edible products.

Was the comment reflected in the final rule? No changes to the universal symbol requirements were included in the rules as adopted.

- 8. The definition of “cartoon” restricts commercial speech and is ambiguous, and “bright colors” is too broad and difficult to define. Until such time as the LCB can provide a visual aid for licensees and officers about how to determine if a label is acceptable, no such rule change should occur. Other comments were received that the definition for “especially appealing to children” as proposed is too vague.**

WSLCB response: Thank you for your comments. The prohibition of cartoons on labels (and advertisements) a definition of cartoon needed to promote fairness and consistency and avoid labeling/marketing that the Legislature has deemed appealing to children. This definition was created by combining several components from Colorado and Oregon’s definitions of “cartoon.” The “bright colors” component of the definition of “especially appealing to children” must be read in its entirety, which is: “the use of bright colors similar to those used on commercially available products that are intended for or that target youth or children.” Under this provision, the mere fact that a bright color is present may not be sufficient to make the product be “especially appealing to children.” Rather, it would be the use of bright colors that is similar to those used on commercially available products that are intended for or that target youth or children.

We acknowledge that these terms are difficult to define, but were proposed to provide more detail. The WSLCB is confident that these changes will serve to provide more guidance and clarity to licensees, as well as promote consistency. They are also intended to be more flexible to handle creative marketing and labeling practices on a case-by-case basis. Additionally, in conjunction with these rule changes, the WSLCB is working to provide more resources and guidance materials to licensees for packaging and labeling.

Was the comment reflected in the final rule? The language in the definition was not changed in the rules as adopted.

- 9. Consider grandfathering in previously approved labels, as making this change to all cannabis products may be devastating to preexisting product lines. All infused products have already been approved and involved a lot of processor investment. Existing standards would be changed and shouldn’t be.**



WSLCB response: The rule amendments are intended to apply to all products and will not “grandfather” products created prior to the effective date of these rules. The changes are to address concerns raised by both the industry, other stakeholders, and the WSLCB.

Was the comment reflected in the final rule? No. No products will be “grandfathered” under the new rule requirements. This is to ensure uniformity of application of requirements, and to ensure industry, stakeholder, and WSLCB concerns are addressed.

10. Comments were received regarding extended effective dates, implementation plans, the need for more resources and guidance, and the need for more consistency in product reviews/approvals. Comments were also received expressing supply chain concerns as an effective date approaches and asked that the WSLCB consider that in implementation/effective dates. Requests were made for an interim policy to allow licensees to use some or all of the new packaging and labeling requirements.

WSLCB response: The Board took these comments under consideration since the outset of the project. An extended effective date will be included and a Board Interim Policy will accompany the CR-103 for this rulemaking to allow licensees to use new requirements in advance of the firm effective date, as well as current rule requirements and the option to remove the “optional” information provided in this rulemaking (harvest date, best by date, manufactured date, and retailer name and UBI). In conjunction with this rulemaking the WSLCB is also looking at its products review process and will be creating new resources, checklists, and guidance materials.

Was the comment reflected in the final rule? Somewhat. The comment was geared more to the process rather than the content of the rule. The WSLCB has responded to these requests and concerns as detailed above.

11. Comments were received asking for the WSLCB to pre-approve certain packaging manufacturers or particular packaging products.

WSLCB response: Products and packaging must be reviewed on a case-by-case basis due to the options for packaging and differing standards depending on the product. Additionally, adding another approval process for packaging or manufacturers would restrict options for licensees that could hinder costs savings and innovation as new child resistant packaging is continually being developed. Instead, the WSLCB will continue its current practice in reviewing products, packages, and labels individually and requiring that licensees be responsible for ensuring that they adhere to rule requirements for all other products.



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Was the comment reflected in the final rule? No, for the reasons described above.

- 12. Comments were received regarding potency labeling, with concerns that the current practice of labeling potency on packages based on testing results is misleading. Concerns were expressed that licensees “lab shop” to find a lab that will give them the highest potency values. A desire to find a new approach for potency labeling was requested, including revisions to testing rules to go for an average potency value or for a +/- standard variance. Comments were also received that the WSLCB should adopt a standard potency “nutrition fact” style label that would be required on all products.**

WSLCB response: We have heard these concerns and are continuing to explore ways to identify this and develop solutions in a multi-faceted way. Many discussions were had during the Packaging and Labeling Work Group on this issue, and no consensus was reached or workable solutions without their own risks/pitfalls were found. It is possible that changes to testing requirements may be advisable before exploring further ways to present potential potency labeling solutions. While the “nutrition fact” style potency label standardization is an interesting idea and has its merits, it would also take up valuable “real estate” on packages/labels, a concern we’ve heard from many in the industry, including those commenting on this proposal. Additionally, a standard “nutrition fact” style label could be problematic for smaller serving or single serving products, as well as pre-rolled joints. We will continue these discussions and determine whether future changes may be advisable.

Was the comment reflected in the final rule? No. No changes were made from the rules as proposed to the rules as adopted due to the above-detailed considerations.

- 13. Comments were received thanking the WSLCB for the opportunity to weigh in on changes as part of the Work Group, but that there were some missed opportunities and outstanding issues.**

WSLCB response: We are committed to continuing conversations and seeking innovation and improvements as the regulated industry develops.

Was the comment reflected in the final rule? No changes were made from the proposed rules to the rules as adopted.

- 14. Imported or non-marijuana derived CBD products should be labeled. Anything that is not cannabis should be labeled. Questions about what a person considers an “additive.”**

WSLCB response: All ingredients must be labeled on marijuana-infused edible products, which would include those items. Additionally, if solvents were used to create an extract, those must be on the label, as well as any added chemicals or



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compounds that were added to or used to produce the extract. Further, due to the passage of HB 2334 in the 2018 legislative session, the WSLCB is currently engaged in rulemaking to establish testing requirements for CBD products not generated within the regulated system that are used to create marijuana products within the regulated system. These products cannot be used by licensees unless they pass testing requirements that will be established in rule. These changes will make the addition of these product less concerning since they will have been tested to be able to be used.

Was the comment reflected in the final rule? No changes were needed to address concerns due to current and future rule requirements.

15. Concerns were expressed about packaging and waste. Comments were received stating packaging and waste was not an issue in the medical marijuana market, but now they see it everywhere. Requests that the WSLCB consider more environmentally-friendly alternatives in its requirements.

WSLCB response: Licensees are free to use eco-friendly packaging so long as it meets packaging requirements. The WSLCB will continue to explore ways to reduce packaging impacts while still maintaining requirements that promote safe products protected from contamination that prevent youth and children from access and exposure.

Was the comment reflected in the final rule? This is a rule issue due to packaging requirements to ensure public safety as well as a business decision issue. The rules were not changed from as proposed to as adopted.

16. Comments were received stating that patients and consumers should be included in conversations and rulemaking discussions.

WSLCB response: The WSLCB is committed to inclusivity and continuing conversations as the regulated industry develops. We will involve and are involving as many stakeholders as possible in current conversations and encourage participation from the medical cannabis patient community.

Was the comment reflected in the final rule? N/A. Comment was about process rather than rule content.

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

No changes to the rules were made from proposed rules to the rules as adopted.

WAC 314-55-105 Packaging and labeling requirements. (1) ~~((All usable marijuana and marijuana-infused products must be stored behind a counter or other barrier to ensure a customer does not have direct access to the product.~~

~~(2))~~ **Packaging requirements.**

(a) General packaging requirements applying to all marijuana products. Any container or packaging containing usable marijuana, marijuana concentrates, or marijuana-infused products must protect the product from contamination and must not impart any toxic or deleterious substance to the usable marijuana, marijuana concentrates, or marijuana-infused product.

~~((3) Upon the request of a retail customer, a retailer must disclose the name of the certified third party testing lab and results of the required quality assurance test for any usable marijuana, marijuana concentrate, or marijuana-infused product the customer is considering purchasing.~~

~~(4) Usable marijuana, marijuana concentrates, and marijuana-infused products must not be labeled as organic unless permitted by the United States Department of Agriculture in accordance with the Organic Foods Production Act.~~

~~(5) The certified third party testing lab and required results of the quality assurance test must be included with each lot and disclosed to the customer buying the lot.~~

~~(6) A marijuana producer must make quality assurance test results available to any processor purchasing product. A marijuana producer must label each lot of marijuana with the following information:~~

~~(a) Lot number;~~

~~(b) UBI number of the producer; and~~

~~(c) Weight of the product.~~

~~(7) Marijuana infused products and marijuana concentrates meant to be eaten, swallowed, or inhaled, must be packaged in))~~ **(b) Additional product-specific packaging requirements.** The following product-specific packaging requirements apply to each of the following product types in addition to the packaging requirements provided in (a) of this subsection:

(i) Marijuana-infused products general requirements.

(A) All marijuana-infused products for oral ingestion must be packaged pursuant to the following requirements:

(I) Child resistant packaging in accordance with Title 16 C.F.R. 1700 of the Poison Prevention Packaging Act; or ((use standards specified in this subsection. Marijuana infused product in solid or liquid form may be packaged in))

(II) Plastic four mil or greater in thickness and be heat sealed with no easy-open tab, dimple, corner, or flap as to make it difficult for a child to open and as a tamperproof measure, except as provided in (b)(i)(A)(III) and (B) of this subsection.

(III) Marijuana-infused products for oral ingestion in liquid form where a single serving is contained with the package may ((also)) be sealed using a metal crown cork style bottle cap. Marijuana-infused products for oral ingestion in liquid form that include more than one serving must be packaged with a resealable closure or cap.

(B) Marijuana-infused solid edible products.

(I) If there is more than one serving of marijuana-infused solid edible products in the package, each serving must be packaged individually in ~~((childproof))~~ child resistant packaging ~~((see WAC 314-55-105(7)))~~ as provided in (b)(i) of this subsection and placed in the outer package except as provided below.

(II) Products such as capsules, lozenges, and similar products approved by the WSLCB on a case-by-case basis may be packaged loosely within a resealing outer package that is child resistant in accordance with Title 16 C.F.R. 1700 of the Poison Prevention Packaging Act.

(C) Marijuana-infused liquid edible products. ~~((If there is))~~ Packages containing more than one serving ~~((in the package,))~~ of marijuana-infused liquid edible product must:

(I) Have a resealing cap or closure; and

(II) Include a measuring device ~~((must be included in))~~ such as a measuring cap or dropper with the package ~~((with))~~ containing the marijuana-infused liquid edible product. Hash marks on the bottle or package do not qualify as a measuring device. ~~((A measuring cap or dropper must be included in the package with the marijuana infused liquid edible product.~~

~~(8)~~

~~(9) A producer or processor may not treat or otherwise adulterate usable marijuana with any organic or nonorganic chemical or other compound whatsoever to alter the color, appearance, weight, or smell of the usable marijuana.~~

~~(10))~~ (ii) **Marijuana concentrates.** Marijuana concentrates must be packaged:

(A) In child resistant packaging in accordance with Title 16 C.F.R. 1700 of the Poison Prevention Packaging Act; or

(B) Plastic four mil or greater in thickness, heat sealed with no easy-open tab, dimple, corner, or flap as to make it difficult for a child to open and as a tamperproof measure.

(2) **Labeling requirements.**

(a) **Marijuana and marijuana product labels generally.** The following label requirements apply to all marijuana products:

(i) Usable marijuana, marijuana concentrates, and marijuana-infused products must not be labeled as organic unless permitted by the United States Department of Agriculture in accordance with the Organic Foods Production Act.

(ii) Labels must comply with the version of NIST Handbook 130, Uniform Packaging and Labeling Regulation adopted in chapter 16-662 WAC.

~~((11) All marijuana and marijuana products when sold at retail must include accompanying material that is attached to the package or is given separately to the consumer containing the following warnings:~~

~~(a) "Warning: This product has intoxicating effects and may be habit forming. Smoking is hazardous to your health";~~

~~(b) "There may be health risks associated with consumption of this product";~~

~~(c) "Should not be used by women that are pregnant or breast feeding";~~

~~(d) "For use only by adults twenty one and older. Keep out of reach of children";~~

~~(e) "Marijuana can impair concentration, coordination, and judgment. Do not operate a vehicle or machinery under the influence of this drug";~~

~~(f) Statement that discloses all pesticides applied to the marijuana plants and growing medium during production and processing.~~

~~(12))~~ (iii) All information, warning statements, and language required in this section must not be covered or obscured in any way.

(iv) Labels affixed to the container or package containing marijuana or marijuana products sold at retail must include:

~~((a))~~ (A) The business or trade name and the ~~((sixteen))~~ nine digit Washington state unified business identifier (UBI) number of the licensees that produced ~~((,))~~ and processed ~~((and sold))~~ the marijuana or marijuana products ~~((. The marijuana retail licensee trade name and Washington state unified business identifier number may be in the form of a sticker placed on the label))~~;

~~((b) Sixteen digit inventory ID number assigned))~~ (B) The unique identifier number generated by the WSLCB's traceability system. This must be the same number that appears on the transport manifest;

~~((e))~~ (C) If more than one serving is in a package, the label must prominently display the number of servings in the package and the amount of product per serving;

(D) Net weight in ounces and grams or volume as ~~((appropriate;~~

~~(d) Statement that discloses all pesticides applied to the marijuana plants and growing medium during production of the base marijuana used to create the extract added to infused products; and~~

~~(e) If solvents were used, statement that discloses the type of extraction method, including any solvents, gases, or other chemicals or compounds used to produce or that are added to the extract.~~

~~(f) Warnings that state: "This product has intoxicating effects and may be habit forming";~~

~~(g) Statement that "This product may be unlawful outside of Washington state";~~

~~(h) The WSLCB may create a logo that must be placed on all usable marijuana and marijuana infused products.~~

(13) In addition to requirements in subsection (10) of this section, labels affixed to the container or package containing usable marijuana, or packaged marijuana mix sold at retail must include:

~~(a) Concentration of THC ~~(())~~ applicable;~~

(E) THC concentration (delta-9 tetrahydrocannabinol) listed as total THC and activated THC-A ~~((+))~~ and CBD ~~((+))~~ concentration (cannabidiol) listed as total CBD and activated CBD-A ~~((+))~~;

(v) Labels of usable marijuana and marijuana products sold at retail in the state of Washington must not contain any statement, depiction, or illustration that:

(A) Is false or misleading;

(B) Promotes over consumption;

(C) Represents the use of marijuana has curative or therapeutic effects;

(D) Depicts a child or other person under legal age consuming marijuana, or includes:

(I) Objects such as toys, characters suggesting the presence of a child, or any other depiction or illustration designed in any manner to be especially appealing to children or other persons under twenty-one years of age; or

(II) Is designed in any manner that is especially appealing to children or other persons under twenty-one years of age.

~~(b) ~~((Date of harvest.~~~~

(14)) Standard warnings required on all labels. The following warning statements must be included on labels of all marijuana and marijuana products. The warning statements required below must be of a size to be legible and readily visible to a consumer inspecting a package and must not be covered or obscured in any way.

(i) "Warning - May be habit forming";
(ii) "Unlawful outside Washington State";
(iii) "It is illegal to operate a motor vehicle while under the influence of marijuana"; and
(iv) The marijuana universal symbol as provided in WAC 314-55-106.

(c) **Additional product-specific labeling requirements.** In addition to the labeling requirements in subsection ~~((10))~~ (3)(a) and (b) of this section, ~~((labels affixed to the container or package containing marijuana-infused products meant to be eaten or swallowed sold at retail must include:~~

~~(a) Date manufactured;~~

~~(b) Best by date;~~

~~(e)) the following product-specific labeling requirements apply to each of the following product types and must be present on labels when offered for sale at retail:~~

(i) **Usable marijuana, including marijuana mix.** The statement "Smoking is hazardous to your health."

(ii) **Marijuana concentrates, marijuana infused extract for inhalation, and infused marijuana mix.**

(A) If solvents were used to create the concentrate or extract, a statement that discloses the type of extraction method, including any solvents or gases used to create the concentrate or extract; and

(B) Any other chemicals or compounds used to produce or were added to the concentrate or extract.

(iii) **Marijuana-infused products** (except for marijuana-infused products for topical application as provided in (c)(iv) of this subsection).

(A) Serving size and the number of servings contained within the unit;

~~((d) Total milligrams of active THC, or Delta 9 and total milligrams of active CBD;~~

~~(e)) (B) A list of all ingredients in descending order of predominance by weight or volume as applicable and a list of major food allergens as defined in the Food Allergen Labeling and Consumer Protection Act of 2004;~~

~~((f) "Caution: When eaten or swallowed, the)) (C) If solvents were used, a statement that discloses the type of extraction method, including any solvents, gases, or other chemicals or compounds used to produce or that are added to the extract; and~~

(D) The following sentence: "CAUTION: Intoxicating effects ((of this drug)) may be delayed by ((two or more)) 2+ hours."

~~((15) In addition to requirements in subsection (10) of this section, labels affixed to the container or package containing marijuana-infused extract for inhalation, or infused marijuana mix sold at retail must include:~~

~~(a) Date manufactured;~~

~~(b) Best by date;~~

~~(c) Concentration of THC (total Delta 9 and Delta 9 THC A) and CBD (total CBD and activated CBD A).~~

~~(16) In addition to requirements in subsection (10) of this section, labels affixed to the container or package containing marijuana topicals sold at retail must include:~~

~~(a) Date manufactured;~~

~~(b) Best by date;~~

~~(c) Total milligrams of active tetrahydrocannabinol (THC), or Delta 9 and total milligrams of active CBD.~~

~~(17))~~ (iv) **Marijuana-infused products for topical application.**

(A) The statement "DO NOT EAT" in bold, capital letters; and

(B) A list of all ingredients in descending order of predominance by weight or volume as applicable.

(d) **Permitted optional information that may be included on labels.**

(i) Harvest date, "best by" date, and manufactured dates are optional information that may be placed on labels.

(ii) Other cannabinoids and terpenes not required to be placed on the label by this section may be included on the label if:

((a)) (A) The producer or processor has test results from a certified third-party lab to support the claim; and

((b)) (B) The lab results are made available to the consumer upon request.

(3) **Accompanying materials.** The following accompanying materials must be provided with a marijuana product or made available to the consumer purchasing marijuana products at retail. A producer or processor may provide this information through an internet link, web address, or QR code on the product label so long as the information particular to that product as required below is maintained and accessible to a consumer for as long as the product is available for sale at retail.

A statement that discloses all pesticides applied to the marijuana plants and growing medium during production of the usable marijuana or the base marijuana used to create the concentrate or the extract added to infused products.

(4) **Upon request materials.** Upon the request of a retail customer, a retailer must disclose the name of the certified lab that conducted and the results of the required quality assurance tests for any marijuana or marijuana product the customer is purchasing or considering purchasing.

(5) For the purposes of this section, the following definitions apply:

(a) "Cartoon" means any drawing or other depiction of an object, person, animal, creature, or any similar caricature that satisfies any of the following criteria:

(i) The use of comically exaggerated features;

(ii) The attribution of human characteristics to animals, plants or other objects, or the similar use of anthropomorphic technique; or

(iii) The attribution of unnatural or extra-human abilities, such as imperviousness to pain or injury, X-ray vision, tunneling at very high speeds, or transformation.

(b) "Especially appealing to children" means a product, label, or advertisement that includes, but is not limited to, the following:

(i) The use of cartoons;

(ii) Bubble-type or other cartoon-like or action font;

(iii) The use of bright colors similar to those used on commercially available products intended for or that target youth or children;

(iv) A design, brand, or name that resembles a noncannabis consumer product of the type that is typically marketed to minors;

(v) Symbols or celebrities that are commonly used to market products to minors;

(vi) Images of minors; or

(vii) Similarities to products or words that refer to products that are commonly associated with minors or marketed to minors.

WAC 314-55-106 Marijuana warning symbol requirement. The following requirements are in addition to the packaging and labeling requirements provided in WAC 314-55-105.

(1) ~~Marijuana-infused products ((meant to be eaten or swallowed))~~ for oral ingestion sold at retail must be labeled on the principal display panel or front of the product package with the "not for kids" warning symbol ("warning symbol") created and made available in digital form to licensees without cost by the Washington poison center (WPC). The warning symbol may be found on the WPC's web site.

(a) The warning symbol must be of a size so as to be legible, readily visible by the consumer, and effective to alert consumers and children that the product is not for kids, but must not be smaller than three-quarters of an inch in height by one-half of an inch in width; and

(b) The warning symbol must not be altered or cropped in any way other than to adjust the sizing for placement on the principal display panel or front of the product package, except that a licensee must use a black border around the edges of the white background of the warning symbol image when the label or packaging is also white to ensure visibility of the warning symbol.

~~((+2+))~~ (c) Licensees may download the digital warning symbol from the WPC and print stickers, or purchase and use a sticker made available by the WPC, in lieu of incorporating the warning symbol on ~~((+its+))~~ the label or packaging as required under subsection (1) of this section. If a licensee elects to use a warning symbol sticker, the sticker:

~~((+a+))~~ (i) Must meet all requirements of ~~((subsection (1)))~~ (a) and (b) of this ~~((section))~~ subsection; and

~~((+b+))~~ (ii) Must not cover or obscure in any way labeling or information required on marijuana products by WAC 314-55-105.

(2) All marijuana products sold at retail must be labeled on the principal display panel or front of the product package with the marijuana universal symbol ("universal symbol") created and made available in digital form to licensees without cost by the WSLCB. The digital file for the universal symbol is available on the WSLCB's web site.

(a) The universal symbol must be of a size so as to be legible, readily visible by the consumer, and effective to alert consumers that the product is or contains marijuana, but must not be smaller than three-quarters of an inch in height by three-quarters of an inch in width;

(b) The universal symbol must not be altered or cropped in any way other than to adjust the sizing for placement on the principal display panel or front of the product package; and

(c) Licensees may download the digital universal symbol from the WSLCB's web site and print stickers in lieu of incorporating the universal symbol on the label or packaging as required under (a) and (b) of this subsection. If a licensee elects to use a universal symbol sticker, the sticker:

(i) Must meet all requirements of this section; and

(ii) Must not cover or obscure in any way labeling or information required on marijuana products by WAC 314-55-105.

(3) For the purposes of this section, "principal display panel" means the portion(s) of the surface of the immediate container, or of

any outer container or wrapping, which bear(s) the labeling designed to be most prominently displayed, shown, presented, or examined under conditions of retail sale. "Immediate container" means the external container holding the marijuana product.



Liquor and Cannabis Board Interim Policy BIP-05-2018

Subject: Implementation of Cannabis Packaging and Labeling Rules Changes

Effective Date: June 7, 2018

Ending Date: January 1, 2019

Approved:

Jane Rushford, Chair

Ollie Garrett, Board Member

Russ Hauge, Board Member

Purpose:

This Interim Policy details the requirements and allowances the WSLCB will use to allow licensees to “phase-in” the new packaging and labeling rule requirements to allow flexibility in implementation and reduce impacts and costs on the industry prior to the January 1, 2019, effective date where all new requirements must be followed. Changes to cannabis packaging and labeling rules were brought to the Board for adoption on May 2, 2018.

The WSLCB is using this approach as we understand that packaging and labeling requirements changes pose impacts to the industry logistically, as well as the understanding that many processors purchase large quantities of packaging and labeling materials at a time to reduce costs (approximately 6 months on average). This approach will allow licensees to “phase-in” packaging and labeling that adheres to the new requirements as they cycle through existing inventory. Additionally, other optional allowances are provided to assist in reducing costs related to processes required for labeling retailer business/trade name and UBI on packages and impacts on label “real estate.”



Policy Statement:

Effective January 1, 2019, licensees **MUST** use new packaging and labeling rule requirements as adopted by the Board on May 2, 2018.

Effective June 7, 2018, licensees may use the following options to “phase-in” the new packaging and labeling requirements.

Licensees may choose to use current rule requirements or new rule requirements, but must use all the requirements under each scheme (cannot combine elements of both requirements), with the following exceptions:

- Licensees may choose not to include the following optional information under either the current rule requirements or the new rule requirements:
 - Retailer business/trade name and UBI
 - Harvest date (where required in current rules)
 - “Best by” date
 - Manufactured date
- The above items were selected as optional requirements under the new rule requirements because this information can be gathered from data in the traceability system. Additionally, inclusion of unique identifiers in the traceability system and on labels will allow the WSLCB and licensees to trace products back to their source in cases where a recall may be necessary without the above information included on the label.
- Licensees may still choose to include the above information on labels under either the current rule requirements or the new rule requirements.

Licensees may not submit marijuana-infused edible (liquids and solids) products, packaging, and labeling for review and approval by the WSLCB using the new packaging and labeling requirements until June 7, 2018.

The June 7, 2018, date was selected to allow time for licensees to become familiar with the new requirements, as well as allow time for the changes to statute allowing the retailer business/trade name and UBI to be removed from labels to become effective on June 6, 2018 (see [HB 2474](#)). It is also consistent with the standard effective date for rules being effective at least 31 days after adoption unless a later date is otherwise provided by the Board.



Washington State Liquor and Cannabis Board

The above approach will also allow both the current rule requirements and the new rule requirements, with the effective dates noted, to appear simultaneously on the listing for [WAC 314-55-105](#) (marijuana packaging and labeling rules) and [WAC 314-55-106](#) (marijuana product symbol requirements) on www.leg.wa.gov. This will provide licensees with the necessary information to comply with either current rule requirements or new rule requirements and ease costs and logistics impacts in transitioning to the new requirements.

The WSLCB is also preparing checklists for marijuana-infused edible products, at a minimum, for both current rule requirements and new rule requirements, which will be made available on the WSLCB website at www.lcb.wa.gov. As part of this rulemaking project, the WSLCB is working to create more resources and guidance materials for packaging and labeling for licensees, as well as process improvements to the marijuana-infused edibles product, packaging, and labeling review program.



Washington State Liquor and Cannabis Board

Date: May 2, 2018

To: Jane Rushford, Board Chair
Ollie Garrett, Board Member
Russ Hauge, 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 proposed rules (CR 102) to revise WAC 314-11-015
What are my responsibilities as a liquor licensee, and add a new
section as WAC 314-03-400 Curbside Service**

The proposed rules allow and provide guidelines for liquor licensed grocery stores to provide curbside service to customers utilizing online ordering and pickup programs.

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 May 2, 2018, and is attached to this order.

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

April 18, 2018	Board approved filing the pre-proposal statement of inquiry (CR 101)
May 2, 2018	Board is asked to approve filing the proposed rules (CR 102 filing)
May 16, 2018	Code Reviser publishes notice, LCB sends notice to rules distribution list
June 13, 2018	Public Hearing held
June 13, 2018	End of written comment period
June 27, 2018	Board is asked to adopt rules
June 27, 2018	Agency sends notice to those who commented both at the public hearing and in writing.
June 27, 2018	Agency files adopted rules with the Code Reviser (CR 103)
July 28, 2018	Rules are effective (31 days after filing)

_____ Approve	_____ Disapprove	_____	_____
		Jane Rushford, Chair	Date

_____ Approve	_____ Disapprove	_____	_____
		Ollie Garrett, Board Member	Date

_____ Approve	_____ Disapprove	_____	_____
		Russ Hauge, Board Member	Date

Attachment: Issue Paper

Issue Paper

Curbside Service for Liquor Licensed Retailers

Date: May 2, 2018

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 allow liquor licensed retailers to provide curbside service when customers are picking up products ordered through online ordering and pickup programs.

Why is rule making necessary?

A petition for rulemaking was submitted by Deborah Herron, Walmart's Director of Public Affairs and State & Local Government. Walmart requested the Board open rulemaking to allow liquor licensed retailers to provide curbside service for customers participating in online ordering and pickup.

Background

Online programs allow customers to choose and order groceries online and pick them up curbside at the liquor licensed retail location.

Permanent rules are needed to allow liquor licensed retailers to provide curbside service and ensure that retailers and customers have parameters in place for this service.

What changes are being made?

Amended Section: WAC 314-11-015 What are my responsibilities as a liquor licensee? Amended language removes the prohibition on curbside service.

New Section: WAC 314-03-400 Curbside Service Outlines requirements for liquor licensed grocery stores that provide curbside service.

WAC 314-11-015 What are my responsibilities as a liquor licensee? (1)(a) Liquor licensees are responsible for the operation of their licensed premises in compliance with the liquor laws and rules of the board (Title 66 RCW and Title 314 WAC). Any violations committed or permitted by employees will be treated by the board as violations committed or permitted by the licensee.

(b) The penalties for violations of liquor laws or rules are in: WAC 314-29-015 through 314-29-035, as now or hereafter amended, for licensees; and WAC 314-17-105 and 314-17-110, as now or hereafter amended, for employees who hold mandatory alcohol server training permits. These rules also outline aggravating and mitigating circumstances that may affect what penalty is applied if a licensee or employee violates a liquor law or rule.

(2) Licensees and their employees also have the responsibility to conduct the licensed premises in compliance with the following laws, as they now exist or may later be amended:

((■)) • Titles 9 and 9A RCW, the criminal code laws;

((■)) • Title 69 RCW, which outlines the laws regarding controlled substances; and

((■)) • Titles 70.155, 82.24 RCW, and RCW 26.28.080 which outline laws regarding tobacco.

(3) Licensees have the responsibility to control their conduct and the conduct of employees and patrons on the premises at all times. Except as otherwise provided by law, licensees or employees may not:

(a) Be disorderly or apparently intoxicated on the licensed premises;

(b) Permit any disorderly person to remain on the licensed premises;

(c) Engage in or allow behavior that provokes conduct which presents a threat to public safety;

(d) Consume liquor of any kind while working on the licensed premises; except that:

(i) Entertainers per WAC 314-02-010 may drink while performing under the following conditions:

(A) Alcohol service must be monitored by MAST servers;

(B) Drinks must be served in unlabeled containers;

(C) Entertainers may not advertise any alcohol brands or products;

(D) Entertainers may not promote drink specials; and

(E) If any member of the entertainment group is under twenty-one years of age, alcohol may not be consumed by any member of the group while performing.

(ii) Licensed beer manufacturers and their employees may sample beer of their own manufacture for manufacturing, evaluating or pricing product in areas where the public is not served, so long as the licensee or employee does not become apparently intoxicated;

(iii) Licensed wine manufacturers and their employees may:

(A) Sample wine for manufacturing, evaluating, or pricing product, so long as the licensee or employee does not become apparently intoxicated; and the licensee or employee who is sampling for these purposes is not also engaged in serving alcohol to the public; and

(B) Sample wine of their own manufacture for quality control or consumer education purposes, so long as the licensee or employee does not become apparently intoxicated.

(e) Engage in, or permit any employee or other person to engage in, conduct on the licensed premises which is prohibited by any portion of Titles 9, 9A, or 69 RCW;

(f) Engage in or permit any employee or other person to engage in the consumption of any type of marijuana, usable marijuana, or marijuana-infused products in a liquor licensed business, including outdoor service areas or any part of the property owned or controlled by the licensee;

(g) Permit any person consuming, or who has consumed within the licensed premises, any type of marijuana, usable marijuana, or marijuana-infused products to remain on any part of the licensed premises; or

(h) Sell or serve liquor by means of "drive-in(~~"or by "curb service"))".~~

(4) Licensees have the responsibility to control the interaction between the licensee or employee and their patrons. At a minimum, licensees or employees may not:

(a) Solicit any patron to purchase any beverage for the licensee or employee, or allow a person to remain on the premises for such purpose;

(b) Spend time or dance with, or permit any person to spend time or dance with, any patron for direct or indirect compensation by a patron.

((~~e~~)) See WAC 314-11-050 for further guidelines on prohibited conduct.

NEW SECTION

WAC 314-03-400 Curbside service. (1) Liquor licensed grocery stores that may or may not hold a spirits retailer license may provide curbside service to customers who order groceries online and pick them up in designated pick up areas outside of the grocery store. Drive through service is prohibited.

(2) Curbside pickup of groceries that include spirits, beer, and wine are allowed under the following conditions:

(a) Store employees must verify ID at pickup;

(b) If ID cannot be verified, or if the driver appears intoxicated, all alcohol will be removed from the order and the customer will not be charged for any removed products.



Washington State
Liquor and Cannabis Board

Date: May 2, 2018

To: Jane Rushford, Board Chair
Ollie Garrett, Board Member
Russ Hauge, 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 of final rules (CR 103) to revise WAC 314-12-085 Self-dispensing wine machines and self-service beer taps.**

The rules coordinator requests that the board approve the final rulemaking (CR 103) for WAC 314-12-085.

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

If approved, the rules coordinator will send an explanation of the rulemaking 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, Chair	Date

_____ Approve	_____ Disapprove	_____	_____
		Ollie Garrett, Board Member	Date

_____ Approve	_____ Disapprove	_____	_____
		Russ Hauge, Board Member	Date

Attachment: Issue Paper

Issue Paper

Self-dispensing Beer and Wine Machines

Date: May 2, 2018

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 proceed with final rulemaking for self-dispensing wine machines and self-service beer taps: WAC 314-12-085.

Why is rule making necessary?

Rules are needed to clarify the requirements for self-dispensing wine machines and self-service beer taps.

Public Comment

Three comments were received at the March 7, 2018 public hearing. Two written comments were received at that time.

One comment was received at the April 18, 2018 public hearing. Six written comments were received.

What changes are being made?

New Section. WAC 314-12-085 Self-dispensing wine machines and self-service beer taps. The new section clarifies requirements for self-dispensing machines and taps.



Notice of Permanent Rules to allow self-dispensing wine machines and self-service beer taps

This explanatory statement concerns the Washington State Liquor and Cannabis Board's adoption of rules to allow self-dispensing wine machines and self-service beer taps

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 this rule making process. If you have any questions, please contact Karen McCall, Rules Coordinator, at (360) 664-1631 or e-mail at rules@lcb.wa.gov.

Background and reasons for adopting this rule

The Washington State Liquor and Cannabis board received a petition for rulemaking from Tri-Cities Tap and Barrel, a tavern license. The licensee requested the board open rulemaking to allow the use of self-dispensing wine machines in on-premises retail licensed locations.

The board adopted Interim Policy #01-2011 on February 2, 2011, which allowed the use of self-dispensing wine machines for wine tastings at a winery premises with proper supervision. The board also adopted Interim Policy #07-2011 on August 10, 2011, which allowed the use of self-service beer taps at a liquor licensed premises. Permanent rules are needed to clarify the requirements for licensees to use self-dispensing wine machines and self-service beer taps.

Summary of all public comments received on this rule proposal.

CR 101 – filed October 18, 2017

CR 102 – filed January 24, 2018

Public Hearing and Supplemental CR 102 filed March 7, 2018

Public Hearing held on April 18, 2018

Three comments were received at the March 7, 2018 public hearing. Two written comments were received at that time.

One comment was received at the April 18, 2018 public hearing. Six written comments were received.

Below is a summary of comments received.



1. **Chris Marr, Consultant** - Support for rules on this topic. Request that the twelve ounce minimum purchase requirement be removed and allow “up to” twelve ounces. Request to remove the requirement that beer taps be located at the tables. Request to increase the maximum purchase volume from twenty-four ounces to thirty-two ounces.

WSLCB response: Thank you for your comments. Language was amended to remove the requirement that beer taps be located at the table. Language was added to allow “up to” twelve ounces. The purchase volume was not changed and may be considered in a future rulemaking.

2. **Chay Tan, DownTime Taps** - Support for rules on this topic. Request that self-service beer taps be located on a central wall instead of at the table. Request to allow samples of beer and increase the purchase volume to thirty-two ounces.

WSLCB response: Thank you for your comments. Language was amended to remove the requirement that beer taps be located at the table. Language was added to allow “up to” twelve ounces. The purchase volume was not changed and may be considered in a future rulemaking.

3. **Darren Nicholson, iPourIt** – Support for rules on this topic and gave an overview of how self-service beer tap technology works.

WSLCB response: Thank you for your comments.

4. **Mayor Jon Mutchler, City of Ferndale** – Support for rules on this subject and clarifying rule language that will allow DownTime Taps to operate self-service beer taps.

WSLCB response: Thank you for your comments. Language was amended to remove the requirement that beer taps be located at the table. This allows DownTime Taps to utilize the proposed system located on the wall.

5. **Mona McPhee, Miller, Nash, Graham, and Dunn** – Regarding self-service beer taps: Concerns that the rule unintentionally limits the types of self-dispensing systems by referencing “service cards” and that machines may be deactivated “at the table.” Request to not put a limit on the volume per customer over time and that the dispensing limit be thirty two ounces, with a single dispensing limit of sixteen ounces and to allow samples of beer.

WSLCB response: Thank you for your comments. Language was amended to remove the requirement that beer taps be located at the table. Language was added to allow “up to” twelve ounces. The purchase volume was not changed and may be considered in a future rulemaking. Language to add other purchase



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verification methods, similar to a “service card” may be considered in a future rulemaking.

6. **Stacey Okland, Co-Director, Okanogan County Community Coalition –** Concern that “adequate staff” is too vague. Request that language be changed to only allow Class 12 alcohol server permitted employees to operate the self-service machines since they are over 21. Request that self-service machines are only allowed in over-21 on-premises liquor licensed locations.

WSLCB response: Thank you for your comments. Concerns regarding adequate staff, Class 12 and 13 alcohol server permits, the potential for overservice, and service in the presence of individuals under 21 are not unique to locations with self-service machines. Rule language outlines requirements for limits, staffing, and training. The referenced interim policies have been in place since 2011. The WSLCB has not received any complaints regarding businesses operating self-service machines.

7. **Sal Leone, President, Fish Brewing Co and Washington Wine and Beverage Co. –** Concern that restricting alcohol serving size is not in line with what is currently being served when customers purchase bottles of wine (28 oz or more), or pitchers of beer (32 oz or more). Concern that the proposed serving size is too small and doesn’t allow for a 16 ounce serving, growler, or crowler purchase of beer. Request that language be changed to allow “up to” the volume limit so that customers may sample. Concern that even though there is a limit to the amount for beer or wine, customers could combine the two and be over the intended limit. Suggest changing language to address the above concerns.

WSLCB response: Thank you for your comments. Language was added to allow “up to” twelve ounces or “up to” five ounces. The purchase volume and purchase limits were not changed and may be considered in a future rulemaking.

8. **David Clawson –** Concerns that the five ounce serving size of wine does not allow sampling. Also concerned that the limit of wine is 10 ounces when a customer can purchase a bottle of wine.

WSLCB response: Thank you for your comments. Language was added to allow “up to” twelve ounces or “up to” five ounces. The purchase volume and purchase limits were not changed and may be considered in a future rulemaking.

9. **Cliff Goodman, Vashon Brewing –** Support for rules on this topic. Appreciates the ability to purchase smaller quantities of beer.

WSLCB response: Thank you for your comments. Purchase volume and purchase limits may be considered in a future rulemaking.



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10. **Katie Jacoy, Western Counsel, Wine Institute** – Support for rules on this topic. Request that language be added that manufacturers cannot pay for the self-dispensing equipment.
WSLCB response: Thank you for your comments. Language addressing what can and cannot be provided to licensees can be found in WAC 314-12-140 Prohibited practices – Contracts – Gifts – Rebates, etc. The requested language was not added to this rule since it is addressed elsewhere in rule.
11. **P. Adam Smith, Vice President, Western Region of the Distilled Spirits Council** - Support for rules on this topic. Request that spirits be included in the scope of this rulemaking and allow the use of self-dispensing machines for all types of beverage alcohol.
WSLCB response: Thank you for your comments. This rulemaking did not address self-dispensing machines for spirits. This rulemaking took into consideration formalizing Board Interim Policy #01-2011 and Board Interim Policy #07-2011 into rule. Both interim policies have been in effect since 2011.
12. **Steven D. Strachan, Executive Director, Washington Association of Sheriffs and Police Chiefs** – Request that the rules not be created and the board repeal Interim Policies #01-2011 and #07-2011 for public safety reasons. Concerns include not having alcoholic beverage served by a trained and licensed alcohol server and potential overservice.
WSLCB response: Thank you for your comments. The referenced interim policies have been in place since 2011. The WSLCB has not received any complaints regarding businesses operating self-service machines. The rule language includes a provision that employees operating the self-service machines hold a class 12 or class 13 alcohol server permit. There are limits on serving size included in rule language and provisions in place for adequate staffing, including checking ID and looking for signs of intoxication. Employees must also have the ability to deactivate self-service beer taps remotely, which allows the employee to control the amount dispensed at all times.

WAC Changes

See attachment.

NEW SECTION

WAC 314-12-085 Self-dispensing wine machines and self-service beer taps. (1) The requirements for an on-premises liquor licensee to use self-dispensing wine machines are as follows:

(a) The liquor licensee must maintain adequate staff to monitor for potential over service/consumption;

(b) Employees responsible for operating the self-dispensing machines must hold a class 12 or class 13 alcohol server permit;

(c) An employee must first check the customer's ID and check for signs of intoxication; and

(d) A service card to self-dispense must be purchased from an employee. The card may allow no more than a total of ten ounces dispensed in up to five ounce servings. No more than two cards may be purchased by any one customer at any time.

(2) The requirements for an on-premises liquor licensee to use self-service beer taps are as follows:

(a) The liquor licensee must maintain adequate staff to monitor for potential over service/consumption;

(b) Employees responsible for operating the self-service beer taps must hold a class 12 or class 13 alcohol server permit;

(c) An employee must first check the customer's ID and check for signs of intoxication prior to activating the system;

(d) The system must be programmed to automatically deactivate after the beer has been dispensed;

(e) The amount of beer purchased by any one customer at one time is twenty-four ounces dispensed in up to twelve ounce servings;

(f) Employees must have the ability to deactivate the system remotely, which allows the employee to control the amount of beer dispensed at all times.