



Washington State
Liquor and Cannabis Board

Date: May 27, 2020

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

From: Kathy Hoffman, Policy and Rules Manager

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

Subject: Chapter 314-05 WAC – Special Occasion Licenses.

The Rules Manager requests approval to file a supplemental rule proposal (CR 102) for the rule making described the Supplemental CR 102 Memorandum attached to this order and presented at the Board meeting on May 27, 2020.

If approved for filing, the tentative timeline for this rule proposal is as follows:

May 27, 2020	Board is asked to approve filing the proposed rules (CR 102 filing).
June 17, 2020	Code Reviser publishes notice.
July 8, 2020	End of formal comment period.
July 8, 2020	Public hearing held.
July 22, 2020	Board is asked to adopt rules.
July 22, 2020	Agency sends notice to those who commented both at the public hearing and in writing.
July 22, 2020	Agency files adopted rules with the Code Reviser (CR 103)
August 21, 2020	Rules are effective consistent with RCW 34.05.380(2)

_____ Approve _____ Disapprove _____
Jane Rushford, Chair _____
Date

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

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

Attachments: Supplemental CR 102 Memorandum



Supplemental CR 102 Memorandum

Regarding Chapter 314-05 WAC – Special Occasion Licenses.

Date: May 27, 2020

Presented by: Kathy Hoffman, Agency Policy and Rules Coordinator

Description of the Issue

In January of 2019, the WSLCB began the initial stages of rule review regarding special occasion licenses. This regulatory review was designed to determine whether the rules described in current chapter 314-05 WAC should be retained in their current form, amended or repealed. The review also concentrated on rules or portions of rule that have been the subject or source of complaints, concerns or other difficulties that related to matters other than the specific mandates of the statute or statutes on which the rules are based.

The following criteria are used for the review of each rule WSLCB identifies for review:

- **Need.** Is the rule necessary to comply with the statutes that authorize it? Is the rule obsolete, ambiguous or duplicative that suggests a revision? Have laws or other circumstances changed so that the rule should be amended or repealed? Is the rule necessary to protect or safeguard the health and safety of Washington's citizens?
- **Effectiveness and Efficiency.** Is the rule providing the results that it was originally designed to achieve in a reasonable manner? Are there regulatory alternatives or new technologies that could more effectively or efficiently achieve the same objectives?
- **Clarity.** Is the rule written and organized in a clear and concise manner so that it can be readily understood by those to whom it applies?
- **Intent and Statutory Authority.** Is the rule consistent with the legislative intent of the statutes that authorize it? Is the rule based upon sufficient statutory authority? Is there a need to develop more specific legislative authorization in order to protect the health, safety, and welfare of Washington citizens?
- **Coordination.** Could additional consultation and coordination with other governmental jurisdictions and state agencies with similar regulatory authority eliminate or reduce duplication and inconsistency?
- **Cost.** Have the qualitative and quantitative benefits of the rule been considered in relation to its cost?
- **Fairness.** Does the rule result in equitable treatment of those required to comply with it? Should it be modified to eliminate or minimize any

disproportionate impacts on the regulated community? Should it be strengthened to provide additional support?

The original CR 102 regarding special occasion licenses was filed on November 13, 2019 as WSR 19-23-046, and set a hearing for January 8, 2020. A number of comments were offered before and during that hearing that resulted in WSLCB reconsidering the original rule proposal. Some suggested substantive changes were made to the original proposal. RCW 34.05.340 provides that an agency may not adopt a rule that is substantially different from the rule proposed in the published notice of proposed rule adoption or a supplemental notice in the proceeding. If an agency contemplates making a substantial variance from a proposed rule described in a published notice, it may file a supplemental notice with the code reviser meeting the requirements of RCW 34.05.320 and reopen the proceedings for public comment on the proposed variance.

The proposed rule revisions amend, reorganize, clarify, and modernize existing requirements related to special occasion licenses. Specifically, the proposal clarifies that a special occasion license is a retail license; updates application requirements and adds information from the current on-line application; provides clarifying updates for special occasion events; and adds statutory references that clarify requirements for alcohol and monetary donations, advertising, ticket and alcohol sales, and payment information. These proposed revisions more clearly describe existing processes, and are anticipated to result in increased access to and use of on-line licensing resources by applicants and licensees, as well as consistent rule application, interpretation, and guidance designed to support applicant and licensee success.

The agency has determined that there are no costs associated with this rule. The rule does not impose any additional regulatory burden on applicants or licensees, nor does it change, modify, add cost or otherwise alter the special occasion license application process, but actually increases applicant and licensee ease of use by assuring that the application process flows more efficiently. Any perceived or real administrative burden, including gathering publicly available data and other material may require applicants to minimally extend efforts, but this does not add any new requirements to the current special occasion license application process. Both applicants and licensees have been or are aware of required documentation to be submitted since this requirement was established in rule prior to this proposal, and applicants and licensees should be appropriately prepared to provide required documentation. The nominal additional costs that may be voluntarily incurred by applicants and licensees is far outweighed by the public benefit of increased public safety, even though the effect of that benefit may not be apparent through numeric measures.

Rule Necessity

The proposed rules are needed to support WSLCB applicants and licensees by confirming existing standards through language clarification and modernization

describing those standards. The proposed rules are designed to assure applicants and licensees have clear and relevant guidelines in place regarding special occasion licenses and events, and assure access to licensing resources and guidance. The proposed rules are anticipated increase agency efficiency and effective delivery of services to applicants and licensees.

Description of Rule Changes

Amended Section. WAC 314-05-020 – Revised title from “What is a special occasion license?” to “Special occasion license.” Reaffirms, streamlines and updates existing rule language and guidance related to the issuance of special occasion licenses. Revisions include assuring language consistency throughout the section, and retains the current licensing fee of \$60 per day, per event. Strikes existing language relocated to WAC 314-05-030.

Supplemental updates include non-substantive word addition that had been removed from the original proposal.

Amended Section. WAC 314-05-025 – Reaffirms, streamlines, and updates existing rule language and guidance regarding the application process for a special occasion license, mirroring the structure of the current special occasion application. Provides specific reference to chapter 314-07 WAC, regarding how to apply for and maintain a liquor license.

Supplemental updates include non-substantive word addition that had been removed from the original proposal.

Amended Section. WAC 314-05-030 – Revised title from “Guidelines for special occasion license events” to Requirements for special occasion license events.” Reaffirms, clarifies, and updates existing language by adding specific, relevant elements of:

- RCW 66.28.070, regarding restrictions on purchases of spirits, beer, or wine by retail spirits, beer, or wine licensees or special occasion licensees;
- RCW 66.28.310, regarding three-tier promotional items;
- RCW 66.28.040, regarding exceptions to prohibition of giving away liquor, specifically alcohol that may be donated to special occasion licensees registered at 501(c)(3) and 501(c)(6) businesses;
- RCW 66.24.375, regarding portion of the profits from events sponsored by a not-for-profit group that may be paid directly or indirectly to members, officers, directors, or trustees except for services performed for the organization;

- RCW 66.24.380, regarding sale, service, and consumption of spirits, beer, and wine is to be confined to specified premises or designated areas.

Supplemental updates include non-substantive word addition that had been removed from the original proposal.

Amended Section. WAC 314-05-035 – Revised title from, “Branded promotional items” to “Advertising and branded promotional items for special occasion events.” Reaffirms, clarifies, and updates existing language with specific reference to statutory construction of RCW 66.28.285 through 66.28.310 regarding the three-tier system, direct and indirect interests between industry members and retailers, undue influence, exclusive agreements, and money advances. Although these statutes apply to all WSLCB liquor licensees, these statutory references had not previously been provided in rule.

Supplemental, substantive updates to this section include specific statutory elements described in subsection (2); branding and advertising arrangements in subsections (4)(c) and (d); and alcohol-related promotional materials described in subsection (5). Language was removed from subsections (6) and (8). The word “retailer” was removed from section 10(a) and replaced with “special occasion licensee.”

PROPOSED RULE MAKING



CR-102 (December 2017) (Implements RCW 34.05.320)

Do **NOT** use for expedited rule making

Agency: Washington State Liquor & Cannabis Board

Original Notice

Supplemental Notice to WSR #19-23-046

Continuance of WSR

Preproposal Statement of Inquiry was filed as WSR #19-03-060 ; or

Expedited Rule Making--Proposed notice was filed as WSR _____; or

Proposal is exempt under RCW 34.05.310(4) or 34.05.330(1); or

Proposal is exempt under RCW _____.

Title of rule and other identifying information: (describe subject) Chapter 314-50 WAC – Special Occasion Licenses. The Washington State Liquor and Cannabis Board (Board) proposes to amend and revise current special occasion license rules by updating, modernizing and clarifying existing language. This proposal is a supplement to WSR #19-23-046.

Hearing location(s):

Date: **Time:** **Location:** (be specific) **Comment:**

Date:	Time:	Location:	Comment:
July 8, 2020	10:00 am	1025 Union Ave, Olympia, WA 98501	

Date of intended adoption: On or after July 22, 2020 (Note: This is **NOT** the **effective** date)

Submit written comments to:

Name: Katherine Hoffman

Address: PO Box 43080, Olympia, WA 98504

Email: rules@lcb.wa.gov

Fax: 360-664-9689

Other:

By (date) July8, 2020

Assistance for persons with disabilities:

Contact Claris Nnanabu, ADA Coordinator, Human Resources

Phone: 360-664-1642

Fax: 360-664-9689

TTY: 7-1-1 or 1-800-833-6388

Email: Claris.Nnanabu@lcb.wa.gov

Other:

By (date) July 1, 2020

Purpose of the proposal and its anticipated effects, including any changes in existing rules: The proposed rule revisions amend, reorganize, clarify, and modernize existing requirements related to special occasion licenses. Specifically, the proposal clarifies that a special occasion license is a retail license; updates application requirements and adds information from the current on-line application; provides clarifying updates for special occasion events; and adds statutory references that clarify requirements for alcohol and monetary donations, advertising, ticket and alcohol sales, and payment information. These proposed revisions more clearly describe existing processes, and are anticipated to result in increased access to and use of on-line licensing resources by applicants and licensees, as well as consistent rule application, interpretation, and guidance designed to support applicant and licensee success.

Reasons supporting proposal: The proposed rules are needed to support WSLCB applicants and licensees by confirming existing standards through language clarification and modernization describing those standards. This proposal is the result of a WSLCB rules review process conducted to make sure applicants and licensees have clear and relevant guidelines in place regarding special occasion licenses and events, and assure access to licensing resources and guidance. Revisions also include additional technical and clarifying updates.

The original CR102 regarding special occasion licenses was filed on November 13, 2019 as WSR 19-23-046, and set a hearing for January 8, 2020. A number of comments were offered before and during that hearing that resulted in WSLCB reconsidering the original rule proposal. Some suggested substantive changes were made to the original proposal. RCW 34.05.340 provides that an agency may not adopt a rule that is substantially different from the rule proposed in the published notice of proposed rule adoption or a supplemental notice in the proceeding. If an agency contemplates making a substantial variance from a proposed rule described in a published notice, it may file a supplemental notice with the code reviser meeting the requirements of RCW 34.05.320 and reopen the proceedings for public comment on the proposed variance.

Statutory authority for adoption: RCW 66.08.030

Statute being implemented: RCW 66.24.010, RCW 66.24.375, RCW 66.24.380, RCW 66.28.040, RCW 66.28.070, RCW 66.28.285, RCW 66.28.290, RCW 66.28.295, RCW 66.28.300, RCW 66.28.305, RCW 66.28.310, RCW 66.28.315, RCW 66.28.320.

Is rule necessary because of a:

Federal Law? Yes No
Federal Court Decision? Yes No
State Court Decision? Yes No

If yes, CITATION:)

Agency comments or recommendations, if any, as to statutory language, implementation, enforcement, and fiscal matters: None

Name of proponent: (person or organization) Washington State Liquor and Cannabis Board Private
 Public
 Governmental

Name of agency personnel responsible for:

	Name	Office Location	Phone
Drafting: Rules Coordinator	Katherine Hoffman, Policy &	1025 Union Ave, Olympia, WA 98501	360-664-1622
Implementation: Licensing	Becky Smith, Director of	1025 Union Ave, Olympia, WA 98501	360-664-1615
Enforcement: Enforcement	Justin Nordhorn, Chief of	1025 Union Ave, Olympia, WA 98501	360-664-1726

Is a school district fiscal impact statement required under RCW 28A.305.135? Yes No

If yes, insert statement here:

The public may obtain a copy of the school district fiscal impact statement by contacting:

Name:
Address:
Phone:
Fax:
TTY:
Email:
Other:

Is a cost-benefit analysis required under RCW 34.05.328?

Yes: A preliminary cost-benefit analysis may be obtained by contacting:
Name:
Address:
Phone:

Fax:
TTY:
Email:
Other:

No: Please explain: A cost benefit analysis is not required because the subject of proposed rulemaking does not qualify as a significant legislative rule or other rule requiring a cost benefit analysis under RCW 34.05.328(5). The proposed rules clarify existing rule language, and amendments include appropriate references to existing statutory language where necessary and appropriate.

Regulatory Fairness Act Cost Considerations for a Small Business Economic Impact Statement:

This rule proposal, or portions of the proposal, **may be exempt** from requirements of the Regulatory Fairness Act (see chapter 19.85 RCW). Please check the box for any applicable exemption(s):

This rule proposal, or portions of the proposal, is exempt under RCW 19.85.061 because this rule making is being adopted solely to conform and/or comply with federal statute or regulations. Please cite the specific federal statute or regulation this rule is being adopted to conform or comply with, and describe the consequences to the state if the rule is not adopted.

Citation and description:

This rule proposal, or portions of the proposal, is exempt because the agency has completed the pilot rule process defined by RCW 34.05.313 before filing the notice of this proposed rule.

This rule proposal, or portions of the proposal, is exempt under the provisions of RCW 15.65.570(2) because it was adopted by a referendum.

This rule proposal, or portions of the proposal, is exempt under RCW 19.85.025(3). Check all that apply:

- | | |
|-------------------------------------------------------------------------------------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <input type="checkbox"/> RCW 34.05.310 (4)(b)
(Internal government operations) | <input type="checkbox"/> RCW 34.05.310 (4)(e)
(Dictated by statute) |
| <input checked="" type="checkbox"/> RCW 34.05.310 (4)(c)
(Incorporation by reference) | <input type="checkbox"/> RCW 34.05.310 (4)(f)
(Set or adjust fees) |
| <input checked="" type="checkbox"/> RCW 34.05.310 (4)(d)
(Correct or clarify language) | <input type="checkbox"/> RCW 34.05.310 (4)(g)
((i) Relating to agency hearings; or (ii) process requirements for applying to an agency for a license or permit) |

This rule proposal, or portions of the proposal, is exempt under RCW WAC 314-05-020, WAC 314-05-025, WAC 314-05-030, and WAC 314-05-035 are exempt under RCW 34.05-310(4)(c) and (4)(d).

Explanation of exemptions, if necessary: The proposed rules incorporate by reference or explicitly restate statute where appropriate consistent with RCW 34.05.310(4)(c). The proposed rules also provide corrections and clarifying language designed to modernize the chapter and increase ease of use consistent with RCW 34.05.310(4)(d).

COMPLETE THIS SECTION ONLY IF NO EXEMPTION APPLIES

If the proposed rule is **not exempt**, does it impose more-than-minor costs (as defined by RCW 19.85.020(2)) on businesses?

No Briefly summarize the agency's analysis showing how costs were calculated. There are no costs associated with this rule. The rule does not impose any additional regulatory burden on applicants or licensees, nor does it change, modify, add cost or otherwise alter the special occasion license application process, but actually increases applicant and licensee ease of use by assuring that the application process flows more efficiently. Any perceived or real administrative burden, including gathering publicly available data and other material may require applicants to extend efforts beyond but this does not add any new requirements to the special occasion license application process. Both applicants and licensees have been or are aware of required documentation to be submitted since this requirement was established in rule prior to this proposal, and applicants and licensees should appropriately prepared to provide required documentation. The nominal additional costs that may be voluntarily incurred by applicants and licensees is far outweighed by the public benefit of increased public safety, even though the effect of that benefit may not be apparent through numeric measures.

Yes Calculations show the rule proposal likely imposes more-than-minor cost to businesses, and a small business economic impact statement is required. Insert statement here:

The public may obtain a copy of the small business economic impact statement or the detailed cost calculations by contacting:

Name:
Address:
Phone:

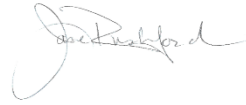
Fax:
TTY:
Email:
Other:

Date: May 27, 2020

Name: Jane Rushford

Title: Chair

Signature:

A handwritten signature in cursive script, appearing to read "Jane Rushford", written in black ink.

AMENDATORY SECTION (Amending WSR 17-08-099, filed 4/5/17, effective 5/6/17)

WAC 314-05-020 ~~((What is a))~~ **Special occasion license** ~~((?))~~. (1) ~~((Per))~~ Consistent with 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 and wine by the bottle 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))~~ may have no more than twelve days of events per calendar year (see RCW 66.24.380(1) for an exception for agricultural fairs).

(3) The fee for ~~((this))~~ the special occasion license is ~~((60))~~ sixty dollars 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.))~~ A special occasion license is a retail liquor license. Nonprofit organizations must comply with applicable retail liquor license requirements when operating under the special occasion license.

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

WAC 314-05-025 **Application process for a special occasion license.** (1) Special occasion applications ~~((normally take))~~ should:

(a) Be submitted at least forty-five days ~~((to process. The liquor and cannabis board may not be able to process your application in time for your event if you do not apply at least forty-five days before the event.~~

~~((2) Per))~~ prior to an event where no minors will attend;

(b) Be submitted with an application addendum at least sixty days prior to an event where the applicant requests minors in attendance; or

(c) Applications submitted less than the required forty-five or sixty days prior to the event might not be approved.

(2) Special occasion applications must include:

(a) Documentation verifying that the organization is a registered nonprofit with the Washington secretary of state or with the Internal Revenue Service;

(b) The name of any winery that will be taking orders at the event and accepting payment for wine of its own production to be delivered at a later date; and

(c) Any additional relevant information requested by the board.

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

((3) The liquor and cannabis)) (4) The board may ((run)) conduct a criminal history check on the organization's officers and/or managers.

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

(5) See chapter 314-07 WAC regarding possible reasons for denial of a special occasion license.) (5) Special occasion licenses may be denied for reasons including, but not limited to, those outlined in chapter 314-07 WAC. Denials are subject to the provisions of the Administrative Procedure Act, chapter 34.05 RCW.

AMENDATORY SECTION (Amending WSR 12-17-006, filed 8/1/12, effective 9/1/12)

WAC 314-05-030 ((Guidelines)) Requirements for special occasion license events. (1) The special occasion license must be posted at each alcohol service area at the event.

(2) ((Special occasion licensees may get alcohol for the event only from the following sources:

(a)) Consistent with RCW 66.28.070, all spirits, beer, and wine ((must be purchased at retail from)) purchased for the event by the special occasion licensee may only be purchased in the manufacturer's approved container or package from the following:

(a) A licensed off-premises retailer; ((from a spirits, beer, or wine))

(b) A distributor; ((from a distiller, a craft distiller,))

(c) A distillery or craft distillery;

(d) A domestic brewery((7)) or microbrewery((7-08));

(e) A winery ((acting as a distributor of its own product)); or ((from))

(f) A certificate of approval holder with a direct shipping to Washington retailer endorsement.

(3) Consistent with RCW 66.28.310, special occasion licensees are allowed to pay for beer ((08)), wine, and spirits used for the special

occasion event immediately following the end of the (~~special occa-~~
~~sion~~) event (~~(and~~

~~(b) Per~~)).

(4) Consistent with RCW 66.28.040, alcohol may be donated to special occasion licensees registered as 501(c)(3) and 501(c)(6) for the event as follows:

(a) In state breweries (~~and wineries, out-of-state breweries and wineries holding a certificate of approval license, domestic distillers or an accredited representative of a distiller, manufacturer, importer, or distributor of spirituous liquor may donate beer, wine, and spirits to special occasion licensees that are nonprofit 501 (c)(3) charitable organizations or nonprofit 501 (c)(6) organizations.~~

(3) Special occasion licensees may not advertise or sell alcohol below cost. If donated product is sold by the special occasion licensee, it may not be advertised or sold below the manufacturers' cost.

(4) Per RCW 66.28.310, alcohol manufacturers, importers and distributors may provide advertising, pouring, or dispensing of beer or wine at a beer or wine tasting exhibition or judging event, but may not provide money, goods, or services to special occasion licensees.

(a) Wineries and distilleries may pour at any special occasion event) and beer certificate of approval holders may donate beer;

(b) In state wineries and wine certificate of approval holders may donate wine;

(c) An accredited representative of a distiller, manufacturer, importer, or distributor of spirituous liquor may donate spirits.

(5) Alcohol may not be provided, or advertised as being provided, to the public free of charge at the special occasion event.

(6) Alcohol may not be sold, or advertised as being sold, below the manufacturer's cost at the special occasion event.

(7) If alcohol is auctioned at the event, the final sale price may not be below the manufacturer's cost.

(8) If tickets are sold for the special occasion event and the ticket fee includes alcohol for event attendees, the ticket must be sold directly by the nonprofit organization and may not be sold by a third party. In order to ensure alcohol is not being given away or sold below the manufacturer's cost, if the ticket fee includes alcohol the total ticket fee must be above the manufacturer's cost of the included alcohol.

(9) Consistent with RCW 66.24.375, no portion of the profits from special occasion events may be paid directly or indirectly to members, officers, directors, or trustees of the nonprofit organization except for services performed for the organization.

(~~(b)~~) (10) Wineries (~~(or)~~), breweries (~~that are~~), and distilleries participating in a special occasion event may pay (~~reasonable~~) booth fees to the special occasion licensee. Booth fees must be uniform for all participating wineries (~~and~~), breweries, and distilleries.

(~~(5) Per~~) (11) Breweries may provide installation of draft beer dispensing equipment for a special occasion event.

(12) Pouring or dispensing may be provided at any type of special occasion event by wineries, distilleries, or spirits distributors.

(13) Pouring or dispensing may be provided by breweries at a beer tasting exhibition or judging event. A beer tasting exhibition or judging event must be sponsored by the special occasion licensee and have at least three breweries represented that are pouring samples.

(14) Consistent with RCW 66.24.380, the sale, service, and consumption of alcohol must be confined to a designated ((location(s))) area.

~~((6))~~ (15) If a special occasion ((license function)) event is held at an establishment that has a liquor license:

~~(a) The special occasion ((function)) event must be ((held in an)) in a designated area of the licensed premises separate from areas open to the general public ((during the time the special occasion function is occurring, and));~~

~~(b) The licensed premises' liquor cannot be sold or served in ((the same area(s) as)) the designated special occasion ((license function.~~

~~(b-)) event area;~~

~~(c) The liquor licensee cannot charge for the liquor purchased and brought by the special occasion licensee for service at the ((special occasion event, but can charge for room usage, services, etc.)) event;~~

~~(d) The liquor licensee must sign the special occasion application acknowledging that they will not sell or serve their liquor at the event and giving permission for the special occasion licensee to bring and sell their ((alcohol)) liquor at the liquor licensed premises ((-~~

~~(e-)) ; and~~

~~(e) The special occasion ((license will not be issued for use)) event cannot be held at a premises ((whose)) where the liquor license will be suspended by the board on the date(s) of the scheduled event.~~

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

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

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

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

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

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

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

~~(3-))~~ Special occasion licensees and industry members must comply with RCW 66.28.285 through 66.28.310, regarding the three-tier system, direct and indirect interests between industry members and retailers, undue influence, exclusive agreements, and money advances.

(2) Manufacturers, distributors, or their licensed representatives may use websites and social media to post, repost, or share promotional information or images about events or provide other advertising services per the requirements outlined in RCW 66.28.310. Manufacturers, distributors, or their licensed representatives may also provide programs or flyers to be disseminated at the event, or may have media coverage of the event.

(3) Industry members may not provide money for advertising or promoting (sponsoring) an event directly to:

(a) The special occasion licensee;

(b) Employees of the special occasion licensee; or

(c) Promoters, event coordinators, or third parties hired by the special occasion licensee.

(4) If a third-party organization is holding an event in which a special occasion licensee participates, industry members may provide money for advertising or promoting (sponsoring) the event directly to the third-party organization only when:

(a) The third-party organization does not hold a special occasion license for the event;

(b) The third-party organization has not been hired by the participating special occasion licensee;

(c) Any advertising money may not be shared with the special occasion licensee; and

(d) The third-party organization has not expressly or implicitly promised, contracted, or otherwise agreed that the industry member's brand will be or will be more likely to be sold by the special occasion licensee, that the industry member's brand will be sold to the total or partial exclusion of any other brand, or that the industry member will be allowed access to the special occasion licensed area for advertising purposes without direct approval from the special occasion licensee and payment of reasonable booth fees to the special occasion licensee.

(5) Industry members may not give alcohol-related promotional items to event attendees in the special occasion licensed area.

(6) Industry members may also provide signage with the industry member's name or brand name of the product. Signage that may be visible to the general public from the public right of way must not:

(a) Exceed a total of four signs affixed to or hanging in a window, or on the outside of the licensed event area, referring to alcoholic beverages, brand names, or manufacturers; and

(b) Exceed sixteen hundred square inches.

(7) Inflatables are not allowed inside the event area unless the area is completely enclosed with no view to the inside from the public right of way.

(8) Industry members must comply with RCW 66.28.310 regarding the provision of and/or the receipt of branded promotional items directly or indirectly to a special occasion licensee.

(9) An industry member is not obligated to provide ~~((such))~~ branded promotional items as a condition for selling alcohol to the ~~((retailer))~~ special occasion licensee.

~~((4) Any industry member or retailer or any other person))~~ (10) Anyone asserting the provision of branded promotional items as allowed in this section has resulted or is more likely than not to result in

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

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

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