



Washington State  
**Liquor and Cannabis Board**

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**Date:** August 5, 2020

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

**From:** Audrey Vasek, Policy and Rules Coordinator

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

**Subject:** **Approval to file a pre-proposal statement of inquiry (CR 101) to implement Engrossed Second Substitute Senate Bill 5549 (chapter 238, Laws of 2020), regarding distilleries—marketing and sales.**

The Washington State Liquor and Cannabis Board (Board) is considering establishing new rule sections and amending existing rule sections to implement the directives and requirements of Engrossed Second Substitute Senate Bill (E2SSB) 5549 (chapter 238, Laws of 2020)

**Process**

The Policy and Rules Coordinator requests approval to file the pre-proposal statement of inquiry (CR 101) for the rule making described above. A CR 101 Memorandum was presented at the Board meeting on August 5, 2020, and is attached to this order.

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

August 5, 2020	The CR 101 is filed with the Office of the Code Reviser. The LCB webpage is updated and notice is circulated by the rules distribution list. The informal comment period begins.
August 19, 2020	Notice is published in the Washington State Register under WSR #20-16.
September 18, 2020	The informal comment period ends.
October 14, 2020	The Board is asked to approve filing proposed rules (CR 102). The CR 102 is filed with the Office of the Code Reviser.

	The LCB webpage is updated and notice is circulated by the rules distribution list. The formal comment period begins.
November 4, 2020	Notice is published in the Washington State Register under WSR #20-21.
December 9, 2020	The public hearing is held and the formal comment period ends.
December 23, 2020	The Board is asked to adopt rules, if no substantive changes are made (CR 103). The concise explanatory statement is provided to individuals offering written or oral comment at the public hearing or during the formal comment period under RCW 34.05.325. The CR 103 and adopted rules are filed with the Office of the Code Reviser. The LCB webpage is updated and notice is circulated by the rules distribution list.
January 23, 2021	The rules are effective 31 days after filing unless otherwise specified. See 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

Attachment: CR 101 Memorandum.



## CR 101 Memorandum

### **Re: Implementation of Engrossed Second Substitute Senate Bill (E2SSB) 5549 (chapter 238, Laws of 2020), regarding distilleries—marketing and sales.**

Date: August 5, 2020

Presented by: Audrey Vasek, Policy and Rules Coordinator

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### **Background**

During the 2020 legislative session, Engrossed Second Substitute Senate Bill (E2SSB) 5549 (chapter 238, Laws of 2020), regarding marketing and sales by distilleries, passed the legislature and was signed by the Governor on March 31, 2020. The bill took effect on June 11, 2020, except for sections 3, 5, 6, 7, and 10, which become effective January 1, 2021.

### **Reasons Why Rules Are Needed**

Rules are needed to implement the provisions of E2SSB 5549 (chapter 238, Laws of 2020).

E2SSB 5549 modifies the privileges and requirements for distillery and craft distillery licenses, and establishes a new off-site tasting room license available to distillery and craft distillery licensees that authorizes operation of an off-site tasting room. A distillery or craft distillery licensed production facility is eligible for up to two off-site tasting room licenses located in the state. The total number of off-site tasting room licenses that may be issued is limited to one hundred fifty.

A licensed distillery or craft distillery operating any on-site or off-site tasting room must provide food offerings, for free or for sale, to customers during public service hours. Requirements for food offerings must be established by the board in rule.

E2SSB 5549 also authorizes jointly occupied and co-operated off-site tasting rooms and jointly operated conjoined consumption areas. Jointly occupied and co-operated off-site tasting rooms are authorized for any distillery, craft distillery, domestic winery, or any combination of these licensees. Jointly operated conjoined consumption areas are authorized for any domestic brewery,

microbrewery, domestic winery, distillery, or craft distillery, or any combination of these licensees, whose property parcels or buildings are located in direct physical proximity to one another.

New rule sections are needed to implement E2SSB 5549, and existing rule sections need to be amended in order to align existing rule language with the changes made to statute by E2SSB 5549.

## **Process**

The rule making process begins by announcing LCB's intent to consider changes to existing rules, adding new rule sections, or both by filing a CR 101 form with the Office of the Code Reviser. This allows staff, stakeholders, industry partners, and all members of the authorizing environment to begin discussing proposed rule changes. At the CR 101 stage of the rulemaking process, no proposed language is offered. Any interested party may comment on the subject of this possible rulemaking during the designated comment period. Notice will be sent to all who have indicated that they want to receive notice of rule activity pertaining to this preproposal inquiry. The notice will identify the public comment period and where comments can be sent.

# PREPROPOSAL STATEMENT OF INQUIRY



**CR-101 (October 2017)**  
**(Implements RCW 34.05.310)**  
 Do **NOT** use for expedited rule making

**Agency:** Washington State Liquor and Cannabis Board

**Subject of possible rule making:** Chapter 314-28 WAC—Distillers. The Washington State Liquor and Cannabis Board (Board) is considering establishing new rule sections and amending existing rule sections in chapter 314-28 WAC, and in other chapters if needed, to implement the directives and requirements of Engrossed Second Substitute Senate Bill (E2SSB) 5549 (chapter 238, Laws of 2020).

**Statutes authorizing the agency to adopt rules on this subject:** RCW 66.08.030, 66.08.050, E2SSB 5549 (section 12, chapter 238, Laws of 2020) "The board may adopt rules to implement this act.", and E2SSB 5549 (section 4, chapter 238, Laws of 2020) "(5) Requirements for food offerings shall be determined by the board in rule."

**Reasons why rules on this subject may be needed and what they might accomplish:** Rules may be needed to implement the provisions of E2SSB 5549 (chapter 238, Laws of 2020).

E2SSB 5549 modifies the privileges and requirements for distillery and craft distillery licenses, and establishes a new off-site tasting room license available to distillery and craft distillery licensees that authorizes operation of an off-site tasting room. A distillery or craft distillery licensed production facility is eligible for up to two off-site tasting room licenses located in the state. The total number of off-site tasting room licenses that may be issued is limited to one hundred fifty.

A licensed distillery or craft distillery operating any on-site or off-site tasting room must provide food offerings, for free or for sale, to customers during public service hours. Requirements for food offerings must be established by the board in rule.

E2SSB 5549 also authorizes jointly occupied and co-operated off-site tasting rooms and jointly operated conjoined consumption areas. Jointly occupied and co-operated off-site tasting rooms are authorized for any distillery, craft distillery, domestic winery, or any combination of these licensees. Jointly operated conjoined consumption areas are authorized for any domestic brewery, microbrewery, domestic winery, distillery, or craft distillery, or any combination of these licensees, whose property parcels or buildings are located in direct physical proximity to one another.

New rule sections may need to be created to implement E2SSB 5549, and existing rule sections may need to be amended in order to align existing rule language with the changes made to statute by E2SSB 5549.

**Identify other federal and state agencies that regulate this subject and the process coordinating the rule with these agencies:** None identified.

**Process for developing new rule (check all that apply):**

- Negotiated rule making
- Pilot rule making
- Agency study
- Other (describe) Collaborative rule making.

**Interested parties can participate in the decision to adopt the new rule and formulation of the proposed rule before publication by contacting:**

Name: Audrey Vasek, Policy and Rules Coordinator  
 Address: PO Box 43080, Olympia, WA 98504  
 Phone: 360-664-1758

(If necessary)

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Web site: lcb.wa.gov  
Other:

Fax:  
TTY:  
Email:  
Web site:  
Other:

Additional comments: Interested parties may participate in the WSLCB collaborative rulemaking process.

**Date:** August 5, 2020

**Name:** Jane Rushford

**Title:** Chair

**Signature:**

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