



Washington State
Liquor and Cannabis Board

August 4, 2021

Office of the Code Reviser:

Consistent with RCW 34.05.335 and WAC 1-21-060, the Liquor and Cannabis Board is withdrawing its preproposal statement of inquiry (CR-101), filed on April 14, 2021 as WSR 21-09-041, regarding summary license suspension and petition for stay provisions for enforcement of Governor's proclamations.

[INSERT SIGNATURE]

David Postman
Chair



Washington State Liquor and Cannabis Board

To: David Postman, Board Chair
Ollie Garrett, Board Member
Russ Hauge, Board Member

From: Audrey Vasek, Policy and Rules Coordinator

Date: August 4, 2021

Copy: Rick Garza, Agency Director
Toni Hood, Deputy Director
Justin Nordhorn, Director of Policy and External Affairs
Chandra Brady, Director of Enforcement and Education
Becky Smith, Licensing Director

Subject: Request for approval to withdraw the CR 101 regarding summary license suspension and petition for stay provisions for enforcement of Governor's proclamations, filed as WSR 21-09-041 on April 14, 2021.

On April 14, 2021, the Board filed a CR 101 preproposal statement of inquiry to consider permanent rulemaking to replace emergency rules WAC 314-12-250 and 314-12-275, filed as WSR 21-07-077 on March 17, 2021, which established summary license suspension and petition for stay provisions for the enforcement of Governor's proclamations issued as a result of the novel coronavirus (COVID-19) outbreak.¹

The Board originally adopted emergency rules WAC 314-12-250 and 314-12-275 after Governor Inslee issued a series of COVID-19 emergency proclamations and guidance affecting establishments licensed by the Board.²

With the statewide economic reopening on June 30, 2021, Governor Inslee lifted most of the COVID-19 business restrictions in place. Effective June 30, 2021, all business sectors were able to return to usual capacity and operations, with limited exceptions for large indoor events (any event with more than 10,000 simultaneous participants in an indoor, enclosed space.) As a result, the Board decided not to extend the emergency rules WAC 314-12-250 and 314-12-275, which expired on July 15, 2021.

During the CR 101 public comment period from April 14 through June 2, 2021, sixty-five comments in opposition to the permanent rulemaking project were received. These comments are included in the attached public comment table.³

¹ See Attachment A: CR 101 Filed as WSR 21-09-041 on April 14, 2021.

² See Attachment B: CR 101 Memo on Summary Suspension Rules.

³ See Attachment C: CR 101 Public Comment Table.

With the statewide economic reopening and the expiration of the emergency rules, the CR 101 is no longer necessary. If the Board approves withdrawal of the CR 101, the agency will file a withdrawal of WSR 21-09-041 with the Office of the Code Reviser.

The Board approves/disapproves of the withdrawal of the CR 101 filed as WSR 21-09-041, regarding summary license suspension and petition for stay provisions for enforcement of Governor’s proclamations.

_____ Approve	_____ Disapprove	_____	_____
		David Postman, Chair	Date

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

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

Attachments:

- Attachment A: CR 101 Filed as WSR 21-09-041 on April 14, 2021.
- Attachment B: CR 101 Memo on Summary Suspension Rules.
- Attachment C: CR 101 Public Comment Table (WSR 21-09-041).

PREPROPOSAL STATEMENT OF INQUIRY



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

OFFICE OF THE CODE REVISER STATE OF WASHINGTON FILED

DATE: April 14, 2021

TIME: 10:21 AM

WSR 21-09-041

Agency: Washington State Liquor and Cannabis Board

Subject of possible rule making: The Washington State Liquor and Cannabis Board (WSLCB) is considering rulemaking to create summary license suspension and petition for stay provisions that would allow for enforcement of Governor's proclamations. These permanent rules would supersede and replace emergency rules WAC 314-12-250 and 314-12-275, which established summary license suspension and petition for stay provisions for the enforcement of Governor's proclamations issued as a result of the novel coronavirus (COVID-19) outbreak, filed as WSR 21-07-077 on March 17, 2021, and any successive emergency rules that supersede and replace WSR 21-07-077. As part of this rulemaking, the WSLCB is considering potentially amending or repealing existing summary license suspension and petition for stay provisions, and any related provisions, in Title 314 WAC and consolidating these provisions into new rule sections applicable to all licensees.

Statutes authorizing the agency to adopt rules on this subject: RCW 66.08.030, 66.08.150, 66.44.010, 69.50.342, 69.50.345, 70.155.150, 70.345.020.

Reasons why rules on this subject may be needed and what they might accomplish: The WSLCB has the authority and responsibility to adopt rules for the preservation of public health and safety. The WSLCB originally adopted emergency rules WAC 314-12-250 and 314-12-275 establishing summary license suspension and petition for stay provisions for the enforcement of Governor's proclamations issued as a result of the COVID-19 outbreak on April 6, 2020 as WSR 20-09-026, after the Governor issued a series of proclamations affecting establishments licensed by the WSLCB:

- On February 29, 2020, Governor Inslee issued Proclamation 20-05 that confirmed the person-to-person spread of the novel coronavirus (COVID-19) in Washington State, and proclaimed a State of Emergency for all counties throughout the state of Washington based on the COVID-19 outbreak in the United States.
On March 16, 2020, Governor Inslee issued Proclamation 20-13 that imposed statewide limits on food and beverage services, and areas of congregation to limit opportunities for disease exposure and transmission in the State. Proclamation 20-13 was based on both guidance from the United States Center for Disease Control and Prevention to reduce the size of gatherings from 250 persons to 50 persons, and the necessity to prohibit any number of people from congregating in public venues for the purposes of entertainment, recreation, food or beverage service, theater, bowling or other similar activities.
On March 23, 2020, Governor Inslee issued Proclamation 20-25, first entitled, "Stay Home - Stay Healthy," that among other things, imposed limits on conducting or participating in essential activities and employment in essential activities, temporarily prohibited certain public and private gatherings, and established a list of essential and non-essential businesses in Washington State. Non-essential businesses were prohibited from operation except for performing basic minimum operations. Essential businesses were encouraged to remain open and maintain operations.

Establishments licensed by the WSLCB are subject to the restrictions of Governor's Proclamations 20-05, 20-13, and 20-25. Although some establishments licensed by the WSLCB are considered essential, others are not or are subject to specific limitations. For example, while cannabis licensees are considered essential, alcohol, tobacco, and vapor licensees generally are not and are subject to specific limitations. (See Appendix "WA Essential Critical Infrastructure Workers" to the March 23, 2020, Proclamation 20-25)

Between March 2020 and January 2021, Governor Inslee issued a series of proclamations in response to the changing conditions of the COVID-19 pandemic, including Proclamations 20-25.01 through 20-25.12, which amended Proclamations 20-05 and 20-25 et seq. and incorporated issued amendatory proclamations, including 20-13.

In response to the changing conditions of the COVID-19 pandemic and the resulting amendments to the Governor's proclamations, the WSLCB extended the emergency rules for a first time on July 22, 2020 as WSR 20-15-162, for a second time on November 18, 2020 as WSR 20-23-123, and for a third time on March 17, 2021 as WSR 21-07-077.

The Governor's proclamations describe how the conditions of the COVID-19 pandemic and the state of emergency changed over time. An outline of major updates between April 2020 and April 2021 is provided below:

- On April 27, 2020, Governor Inslee issued Proclamation 20-25.2, making certain adjustments and modifications to the "Stay Home, Stay Healthy" order.
- On May 4, 2020, Governor Inslee issued Proclamation 20-25.3, making additional adjustments and modifications to the "Stay Home, Stay Healthy" order.
- On May 31, 2020, Governor Inslee issued Proclamation 20-25.4, entitled "Safe Start – Stay Healthy—County-By-County Phased Reopening. Limitations established were gradually relaxed based on county-by-county phasing established according to metrics provided by the Secretary of Health.
- On June 24, 2020, the Secretary of Health first issued Order of the Secretary of Health 20-03 which, among other things, requires (with exceptions) the use of face coverings throughout the state. (See Department of Health news release dated June 24, 2020.)
- On July 1, 2020, Governor Inslee issued Proclamation 20-25.05, extending and modifying certain statewide restrictions. The following day, on July 2, 2020, Governor Inslee ordered a freeze on all counties moving forward to a subsequent phase due to increased COVID-19 infection rates across the state (see Governor's news release dated July 2, 2020).
- On July 7, 2020, Governor Inslee issued Proclamation 20-25.06, again extending and modifying certain statewide restrictions.
- On July 24, 2020, Governor Inslee issued Proclamation 20-25.07 and the Secretary of Health issued Order of the Secretary of Health 20-03, extending the requirement (with exceptions) to use face coverings throughout the state.
- On October 7, 2020, Governor Inslee announced several updates to the "Safe Start Washington –Phased Reopening County-by-County" plan to align guidance and adjustments to regulations of several industries. (See Governor's news release dated October 6, 2020.)
- On November 15, 2020, in response to a large surge of new COVID-19 cases and increased hospitalizations and deaths, Governor Inslee issued Proclamation 20-25.8, entitled "Stay Safe – Stay Healthy—Rollback of County-By-County Phased Reopening Responding to a COVID-19 Outbreak Surge."
- In December 2020, Governor Inslee amended Proclamation 20-25 several times, extending and modifying some statewide restrictions. (See Proclamation 20-25.9 issued December 10, 2020; Proclamation 20-25.10 issued December 21, 2020; and Proclamation 20-25.11 issued December 30, 2020.)
- On January 11, 2021, Governor Inslee issued Proclamation 20-25.12, entitled "Healthy Washington – Roadmap to Recovery." Proclamation 20-25.12 introduced a new phased recovery plan with a regional recovery approach that replaced the previous county-by-county approach. Proclamation 20-25.12 was based on evidence of increasing COVID-19 infection rates across the state, evidence of how the virus is spread through very small droplets called aerosols, the known factors that increase the risk for person-to-person COVID-19 transmission, and the knowledge that two vaccines have been approved for use in the United States and efforts to vaccinate vulnerable populations are underway.
- On March 11, 2021, Governor Inslee announced that "Healthy Washington – Roadmap to Recovery" would transition from a regional approach back to a county-by-county evaluation process. The governor also announced that a new third phase of the Roadmap to Recovery had been added, and effective March 22, 2021, the entire state would enter Phase 3.
- On April 9, 2021, Governor Inslee updated the criteria for counties to stay in Phase 3 of the "Healthy Washington – Roadmap to Recovery" pandemic reopening plan. In addition to being individually evaluated, large and small counties have different sets of appropriate criteria based on case counts and hospitalizations. (See PDF issued by the Office of the Governor on April 9, 2021, <https://www.governor.wa.gov/sites/default/files/HealthyWashington.pdf>)

At this point, it is impossible to know precisely when the state of emergency as a result of COVID-19 will end. Given the uncertainty about the duration of the current state of emergency and the possibility of future states of emergency, the WSLCB is considering permanent rulemaking to create summary license suspension and petition for stay provisions that would allow for enforcement of Governor's proclamations. The ability to use summary license suspension and petition for stay provisions to enforce Governor's proclamations will support efforts to preserve public health and safety.

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

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
Fax: 360-704-5027
TTY:
Email: rules@lcb.wa.gov
Web site: lcb.wa.gov
Other:


(If necessary)

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

Additional comments: Interested persons can participate in the rule process through open public meetings and by submitting written comments, and are encouraged to sign up for the interested parties list (GovDelivery) at <https://public.govdelivery.com/accounts/WALCB/subscriber/new>. Rulemaking notices and stakeholder engagement opportunities will be emailed via GovDelivery and posted to the WSLCB website at lcb.wa.gov.

Date: April 14, 2021
Name: David Postman
Title: Chair

Signature:





CR 101 Memorandum

Regarding summary license suspension and petition for stay provisions for enforcement of Governor's proclamations.

Date: April 14, 2021

Presented by: Audrey Vasek, Policy and Rules Coordinator

Background

The Washington State Liquor and Cannabis Board (WSLCB) has the authority and responsibility to adopt rules for the preservation of public health and safety. The WSLCB originally adopted emergency rules WAC 314-12-250 and 314-12-275 establishing summary license suspension and petition for stay provisions for the enforcement of Governor's proclamations issued as a result of the novel coronavirus (COVID-19) outbreak on April 6, 2020 as WSR 20-09-026, after the Governor issued a series of proclamations affecting establishments licensed by the WSLCB:

- On February 29, 2020, Governor Inslee issued Proclamation 20-05 ([linked here](#)) that confirmed the person-to-person spread of the novel coronavirus (COVID-19) in Washington State, and proclaimed a State of Emergency for all counties throughout the state of Washington based on the COVID-19 outbreak in the United States.
- On March 16, 2020, Governor Inslee issued Proclamation 20-13 ([linked here](#)) that imposed statewide limits on food and beverage services, and areas of congregation to limit opportunities for disease exposure and transmission in the State. Proclamation 20-13 was based on both guidance from the United States Center for Disease Control and Prevention to reduce the size of gatherings from 250 persons to 50 persons, and the necessity to prohibit any number of people from congregating in public venues for the purposes of entertainment, recreation, food or beverage service, theater, bowling or other similar activities.
- On March 23, 2020, Governor Inslee issued Proclamation 20-25, first entitled, "Stay Home – Stay Healthy" ([linked here](#)), that among other things, imposed limits on conducting or participating in essential activities and employment in essential activities, temporarily prohibited certain public and private gatherings, and established a list of essential and non-essential businesses in Washington State. Non-essential businesses were prohibited from operation except for performing basic minimum operations. Essential businesses were encouraged to remain open and maintain operations.

Establishments licensed by the WSLCB are subject to the restrictions of Governor's Proclamations 20-05, 20-13, and 20-25. Although some establishments licensed by the WSLCB are considered essential, others are not or are subject to specific limitations. For example, while cannabis licensees are considered essential, alcohol, tobacco, and vapor licensees generally are not and are subject to specific limitations. (See Appendix "WA Essential Critical Infrastructure Workers" to the March 23, 2020 Proclamation 20-25, [linked here](#).)

Between March 2020 and January 2021, Governor Inslee issued a series of proclamations in response to the changing conditions of the COVID-19 pandemic, including Proclamations 20-25.01 through 20-25.12, which amended Proclamations 20-05 and 20-25 et seq. and incorporated issued amendatory proclamations, including 20-13.

In response to the changing conditions of the COVID-19 pandemic and the resulting amendments to the Governor's proclamations, the WSLCB extended the emergency rules for a first time on July 22, 2020 as WSR 20-15-162, for a second time on November 18, 2020 as WSR 20-23-123, and for a third time on March 17, 2021 as WSR 21-07-077.

The Governor's proclamations describe how the conditions of the COVID-19 pandemic and the state of emergency changed over time. An outline of major updates between April 2020 and April 2021 is provided below:

- In April and early May 2020, Governor Inslee issued Proclamations 20-25.2 and 20-25.3, making certain adjustments and modifications to the "Stay Home, Stay Healthy" order. (See [Proclamation 20-25.2](#) issued April 27, 2020; and [Proclamation 20-25.3](#) issued May 4, 2020.)
- On May 31, 2020, Governor Inslee issued Proclamation 20-25.4, entitled "Safe Start – Stay Healthy—County-By-County Phased Reopening ([linked here](#); see [Proclamation 20-25.4](#)). Limitations established were gradually relaxed based on county-by-county phasing established according to metrics provided by the Secretary of Health.
- On June 24, 2020, the Secretary of Health first issued Order of the Secretary of Health 20-03 which, among other things, requires (with exceptions) the use of face coverings throughout the state. (See Department of Health [news release](#) dated June 24, 2020.)
- On July 1, 2020, Governor Inslee issued Proclamation 20-25.05 ([linked here](#)), extending and modifying certain statewide restrictions. The following day, on July 2, 2020, Governor Inslee ordered a freeze on all counties moving forward to a subsequent phase due to increased COVID-19 infection rates across the state (see Governor's [news release](#) dated July 2, 2020).

- On July 7, 2020, Governor Inslee issued Proclamation 20-25.06 ([linked here](#)), again extending and modifying certain statewide restrictions. On July 24, 2020, Governor Inslee issued Proclamation 20-25.07 ([linked here](#)) and the Secretary of Health issued Order of the Secretary of Health 20-03.1 ([linked here](#)), extending the requirement (with exceptions) to use face coverings throughout the state.
- On October 7, 2020, Governor Inslee announced several updates to the “Safe Start Washington –Phased Reopening County-by-County” plan ([linked here](#); See Governor’s [news release](#) dated October 6, 2020) to align guidance and adjustments to regulations of several industries.
- On November 15, 2020, in response to a large surge of new COVID-19 cases and increased hospitalizations and deaths, Governor Inslee issued Proclamation 20-25.8, entitled “Stay Safe – Stay Healthy—Rollback of County-By-County Phased Reopening Responding to a COVID-19 Outbreak Surge” (See [Proclamation 20-25.8](#)).
- In December 2020, Governor Inslee amended Proclamation 20-25 several times, extending and modifying some statewide restrictions. (See [Proclamation 20-25.9](#) issued December 10, 2020; [Proclamation 20-25.10](#) issued December 21, 2020; and [Proclamation 20-25.11](#) issued December 30, 2020.)
- On January 11, 2021, Governor Inslee issued Proclamation 20-25.12 ([linked here](#)), entitled “Healthy Washington – Roadmap to Recovery.” Proclamation 20-25.12 introduced a new phased recovery plan with a regional recovery approach that replaced the previous county-by-county approach. Proclamation 20-25.12 was based on evidence of increasing COVID-19 infection rates across the state, evidence of how the virus is spread through very small droplets called aerosols, the known factors that increase the risk for person-to-person COVID-19 transmission, and the knowledge that two vaccines have been approved for use in the United States and efforts to vaccinate vulnerable populations are underway.
- On March 11, 2021, Governor Inslee announced that “Healthy Washington – Roadmap to Recovery” would transition from a regional approach back to a county-by-county evaluation process. The governor also announced that a new third phase of the Roadmap to Recovery had been added, and effective March 22, 2021 the entire state would enter Phase 3.
- On April 9, 2021, Governor Inslee updated the criteria for counties to stay in Phase 3 of the “Healthy Washington – Roadmap to Recovery” pandemic reopening plan. In addition to being individually evaluated, large and small counties have different sets of appropriate criteria based on case counts and

hospitalizations. (See PDF issued by the Office of the Governor on April 9, 2021, [linked here.](#))

Reasons Why Rules May Be Needed

At this point, it is impossible to know precisely when the state of emergency as a result of COVID-19 will end. Given the uncertainty about the duration of the current state of emergency and the possibility of future states of emergency, the WSLCB is considering permanent rulemaking to create summary license suspension and petition for stay provisions that would allow for enforcement of Governor's proclamations. These permanent rules would supersede and replace emergency rules WAC 314-12-250 and 314-12-275, which established summary license suspension and petition for stay provisions for the enforcement of Governor's proclamations issued as a result of the COVID-19 outbreak, filed as WSR 21-07-077 on March 17, 2021, and any successive emergency rules that supersede and replace WSR 21-07-077.

As part of this rulemaking, the WSLCB is considering potentially amending or repealing existing summary license suspension and petition for stay provisions, and any related provisions, in Title 314 WAC and consolidating these provisions into new rule sections applicable to all licensees. The ability to use summary license suspension and petition for stay provisions to enforce Governor's proclamations will support efforts to preserve public health and safety.

Process

The rule making process begins by announcing the WSLCB'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.

Attachment C

Summary Suspension Rules—CR 101 Public Feedback Table

Feedback received on the [CR-101 Filed as WSR 21-09-041](#) during the public comment period from April 14 through June 5, 2021.

Order Received	Name	Date Received	Feedback
1	Angel Goering, Herb Niemann's Steak and Schnitzel House	4/14/2021	<p><u>Email received April 14, 2021—Direct quotation included below:</u></p> <p>“I received the intent to change the WSLCB enforcement to change from emergency enforcement of Governor Inslee’s orders to a permanent change outside of Emergency Orders giving LCB the ability to suspend licenses on any violations of the Governor order. In short I find this to be gross overreach by the department. WSLCB role to public safety lies within Liquor and Cannabis Violations, thus the naming of your department. Health violations should be administered through the health department. The current use of WSLCB to enforce Governor Inslee’s orders is simply blackmail. If you are a business running without a liquor license you have much more freedom than those of us who have Liquor control officers breathing down our necks. Our liquor control officers are not the Gestapo for Governor Inslee, they exist to make sure licensed holders adhere to the liquor and cannabis laws applicable to the license holder. Outside of an emergency order, I strongly disagree with the state interfering with liquor license holders regarding non-emergent proclamations.”</p>
2	Josh Stottlemyer, Stottle Winery	4/14/2021	<p><u>Email received April 14, 2021—Direct quotation included below:</u></p> <p>“The liquor board should not be enforcing public health rules unless the rule is specifically about alcohol. Why should alcohol purveyors be subject to an additional level of public health enforcement no other business license holder is subject to. It’s wrong, and unnecessary. Business license holders, including alcohol license holders, are subject to enforcement of public health rules and proclamations by the dept. of health, L&I, and others. There is no need for further enforcement or unfair additional punitive measures by the liquor board that no other type of business is subject to. The concerns at an alcohol establishment are no different than those that would be applicable to a restaurant that does not serve alcohol. That restaurant is not subject to enforcement of these special rules by the liquor board, the dept. of health and L&I are adequate enforcement there. The addition of alcohol does not increase the likelihood of COVID transmission, there is zero evidence of that, so no additional special enforcement by the LCB is warranted.</p>

			Thank you”
3	Simon Peter Serrano	5/22/2021	<p><u>Email received May 22, 2021—Direct quotation included below:</u></p> <p>“Hello, I am writing to oppose WSR 21-09-041 as I believe it violates several basic and fundamental constitutional principles, prior case law, and exceeds the LCB's statutory authority. I have attached a PDF document that provides a concise statement explaining my opposition to WSR 21-09-041.</p> <p>Thank you, Simon Peter Serrano”</p> <p><u>Attached PDF received May 22, 2021—Direct quotation included below:</u></p> <p>“Members of the LCB Board,</p> <p>I oppose the LCB’s Rulemaking, WSR-21-09-041, filed on April 14, 2021. Through this Rulemaking and throughout the COVID-19 pandemic, the LCB has taken an expansive reading of its ability to regulate conduct that presents a threat to public safety. WAC 314-11-015(3)(c). During the pandemic, the LCB adopted two emergency rules (WAC 314-12-250 and 275) and initiated several individual enforcement actions under this self-granted “authority” to enforce the Governor’s “stay home, stay healthy order.” By taking enforcement action against licensees that fail to enforce mask mandates and other restrictions associated with the Governor’s Proclamations, the LCB has weaponized its enforcement officers and individual licensees by in the name of “public safety.” The LCB’s legislative history shows no evidence that the Legislature intended for LCB to enforce general health and welfare rules, nor did the Legislature intend for the LCB to enforce gubernatorial proclamations, nor did it offer the LCB authority to generically protect “public safety.” Under these conditions, the LCB lacks authority to issue any of the previously mentioned rules, including any proposed rule under WSR-21-09-041.</p>

		<p><u>The LCB has exceeded its statutory authority from the Legislature by issuing, implementing, or enforcing “public safety” rules.</u></p> <p>The Governor’s proclamation was silent on LCB enforcement and offered LCB no additional authority to address threats to public safety; therefore, there is no tie to any of the Governor’s Proclamations and WAC 314-11-015 or to LCB’s self-proclaimed authority to enforce a licensee’s failure to prohibit “conduct which presents a threat to public safety.” Further, any attempt by the LCB to generically regulated “public safety” is void as the LCB was never granted such authority from the legislature. Because this authority never was granted LCB from the Legislature, the proposed rules would violate the Washington Constitution and administrative law principles.¹ Furthermore, an Administrative Rulemaking violates the Agency’s authority under the following conditions:</p> <ul style="list-style-type: none"> • A rule is Invalid if it Exceeds the Authority Conferred; • Rules Having no Reasonable Relationship to Statutory Purpose Are Void; and • Courts Will Set Aside Rules Deemed to be Unconstitutional or Arbitrary or Unreasonable.² <p>As the Attorney General stated, “liquor board rules or regulations would be void to the extent that they purported to extend or modify a statute,” which precisely summarizes the LCB’s prior rulemaking as well as the present proposed Rule.³ Finally, the Attorney General, citing <u>Campbell</u> stated, “In the absence of valid statutory authority, <u>an administrative agency may not, under the guise of a regulation, substitute its judgment for that of the Legislature.</u> It may not exercise its sub-legislative powers to modify, alter or enlarge the provisions of the legislative act which is being administered. Administrative regulations in conflict with the Constitution or statutes are generally declared to be null or void...”⁴</p> <p><u>RCW 66.08.010’s liberal construction is no saving grace for WSR-21-09-041 as RCW 66.08.030 limits this liberal construction, disallowing the LCB to grant itself authority to regulate activities unrelated to manufacturing, sales, and trafficking of alcohol or cannabis products.</u></p> <p>I recognize that the legislature authorized the LCB pursuant to RCW 66.08, and RCW 66.08.010 provides that, “This entire title shall be deemed an exercise of</p>
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			<p>the police power of the state, for the protection of the welfare, health, peace, morals, and safety of the people of the state, and all its provisions shall be liberally construed for the accomplishment of that purpose.”⁵ Nonetheless, there is no indication that such liberal construction would include regulation of activities stemming from unrelated governor’s emergency Proclamations and/or orders as has been the case with the enforcement of Governor Inslee’s COVID-19-related Proclamations, and as seems to be the case with the purpose, scope, and intent of WSR-21-09-041. A plain reading of RCW 66.08.030, <u>Regulations – Scope</u>, supports our conclusion that the LCB’s authority is limited to the regulation of the alcohol and cannabis manufacture, sale, trafficking, imports, exports, and related licensing and recordkeeping as it addresses these issues, not enforcement of unrelated matters, such as gubernatorial emergency proclamations or orders.⁶ Thus, while RCW 66.08.010 offers the LCB liberal construction to protect the “welfare, health, peace, morals, and safety of the people of the state,” RCW 66.08.030 naturally prescribes and limits to what purpose the LCB may use this authority, and those limitations do not include generic “public safety” protection through governor Proclamations or orders.</p> <p>I oppose to the LCB’s rulemaking in WSR-21-09-041 as violative of the Washington Constitution Article II and general administrative law and principles upheld by the Washington Supreme Court in <u>Senior Citizens League, Inc. v. Department of Social Security</u> and the United States Supreme Court in <u>Campbell v. Galeno Chemical Company</u>. The LCB lacks express or implied authority to issue such blanket rules. I request that the LCB rescind the proposed rulemaking effort found in WSR-21-09-041. Furthermore, the LCB lacks express or implied authority to issue citations or license suspensions for licensee failure to enforce Governor Inslee’s emergency proclamations, and the LCB must immediately cease from any and all attempts to enforce the proclamations or related orders.</p> <p>Kindly,</p> <p>Simon Peter Serrano</p>
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			<p>¹ See: Washington Constitution, Art. II; <u>Senior Cit. L. v. Dept. of Soc. Sec.</u>, 38 Wn.2d 142, 152 (1951). See also: Washington Attorney General Opinion No., AGO 1966 No. 103.</p> <p>² Id. Citing: 1 Cooper, <u>State Administrative Law</u> (1965) at p. 257, 1 Davis, <u>Administrative Law Treatise</u>, § 5.11 at 358; cf. § 7, chapter 234, Laws of 1959, and RCW 34.04.070.</p> <p>³ See: <u>Campbell v. Galeno Chemical Co.</u>, 281 U.S. 599, 610 (1930)</p> <p>⁴ <u>Id.</u> (Emphasis supplied in original citation.)</p> <p>⁵ <u>Id.</u></p> <p>⁶ <u>Id.</u>”</p>
4	Ronne Fletcher	5/24/2021	<p><u>Email received May 24, 2021—Direct quotation included below:</u></p> <p>“5/24/21 Attention: LCB,</p> <p>The unmitigated nerve of an organization like yours deciding YOU will be the enforcer of Inslee’s government overreaching mandates infuriates me and many like me. This country is about Freedoms and Rights that people like you are trying to usurp. Remember at some point – it may be YOUR rights that will be in jeopardy.</p> <p>Forcing businesses to “force” customers to do things, reminds me of Hitler’s Germany – when Jews were forced to persecute their own in order to survive. You will force businesses to follow the “nth” letter of some mandate and you get to be judge and jury as to whether they are “complying” enough not to get fined or have their license pulled. This is inhumane, wrong, arbitrary, and subjective and means YOU get to decide who will and who will not stay in business. This will be a huge burden on businesses at an expense that businesses can little afford in the aftermath of a year of shut-downs and business losses. And all this for a disease that has a death rate of only slightly more than the normal seasonal flu. Of course, I realize that Inslee will be forthcoming with more illegal mandates in the future, which you will also want to “police”. This</p>

			<p>self-assigned importance is a dangerous and disgusting overreach of government and goes against our constitutional rights. There are no laws that give you the right to assign yourself this authority.</p> <p>Do not go down this path – it will end badly for our country.</p> <p>Ronne Fletcher PCO 3106”</p>
5	Sharon Watson	5/25/2021	<p><u>Email received May 25, 2021—Direct quotation included below:</u></p> <p>“I oppose WSR 21-09-041.</p> <p>Sincerely, Sharon Watson”</p>
6	Jessica Campbell	5/25/2021	<p><u>Email received May 25, 2021—Direct quotation included below:</u></p> <p>“To whom it may concern,</p> <p>I oppose WSR 21-09-041.</p> <p>Thank you,</p> <p>Jessica Campbell”</p>
7	James Judd	5/25/2021	<p><u>Email received May 25, 2021—Direct quotation included below:</u></p> <p>“I oppose any additional rules to LCB regarding any mask mandate set forth by Gov. Inslee.</p> <p>What's next ? Will they start dressing and acting like swat members ? Like WDFW. . . .Alienating everyone they come in contact with? Like WDFW. . . . I could talk about this for hours but suffice to say. Vote NO. . .</p>

			James Judd”
8	Paula Layman	5/25/2021	<p><u>Email received May 25, 2021—Direct quotation included below:</u></p> <p><u>“I oppose WSR 21-09-041</u></p> <p>Enough abuse of power.</p> <p>Paula Layman”</p>
9	Aaron Pickett	5/25/2021	<p><u>Email received May 25, 2021—Direct quotation included below:</u></p> <p>“I oppose WSR 21-09-041</p> <p>V/r, Aaron Pickett”</p>
10	Sandra Roubal	5/25/2021	<p><u>Email received May 25, 2021—Direct quotation included below:</u></p> <p>“I oppose WSR 21-09-041.</p> <p>These rules weaponized the LCB in the name of “public safety” by taking enforcement action against license holders for not enforcing the governor’s mask mandates, stay home stay healthy order, and other restrictions associated with Governor Inslee’s arbitrary, capricious, and unreasonable proclamations.</p> <p>Stop this now! Sandra Roubal”</p>
11	Peggy Jackson	5/25/2021	<p><u>Email received May 25, 2021—Direct quotation included below:</u></p> <p>“I oppose WSR 21-09-041. Please reject this!! Thank you. Peggy J Jackson”</p>

12	Deb Puku	5/25/2021	<p><u>Email received May 25, 2021—Direct quotation included below:</u></p> <p>“Hi.</p> <p>I oppose WSR 21-09-041.</p> <p>Let’s just all stop this madness. Please.</p> <p>Thank you for your consideration.</p> <p>Deb Puku”</p>
13	Jerome Martin	5/25/2021	<p><u>Email received May 25, 2021—Direct quotation included below:</u></p> <p>“Dear LCB:</p> <p>I am opposed to the LCB adopting a proposed rule under WSR-21-09-141 to protect “public safety”. The state Legislature never intended to give LCB any authority over public safety, and LCB has no right to usurp that authority. The LCB has no authority to enforce any of the governor’s proclamations on public safety. LCB has no authority to issue any public safety rules, including any proposed rule under WSR-21-09-041.</p> <p>Jerome B. Martin Benton County voter”</p>

14	No name provided	5/25/2021	<p><u>Email received May 25, 2021—Direct quotation included below:</u></p> <p>“I oppose WSR 21-09-041. Stop trying to extend your overreach of power over the good citizens of this state and pretending to do this for “Public Safety”. We are smart enough to take care of ourselves.”</p>
15	Scott Mallory	5/25/2021	<p><u>Email received May 25, 2021—Direct quotation included below:</u></p> <p>“I oppose WSR-21-09-041. Do not put into place unnecessary and unwanted rules.</p> <p>Thank you,</p> <p>Scott Mallory”</p>
16	Emily Hansen	5/25/2021	<p><u>Email received May 25, 2021—Direct quotation included below:</u></p> <p>“Members of the LCB Board, We oppose the LCB’s Rulemaking, WSR-21-09-041, filed on April 14, 2021. Through this Rulemaking and throughout the COVID-19 pandemic, the LCB has taken an expansive reading of its ability to regulate conduct that presents a threat to public safety. WAC 314-11-015(3)(c). During the pandemic, the LCB adopted two emergency rules (WAC 314-12-250 and 275) and initiated several individual enforcement actions under this self-granted “authority” to enforce the Governor’s “stay home, stay healthy order.” By taking enforcement action against licensees that fail to enforce mask mandates and other restrictions associated with the Governor’s Proclamations, the LCB has</p>

		<p>weaponized its enforcement officers and individual licensees by in the name of “public safety.” The LCB’s legislative history shows no evidence that the Legislature intended for LCB to enforce general health and welfare rules, nor did the Legislature intend for the LCB to enforce gubernatorial proclamations, nor did it offer the LCB authority to generically protect “public safety.” Under these conditions, the LCB lacks authority to issue any of the previously mentioned rules, including any proposed rule under WSR-21-09-041.</p> <p>The LCB has exceeded its statutory authority from the Legislature by issuing, implementing, or enforcing “public safety” rules.</p> <p>The Governor’s proclamation was silent on LCB enforcement and offered LCB no additional authority to address threats to public safety; therefore, there is no tie to any of the Governor’s Proclamations and WAC 314-11-015 or to LCB’s self-proclaimed authority to enforce a licensee’s failure to prohibit “conduct which presents a threat to public safety.” Further, any attempt by the LCB to generically regulated “public safety” is void as the LCB was never granted such authority from the legislature. Because this authority never was granted LCB from the Legislature, the proposed rules would violate the Washington Constitution and administrative law principles. Furthermore, an Administrative Rulemaking violates the Agency’s authority under the following conditions:</p> <ul style="list-style-type: none"> • A rule is Invalid if it Exceeds the Authority Conferred; • Rules Having no Reasonable Relationship to Statutory Purpose Are Void; and • Courts Will Set Aside Rules Deemed to be Unconstitutional or Arbitrary or Unreasonable. <p>As the Attorney General stated, “liquor board rules or regulations would be void to the extent that they purported to extend or modify a statute,” which precisely summarizes the LCB’s prior rulemaking as well as the present proposed Rule. Finally, the Attorney General, citing Campbell stated, “In the absence of valid statutory authority, an administrative agency may not, under the guise of a regulation, substitute its judgment for that of the Legislature. It may not exercise its sub-legislative powers to modify, alter or enlarge the provisions of the legislative act which is being administered. Administrative regulations in</p>
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		<p>conflict with the Constitution or statutes are generally declared to be null or void...”</p> <p>RCW 66.08.010’s liberal construction is no saving grace for WSR-21-09-041 as RCW 66.08.030 limits this liberal construction, disallowing the LCB to grant itself authority to regulate activities unrelated to manufacturing, sales, and trafficking of alcohol or cannabis products.</p> <p>We recognize that the legislature authorized the LCB pursuant to RCW 66.08, and RCW 66.08.010 provides that, “This entire title shall be deemed an exercise of the police power of the state, for the protection of the welfare, health, peace, morals, and safety of the people of the state, and all its provisions shall be liberally construed for the accomplishment of that purpose.” Nonetheless, there is no indication that such liberal construction would include regulation of activities stemming from unrelated governor’s emergency Proclamations and/or orders as has been the case with the enforcement of Governor Inslee’s COVID-19-related Proclamations, and as seems to be the case with the purpose, scope, and intent of WSR-21-09-041. A plain reading of RCW 66.08.030, Regulations – Scope, supports our conclusion that the LCB’s authority is limited to the regulation of the alcohol and cannabis manufacture, sale, trafficking, imports, exports, and related licensing and recordkeeping as it addresses these issues, not enforcement of unrelated matters, such as gubernatorial emergency proclamations or orders. Thus, while RCW 66.08.010 offers the LCB liberal construction to protect the “welfare, health, peace, morals, and safety of the people of the state,” RCW 66.08.030 naturally prescribes and limits to what purpose the LCB may use this authority, and those limitations do not include generic “public safety” protection through governor Proclamations or orders.</p> <p>We object to the LCB’s rulemaking in WSR-21-09-041 as violative of the Washington Constitution Article II and general administrative law and principles upheld by the Washington Supreme Court in <i>Senior Citizens League, Inc. v. Department of Social Security</i> and the United States Supreme Court in <i>Campbell v. Galeno Chemical Company</i>. The LCB lacks express or implied authority to issue such blanket rules; therefore, we request that the LCB rescind the proposed rulemaking effort found in WSR-21-09-041. Furthermore, the</p>
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			<p>LCB lacks express or implied authority to issue citations or license suspensions for licensee failure to enforce Governor Inslee’s emergency proclamations, and the LCB must immediately cease from any and all attempts to enforce the proclamations or related orders.</p> <p>Kindly,</p> <p>Emily M. Hansen, Concerned Benton County Resident”</p>
17	Jennifer Carter	5/25/2021	<p><u>Email received May 25, 2021—Direct quotation included below:</u></p> <p>“I oppose WSR 21-09-041</p> <p>You are far exceeding what your office is here to do. This needs to stop now.”</p>
18	Gary Davis	5/25/2021	<p><u>Email received May 25, 2021—Direct quotation included below:</u></p> <p>“I strongly oppose WSR 21-09-041.</p> <p>This proposal weaponizes the LCB in the name of “public safety” by taking enforcement action against license holders for not enforcing the governor’s mask mandates, stay home stay healthy order, and other restrictions associated with Governor Inslee’s arbitrary, capricious, and unreasonable proclamations.</p> <p>Gary Davis”</p>

19	Robert Dallas	5/25/2021	<p><u>Email received May 25, 2021—Direct quotation included below:</u></p> <p>“I oppose WSR 21-09-041.</p> <p>Robert Dallas”</p>
20	John McKay	5/25/2021	<p><u>Email received May 25, 2021—Direct quotation included below:</u></p> <p>“this is an unjust power grab, immature and lazy excuse...don't know when the emergency will end? that's a sorry excuse for this.</p> <p>no, no, no. on WSR 21-09-041. you have abused Washington businesses enough. the less we see or hear from you the better.</p> <p>do the job you were intended to, Constitutionally and correctly, instead of trying to pass this off for public safety. we need safety from the likes of you and Inslee.</p> <p>John Worster registered voter.”</p>

21	ML Stroup	5/25/2021	<p><u>Email received May 25, 2021—Direct quotation included below:</u></p> <p>“I oppose WSR 21-09-041</p> <p>Sincerely, ML Stroup”</p>
22	Robert Margulies	5/25/2021	<p><u>Email received May 25, 2021—Direct quotation included below:</u></p> <p>“Members of the LCB Board,</p> <p>The following is a long way of saying you are breaking the law.</p> <p>Stop it.</p> <p>There are penalties for willful malfeasance. That’s the legal term for your illegal aggregation of powers not intended nor specified in law.</p> <p>We oppose the LCB’s Rulemaking, WSR-21-09-041, filed on April 14, 2021. Through this Rulemaking and throughout the COVID-19 pandemic, the LCB has taken an expansive reading of its ability to regulate conduct that presents a threat to public safety. WAC 314-11-015(3)(c). During the pandemic, the LCB adopted two emergency rules (WAC 314-12-250 and 275) and initiated several individual enforcement actions under this self-granted “authority” to enforce the Governor’s “stay home, stay healthy order.” By taking</p>

		<p>enforcement action against licensees that fail to enforce mask mandates and other restrictions associated with the Governor’s Proclamations, the LCB has weaponized its enforcement officers and individual licensees by in the name of “public safety.” The LCB’s legislative history shows no evidence that the Legislature intended for LCB to enforce general health and welfare rules, nor did the Legislature intend for the LCB to enforce gubernatorial proclamations, nor did it offer the LCB authority to generically protect “public safety.” Under these conditions, the LCB lacks authority to issue any of the previously mentioned rules, including any proposed rule under WSR-21-09-041.</p> <p><u>The LCB has exceeded its statutory authority from the Legislature by issuing, implementing, or enforcing “public safety” rules.</u></p> <p>The Governor’s proclamation was silent on LCB enforcement and offered LCB no additional authority to address threats to public safety; therefore, there is no tie to any of the Governor’s Proclamations and WAC 314-11-015 or to LCB’s self-proclaimed authority to enforce a licensee’s failure to prohibit “conduct which presents a threat to public safety.” Further, any attempt by the LCB to generically regulated “public safety” is void as the LCB was never granted such authority from the legislature. Because this authority never was granted LCB from the Legislature, the proposed rules would violate the Washington Constitution and administrative law principles. Furthermore, an Administrative Rulemaking violates the Agency’s authority under the following conditions:</p> <ul style="list-style-type: none"> • A rule is Invalid if it Exceeds the Authority Conferred; • Rules Having no Reasonable Relationship to Statutory Purpose Are Void; and • Courts Will Set Aside Rules Deemed to be Unconstitutional or Arbitrary or Unreasonable. <p>As the Attorney General stated, “liquor board rules or regulations would be void to the extent that they purported to extend or modify a statute,” which precisely summarizes the LCB’s prior rulemaking as well as the present proposed Rule. Finally, the Attorney General, citing <u>Campbell</u> stated, “In the absence of valid statutory authority, an administrative agency may not, under the guise of a</p>
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		<p><u>regulation, substitute its judgment for that of the Legislature.</u> It may not exercise its sub-legislative powers to modify, alter or enlarge the provisions of the legislative act which is being administered. Administrative regulations in conflict with the Constitution or statutes are generally declared to be null or void...”</p> <p><u>RCW 66.08.010’s liberal construction is no saving grace for WSR-21-09-041 as RCW 66.08.030 limits this liberal construction, disallowing the LCB to grant itself authority to regulate activities unrelated to manufacturing, sales, and trafficking of alcohol or cannabis products.</u></p> <p>We recognize that the legislature authorized the LCB pursuant to RCW 66.08, and RCW 66.08.010 provides that, “This entire title shall be deemed an exercise of the police power of the state, for the protection of the welfare, health, peace, morals, and safety of the people of the state, and all its provisions shall be liberally construed for the accomplishment of that purpose.” Nonetheless, there is no indication that such liberal construction would include regulation of activities stemming from unrelated governor’s emergency Proclamations and/or orders as has been the case with the enforcement of Governor Inslee’s COVID-19-related Proclamations, and as seems to be the case with the purpose, scope, and intent of WSR-21-09-041. A plain reading of RCW 66.08.030, <u>Regulations – Scope</u>, supports our conclusion that the LCB’s authority is limited to the regulation of the alcohol and cannabis manufacture, sale, trafficking, imports, exports, and related licensing and recordkeeping as it addresses these issues, not enforcement of unrelated matters, such as gubernatorial emergency proclamations or orders. Thus, while RCW 66.08.010 offers the LCB liberal construction to protect the “welfare, health, peace, morals, and safety of the people of the state,” RCW 66.08.030 naturally prescribes and limits to what purpose the LCB may use this authority, and those limitations do not include generic “public safety” protection through governor Proclamations or orders.</p> <p>We object to the LCB’s rulemaking in WSR-21-09-041 as violative of the Washington Constitution Article II and general administrative law and principles upheld by the Washington Supreme Court in <u>Senior Citizens League, Inc. v. Department of Social Security</u> and the United States Supreme Court in <u>Campbell v. Galeno Chemical Company</u>. The LCB lacks express or implied authority to issue such blanket rules; therefore, we request that the LCB rescind the proposed</p>
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		<p>rulemaking effort found in WSR-21-09-041. Furthermore, the LCB lacks express or implied authority to issue citations or license suspensions for licensee failure to enforce Governor Inslee's emergency proclamations, and the LCB must immediately cease from any and all attempts to enforce the proclamations or related orders.</p> <p>See: Washington Constitution, Art. II; <u>Senior Cit. L. v. Dept. of Soc. Sec.</u>, 38 Wn.2d 142, 152 (1951). See also: Washington Attorney General Opinion No., AGO 1966 No. 103.</p> <p><u>Id.</u> Citing: 1 Cooper, <u>State Administrative Law</u> (1965) at p. 257, 1 Davis, <u>Administrative Law Treatise</u>, § 5.11 at 358; cf. § 7, chapter 234, Laws of 1959, and RCW 34.04.070.</p> <p>See: <u>Campbell v. Galeno Chemical Co.</u>, 281 U.S. 599, 610 (1930)</p> <p><u>Id.</u> (Emphasis supplied in original citation.)</p> <p><u>Id.</u></p> <p><u>Id.</u></p> <p>Collegially, from an LEO. R Margulies”</p>
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23	Judith Guse	5/25/2021	<p><u>Email received May 25, 2021—Direct quotation included below:</u></p> <p>“I oppose WSR 21-09-041 Judith Guse”</p>
24	Ron Felch	5/26/2021	<p><u>Email received May 26, 2021—Direct quotation included below:</u></p> <p>“I strongly oppose the LCB's unconstitutional attempt to infringe on the freedoms of the people of this state. Do you really believe that the people of this state wanted to grant such powers when they voted to legalize marijuana and when the people of this nation repealed prohibition. No. It is just the opposite. They wanted to free themselves from the power of the state. This type of blatant power grab must end. Respectfully, Ronald Felch.”</p>
25	Robert Birney	5/26/2021	<p><u>Email received May 26, 2021—Direct quotation included below:</u></p> <p>““At this point, it is impossible to know precisely when the state of emergency as a result of COVID-19 will end.” NO!</p> <p>There is NO valid reason to make a regulation implemented for a TEMPORARY condition to be made permanent based on the lack of a known end-point. The abuse of power due to COVID has been vast and is currently the subject of many court cases. The government is to be responsive to the people, NOT the inverse.</p>

			<p>I could go on but suffice it to say I am FIRMLY against this proposal. The long term results of this proposal can be nothing but bad news. If needed, additional changes can be implemented in the future via limited, narrowly targeted actions.</p> <p>Robert Birney”</p>
26	Teri Story	5/26/2021	<p><u>Email received May 26, 2021—Direct quotation included below:</u></p> <p>“Just writing to say that as a business owner, requesting that you not put into permanent legislation the rules that were made during Covid for an emergency situation. Thank you.</p> <p>Teri Story”</p>
27	Wendy Robbins	5/26/2021	<p><u>Email received May 26, 2021—Direct quotation included below:</u></p> <p>“I oppose WSR 21-09-041.</p> <p>The liquor control board exceeded its power by trying to tie its laws regarding sales and use of liquor & cannabis to a very general public safety RCW that could be used for literally any interpretation. It weaponized itself against compliant business owners during the covid pandemic and needs to stop. Their purpose is to control liquor & cannabis sales, not public health and safety. The board is a 3-person board appointed by the governor. They are not hired or elected. They are not and should not be authorized to have any powers beyond enforcing laws directly related to liquor and cannabis and they certainly are not</p>

			<p>qualified to determine matters of public health. They have already proven themselves to be discriminatory toward restaurants when they allowed marijuana stores to remain open while restaurants & bars were closed or restricted. They will say it was the governors decision. But being appointed by the Governor creates a conflict of interest situation that encourages them to be inconsistent and biased in their rulings and discourages rational decision making.</p> <p>Wendy Robbins WA State taxpayer”</p>
28	Sara Nelson	5/26/2021	<p><u>Email received May 26, 2021—Direct quotation included below:</u></p> <p>“I strongly oppose WSR 21-09-041!!!</p> <p>Sara Nelson”</p>
29	Kristine	5/27/2021	<p><u>Email received May 27, 2021—Direct quotation included below:</u></p> <p>“I oppose WRS 21-09-041”</p>

30	Nancy Churchill	5/27/2021	<p><u>Email received May 27, 2021—Direct quotation included below:</u></p> <p>“Dear members of the WA Liquor Control Board,</p> <p>I respectfully oppose this proposed rulemaking expansion for the Liquor Control Board documented in WSR 21-09-041:</p> <p>"WSLCB is considering permanent rulemaking to create summary license suspension and petition for stay provisions that would allow for enforcement of Governor’s proclamations. The ability to use summary license suspension and petition for stay provisions to enforce Governor’s proclamations will support efforts to preserve public health and safety."</p> <p>If you make these rules permanent, then it's no longer an "emergency" is it? This is a proposal to create the power for LCB to engage in bureaucratic bullying.</p> <p>An unelected, bureaucratic agency should never have the power to shut down a business on a whim. This does nothing to increase public health and safety, which is very adequately protected under the current normal process. This is a power grab, and a very dangerous one.</p> <p>Our hard working restaurant owners should NEVER have to live in fear of LCB walking in their door!</p> <p>Restaurant owners already want their customers to be safe and healthy... they have no customers if they get a bad reputation in the community! There's no need to threaten them! Let the natural processes of local referrals and news reporting shut down the restaurants who are not providing the best services in the safest manner.</p> <p>Under no circumstances should these powers be made permanent.</p> <p>Respectfully yours,</p>
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			Nancy Churchill, Republic WA, Ferry County”
31	Erica Taranto	5/27/2021	<p><u>Email received May 27, 2021—Direct quotation included below:</u></p> <p>“To whom it may concern,</p> <p>Please read this letter and take it into consideration. The LCB should not be weaponized against the people of WA State.</p> <p>Kindly, Erica Taranto Franklin County Republican Central Committee PCO #1”</p> <p><u>Attached letter received May 27, 2021—Direct quotation included below:</u></p> <p>“May 27, 2021</p> <p>Members of the LCB Board, We oppose the LCB’s Rulemaking, WSR-21-09-041, filed on April 14, 2021. Through this Rulemaking and throughout the COVID-19 pandemic, the LCB has taken an expansive reading of its ability to regulate conduct that presents a threat to public safety. WAC 314-11-015(3)(c). During the pandemic, the LCB adopted two emergency rules (WAC 314-12-250 and 275) and initiated several individual enforcement actions under this self-granted “authority” to enforce the Governor’s “stay home, stay healthy order.” By taking enforcement action against licensees that fail to enforce mask mandates and other restrictions</p>

		<p>associated with the Governor’s Proclamations, the LCB has weaponized its enforcement officers and individual licensees by in the name of “public safety.” The LCB’s legislative history shows no evidence that the Legislature intended for LCB to enforce general health and welfare rules, nor did the Legislature intend for the LCB to enforce gubernatorial proclamations, nor did it offer the LCB authority to generically protect “public safety.” Under these conditions, the LCB lacks authority to issue any of the previously mentioned rules, including any proposed rule under WSR-21-09-041.</p> <p><u>The LCB has exceeded its statutory authority from the Legislature by issuing, implementing, or enforcing “public safety” rules.</u></p> <p>The Governor’s proclamation was silent on LCB enforcement and offered LCB no additional authority to address threats to public safety; therefore, there is no tie to any of the Governor’s Proclamations and WAC 314-11-015 or to LCB’s self-proclaimed authority to enforce a licensee’s failure to prohibit “conduct which presents a threat to public safety.” Further, any attempt by the LCB to generically regulated “public safety” is void as the LCB was never granted such authority from the legislature. Because this authority never was granted LCB from the Legislature, the proposed rules would violate the Washington Constitution and administrative law principles.¹ Furthermore, an Administrative Rulemaking violates the Agency’s authority under the following conditions:</p> <ul style="list-style-type: none"> ○ A rule is Invalid if it Exceeds the Authority Conferred; ○ Rules Having no Reasonable Relationship to Statutory Purpose Are Void; and ○ Courts Will Set Aside Rules Deemed to be Unconstitutional or Arbitrary or Unreasonable.² <p>As the Attorney General stated, “liquor board rules or regulations would be void to the extent that they purported to extend or modify a statute,” which precisely summarizes the LCB’s prior rulemaking as well as the present proposed Rule.³ Finally, the Attorney General, citing <u>Campbell</u> stated, “In the absence of valid statutory authority, <u>an administrative agency may not, under the guise of a regulation, substitute its judgment for that of the Legislature.</u> It may not exercise its sub-legislative powers to modify, alter or enlarge the provisions of the legislative act which is being administered. Administrative regulations in</p>
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		<p>conflict with the Constitution or statutes are generally declared to be null or void...”⁴</p> <p><u>RCW 66.08.010’s liberal construction is no saving grace for WSR-21-09-041 as RCW 66.08.030 limits this liberal construction, disallowing the LCB to grant itself authority to regulate activities unrelated to manufacturing, sales, and trafficking of alcohol or cannabis products.</u></p> <p>We recognize that the legislature authorized the LCB pursuant to RCW 66.08, and RCW 66.08.010 provides that, “This entire title shall be deemed an exercise of the police power of the state, for the protection of the welfare, health, peace, morals, and safety of the people of the state, and all its provisions shall be liberally construed for the accomplishment of that purpose.”¹ Nonetheless, there is no indication that such liberal construction would include regulation of activities stemming from unrelated governor’s emergency Proclamations and/or orders as has been the case with the enforcement of Governor Inslee’s COVID-19-related Proclamations, and as seems to be the case with the purpose, scope, and intent of WSR-21-09-041. A plain reading of RCW 66.08.030, <u>Regulations – Scope</u>, supports our conclusion that the LCB’s authority is limited to the regulation of the alcohol and cannabis manufacture, sale, trafficking, imports, exports, and related licensing and recordkeeping as it addresses these issues, not enforcement of unrelated matters, such as gubernatorial emergency proclamations or orders.² Thus, while RCW 66.08.010 offers the LCB liberal construction to protect the “welfare, health, peace, morals, and safety of the people of the state,” RCW 66.08.030 naturally prescribes and limits to what purpose the LCB may use this authority, and those limitations do not include generic “public safety” protection through governor Proclamations or orders.</p> <p>We object to the LCB’s rulemaking in WSR-21-09-041 as violative of the Washington Constitution Article II and general administrative law and principles upheld by the Washington Supreme Court in <u>Senior Citizens League, Inc. v. Department of Social Security</u> and the United States Supreme Court in</p>
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			<p><u>Campbell v. Galeno Chemical Company</u>. The LCB lacks express or implied authority to issue such blanket rules; therefore, we request that the LCB rescind the proposed rulemaking effort found in WSR-21-09-041. Furthermore, the LCB lacks express or implied authority to issue citations or license suspensions for licensee failure to enforce Governor Inslee’s emergency proclamations, and the LCB must immediately cease from any and all attempts to enforce the proclamations or related orders.</p> <p>Kindly,</p> <p>Erica Taranto Franklin County Republican Central Committee PCO #1</p> <p>¹ See: Washington Constitution, Art. II; <u>Senior Cit. L. v. Dept. of Soc. Sec.</u>, 38 Wn.2d 142, 152 (1951). See also: Washington Attorney General Opinion No., AGO 1966 No. 103.</p> <p>² <u>Id.</u> Citing: 1 Cooper, <u>State Administrative Law</u> (1965) at p. 257, 1 Davis, <u>Administrative Law Treatise</u>, § 5.11 at 358; cf. § 7, chapter 234, Laws of 1959, and RCW 34.04.070.</p> <p>³ See: <u>Campbell v. Galeno Chemical Co.</u>, 281 U.S. 599, 610 (1930)</p> <p>⁴ <u>Id.</u> (Emphasis supplied in original citation.)</p> <p>⁵ <u>Id.</u></p> <p>⁶ <u>Id.</u>”</p>
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32	Brian Hultgrenn	5/27/2021	<p><u>Email received May 27, 2021—Direct quotation included below:</u></p> <p>“The emergency rules law already invests considerable power in the State's governor, please do not extend it further by granting State agencies additional powers without consent from the legislature.</p> <p>Thanks,</p> <p>Brian Hultgrenn”</p>
33	Richard Weiss	5/27/2021	<p><u>Email received May 27, 2021—Direct quotation included below:</u></p> <p>“I oppose WSR-21-09-041.</p> <p>Members of the LCB Board,</p> <p>We oppose the LCB’s Rulemaking, WSR-21-09-041, filed on April 14, 2021. Through this Rulemaking and throughout the COVID-19 pandemic, the LCB has taken an expansive reading of its ability to regulate conduct that presents a threat to public safety. WAC 314-11-015(3)(c). During the pandemic, the LCB adopted two emergency rules (WAC 314-12-250 and 275) and initiated several individual enforcement actions under this self-granted “authority” to enforce the Governor’s “stay home, stay healthy order.” By taking enforcement action against licensees that fail to enforce mask mandates and other restrictions associated with the Governor’s Proclamations, the LCB has weaponized its enforcement officers and individual licensees by in the name of “public safety.” The LCB’s legislative history shows no evidence that the Legislature intended for LCB to enforce general health and welfare rules, nor did the Legislature intend for the LCB to enforce gubernatorial proclamations, nor did it offer the LCB authority to generically protect “public safety.” Under these conditions, the LCB lacks authority to issue any of the previously mentioned rules, including any proposed rule under WSR-21-09-041.</p> <p>The LCB has exceeded its statutory authority from the Legislature by issuing, implementing, or enforcing “public safety” rules.</p>

		<p>The Governor’s proclamation was silent on LCB enforcement and offered LCB no additional authority to address threats to public safety; therefore, there is no tie to any of the Governor’s Proclamations and WAC 314-11-015 or to LCB’s self-proclaimed authority to enforce a licensee’s failure to prohibit “conduct which presents a threat to public safety.” Further, any attempt by the LCB to generically regulated “public safety” is void as the LCB was never granted such authority from the legislature. Because this authority never was granted LCB from the Legislature, the proposed rules would violate the Washington Constitution and administrative law principles.¹ Furthermore, an Administrative Rulemaking violates the Agency’s authority under the following conditions:</p> <ul style="list-style-type: none"> o A rule is Invalid if it Exceeds the Authority Conferred; o Rules Having no Reasonable Relationship to Statutory Purpose Are Void; and o Courts Will Set Aside Rules Deemed to be Unconstitutional or Arbitrary or Unreasonable.² <p>As the Attorney General stated, “liquor board rules or regulations would be void to the extent that they purported to extend or modify a statute,” which precisely summarizes the LCB’s prior rulemaking as well as the present proposed Rule.³ Finally, the Attorney General, citing Campbell stated, “In the absence of valid statutory authority, an administrative agency may not, under the guise of a regulation, substitute its judgment for that of the Legislature. It may not exercise its sub-legislative powers to modify, alter or enlarge the provisions of the legislative act which is being administered. Administrative regulations in conflict with the Constitution or statutes are generally declared to be null or void...”⁴</p> <p>RCW 66.08.010’s liberal construction is no saving grace for WSR-21-09-041 as RCW 66.08.030 limits this liberal construction, disallowing the LCB to grant itself authority to regulate activities unrelated to manufacturing, sales, and trafficking of alcohol or cannabis products.</p> <p>We recognize that the legislature authorized the LCB pursuant to RCW 66.08, and RCW 66.08.010 provides that, “This entire title shall be deemed an exercise of the police power of the state, for the protection of the welfare, health, peace, morals, and safety of the people of the state, and all its provisions shall be liberally construed for the accomplishment of that purpose.”⁵ Nonetheless, there is no indication that such liberal construction</p>
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			<p>would include regulation of activities stemming from unrelated governor’s emergency Proclamations and/or orders as has been the case with the enforcement of Governor Inslee’s COVID-19-related Proclamations, and as seems to be the case with the purpose, scope, and intent of WSR-21-09-041. A plain reading of RCW 66.08.030, Regulations – Scope, supports our conclusion that the LCB’s authority is limited to the regulation of the alcohol and cannabis manufacture, sale, trafficking, imports, exports, and related licensing and recordkeeping as it addresses these issues, not enforcement of unrelated matters, such as gubernatorial emergency proclamations or orders.⁶ Thus, while RCW 66.08.010 offers the LCB liberal construction to protect the “welfare, health, peace, morals, and safety of the people of the state,” RCW 66.08.030 naturally prescribes and limits to what purpose the LCB may use this authority, and those limitations do not include generic “public safety” protection through governor Proclamations or orders.</p> <p>We object to the LCB’s rulemaking in WSR-21-09-041 as violative of the Washington Constitution Article II and general administrative law and principles upheld by the Washington Supreme Court in <i>Senior Citizens League, Inc. v. Department of Social Security</i> and the United States Supreme Court in <i>Campbell v. Galeno Chemical Company</i>. The LCB lacks express or implied authority to issue such blanket rules; therefore, we request that the LCB rescind the proposed rulemaking effort found in WSR-21-09-041. Furthermore, the LCB lacks express or implied authority to issue citations or license suspensions for licensee failure to enforce Governor Inslee’s emergency proclamations, and the LCB must immediately cease from any and all attempts to enforce the proclamations or related orders.</p> <p>Kindy, Richard Weiss PCO 62, Franklin County”</p>
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34	Eileen Crawford	5/28/2021	<p><u>Email received May 28, 2021—Direct quotation included below:</u></p> <p>““I oppose WSR 21-09-041.”</p> <p>Thank you for your time.</p> <p>Eileen Crawford Republican PCO Dist. 33”</p>
35	Dawn Thomas	5/28/2021	<p><u>Email received May 28, 2021—Direct quotation included below:</u></p> <p>“To all concerned,</p> <p>I could not agree more fervently to all that is written in the attached document and the concerns written in the thread of this email.</p> <p>As an immigrant to this country I am appalled that the freedoms and rights of each individual; which I was asked to read, study and assimilate as my own; have recently been stolen, eroded and rode rough shod over. This must stop. No Unelected official should have the right to decide the freedoms of their fellow countryman.</p> <p>All major decisions should be voted on by We The People, and the rights of the individual need to be protected.</p> <p>It is dangerous to pass small government bodies over reaching powers to people in positions that could be tempted to use those powers for personal political reasons. How would this foolishness or error be checked? How would such people be kept in check?</p> <p>Keep the LCB doing what it was designed for and say no to this action.</p> <p>Dawn Thomas Kennewick Resident</p> <p>[. . .]</p>

		<p>Dear Franklin County Republican Party Members and supporters,</p> <p>Pete Serrano brought this to our attention and I was asked by the executive committee to email this to you. Please read his attached document.</p> <p>This is a call to action and we ask that you all contact not only the LCB and voice your opposition at rules@lcb.wa.gov , but also Contact our state legislators at:</p> <p>mary.dye@leg.wa.gov skyler.rude@leg.wa.gov joe.schmick@leg.wa.gov mark.klicker@leg.wa.gov perry.dozier@leg.wa.gov mark.schoesler@leg.wa.gov</p> <p>and tell them that you oppose this action and ask them to look into a solution. We are tired of unelected bureaucrats creating laws and imposing restrictions and punishments behind the backs of our representatives. WE DEMAND REPRESENTATION!!!!</p> <p>PLEASE DO THIS TONITE!!!! Then pass this email to 10 friends and ask them to pass it on.</p> <p>WE THE PEOPLE NEED TO BE HEARD!</p> <p>Thank you! LaWanda Hatch FCRCC Secretary</p> <p>[. . .]</p> <p>----- Forwarded Message -----</p>
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		<p>[. . .]</p> <p>Hi all, I am writing to give you a notice that we need to get EVERY PCO to write into the liquor cannabis board (LCB) by June 4th to oppose a proposed LCB rulemaking that would adopt a formal, permanent rule, to allow the LCB to enforce governor's emergency proclamations. Yes, you heard that right! This is the LCB's tool to allow ITSELF to enforce mask mandates and any future governor proclamation. This rule would allow the LCB to revoke a liquor license for a licensee's failure to force its customers to wear masks. How has this played out? Ask Dean Wellsfry how things went when the LCB agents came in and fined him for failing to require his patrons to wear masks.</p> <p>I've drafted a letter in opposition, please get this to PCOs, but if my comment says too much, the individual can draft a comment as simple as "I oppose WSR 21-09-041."</p> <p>Comments can email the LCB at: rules@lcb.wa.gov Or faxed at: (360) 704-5027 Again, LCB needs to receive comments by June 4th.</p> <p>Let me know if you need more information. Thanks, Pete”</p> <p><u>Attached letter received May 28, 2021—Direct quotation included below:</u></p> <p>“Members of the LCB Board,</p> <p>We oppose the LCB’s Rulemaking, WSR-21-09-041, filed on April 14, 2021. Through this Rulemaking and throughout the COVID-19 pandemic, the LCB has taken an expansive reading of its ability to regulate conduct that presents a threat to public safety. WAC 314-11-015(3)(c). During the pandemic, the LCB adopted two emergency rules (WAC 314-12-250 and 275) and initiated several individual enforcement actions under this self-granted “authority” to enforce the</p>
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		<p>Governor’s “stay home, stay healthy order.” By taking enforcement action against licensees that fail to enforce mask mandates and other restrictions associated with the Governor’s Proclamations, the LCB has weaponized its enforcement officers and individual licensees by in the name of “public safety.” The LCB’s legislative history shows no evidence that the Legislature intended for LCB to enforce general health and welfare rules, nor did the Legislature intend for the LCB to enforce gubernatorial proclamations, nor did it offer the LCB authority to generically protect “public safety.” Under these conditions, the LCB lacks authority to issue any of the previously mentioned rules, including any proposed rule under WSR-21-09-041.</p> <p><u>The LCB has exceeded its statutory authority from the Legislature by issuing, implementing, or enforcing “public safety” rules.</u></p> <p>The Governor’s proclamation was silent on LCB enforcement and offered LCB no additional authority to address threats to public safety; therefore, there is no tie to any of the Governor’s Proclamations and WAC 314-11-015 or to LCB’s self-proclaimed authority to enforce a licensee’s failure to prohibit “conduct which presents a threat to public safety.” Further, any attempt by the LCB to generically regulated “public safety” is void as the LCB was never granted such authority from the legislature. Because this authority never was granted LCB from the Legislature, the proposed rules would violate the Washington Constitution and administrative law principles.¹ Furthermore, an Administrative Rulemaking violates the Agency’s authority under the following conditions:</p> <ul style="list-style-type: none"> ○ A rule is Invalid if it Exceeds the Authority Conferred; ○ Rules Having no Reasonable Relationship to Statutory Purpose Are Void; and ○ Courts Will Set Aside Rules Deemed to be Unconstitutional or Arbitrary or Unreasonable.² <p>As the Attorney General stated, “liquor board rules or regulations would be void to the extent that they purported to extend or modify a statute,” which precisely summarizes the LCB’s prior rulemaking as well as the present proposed Rule.³ Finally, the Attorney General, citing <u>Campbell</u> stated, “In the absence of valid statutory authority, <u>an administrative agency may not, under the guise of a regulation, substitute its judgment for that of the Legislature.</u> It may not</p>
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		<p>exercise its sub-legislative powers to modify, alter or enlarge the provisions of the legislative act which is being administered. Administrative regulations in conflict with the Constitution or statutes are generally declared to be null or void...”⁴</p> <p><u>RCW 66.08.010’s liberal construction is no saving grace for WSR-21-09-041 as RCW 66.08.030 limits this liberal construction, disallowing the LCB to grant itself authority to regulate activities unrelated to manufacturing, sales, and trafficking of alcohol or cannabis products.</u></p> <p>We recognize that the legislature authorized the LCB pursuant to RCW 66.08, and RCW 66.08.010 provides that, “This entire title shall be deemed an exercise of the police power of the state, for the protection of the welfare, health, peace, morals, and safety of the people of the state, and all its provisions shall be liberally construed for the accomplishment of that purpose.”³ Nonetheless, there is no indication that such liberal construction would include regulation of activities stemming from unrelated governor’s emergency Proclamations and/or orders as has been the case with the enforcement of Governor Inslee’s COVID-19-related Proclamations, and as seems to be the case with the purpose, scope, and intent of WSR-21-09-041. A plain reading of RCW 66.08.030, <u>Regulations – Scope</u>, supports our conclusion that the LCB’s authority is limited to the regulation of the alcohol and cannabis manufacture, sale, trafficking, imports, exports, and related licensing and recordkeeping as it addresses these issues, not enforcement of unrelated matters, such as gubernatorial emergency proclamations or orders.⁴ Thus, while RCW 66.08.010 offers the LCB liberal construction to protect the “welfare, health, peace, morals, and safety of the people of the state,” RCW 66.08.030 naturally prescribes and limits to what purpose the LCB may use this authority, and those limitations do not include generic “public safety” protection through governor Proclamations or orders.</p> <p>We object to the LCB’s rulemaking in WSR-21-09-041 as violative of the Washington Constitution Article II and general administrative law and principles</p>
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			<p>upheld by the Washington Supreme Court in <u>Senior Citizens League, Inc. v. Department of Social Security</u> and the United States Supreme Court in <u>Campbell v. Galeno Chemical Company</u>. The LCB lacks express or implied authority to issue such blanket rules; therefore, we request that the LCB rescind the proposed rulemaking effort found in WSR-21-09-041. Furthermore, the LCB lacks express or implied authority to issue citations or license suspensions for licensee failure to enforce Governor Inslee’s emergency proclamations, and the LCB must immediately cease from any and all attempts to enforce the proclamations or related orders.</p> <p>Kindly,</p> <p>¹ See: Washington Constitution, Art. II; <u>Senior Cit. L. v. Dept. of Soc. Sec.</u>, 38 Wn.2d 142, 152 (1951). See also: Washington Attorney General Opinion No., AGO 1966 No. 103.</p> <p>² <u>Id.</u> Citing: 1 Cooper, <u>State Administrative Law</u> (1965) at p. 257, 1 Davis, <u>Administrative Law Treatise</u>, § 5.11 at 358; cf. § 7, chapter 234, Laws of 1959, and RCW 34.04.070.</p> <p>³ See: <u>Campbell v. Galeno Chemical Co.</u>, 281 U.S. 599, 610 (1930)</p> <p>⁴ <u>Id.</u> (Emphasis supplied in original citation.)</p> <p>⁵ <u>Id.</u></p> <p>⁶ <u>Id.</u>”</p>
36	Bonnie Wickler	5/28/2021	<p><u>Email received May 28, 2021—Direct quotation included below:</u></p> <p>“I oppose this law. It allows permanent emergency power and without normal due process.</p> <p>Government should NOT have unlimited power.</p> <p>Bonnie Wickler”</p>

37	Todd Harris	5/28/2021	<p><u>Email received May 28, 2021—Direct quotation included below:</u></p> <p>“Please see attached opposition letter to LCB who continue to TAKE power from those who were elected to give the people representation.</p> <p>Todd Harris PCO, Precinct 98”</p> <p><u>Attached letter received May 28, 2021—Direct quotation included below:</u></p> <p>“May 28th, 2021</p> <p>To: LCB Board</p> <p>From: Todd Harris, PCO, Prct. 98</p> <p>RE: Oppose permanent rule giving LCB enforcement powers.</p> <p>Members of the LCB Board,</p> <p>I strongly oppose the Rulemaking, WSR-21-09-041, filed on April 14th, 2021 to give the</p> <p>LCB additional enforcement authority. Please read further.</p> <p>We oppose the LCB’s Rulemaking, WSR-21-09-041, filed on April 14, 2021. Through this Rulemaking and throughout the COVID-19 pandemic, the LCB has taken an expansive reading of its ability to regulate conduct that presents a threat to public safety. WAC 314-11-015(3)(c). During the pandemic, the LCB adopted two emergency rules (WAC 314-12-250 and 275) and initiated several individual enforcement actions under this self-granted “authority” to enforce the Governor’s “stay home, stay healthy order.” By taking enforcement action against licensees that fail to enforce mask mandates and other restrictions</p>
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		<p>valid statutory authority, <u>an administrative agency may not, under the guise of a regulation, substitute its judgment for that of the Legislature.</u> It may not exercise its sub-legislative powers to modify, alter or enlarge the provisions of the legislative act which is being administered. Administrative regulations in conflict with the Constitution or statutes are generally declared to be null or void...⁴</p> <p><u>RCW 66.08.010’s liberal construction is no saving grace for WSR-21-09-041 as RCW 66.08.030 limits this liberal construction, disallowing the LCB to grant itself authority to regulate activities unrelated to manufacturing, sales, and trafficking of alcohol or cannabis products.</u></p> <p>We recognize that the legislature authorized the LCB pursuant to RCW 66.08, and RCW 66.08.010 provides that, “This entire title shall be deemed an exercise of the police power of the state, for the protection of the welfare, health, peace, morals, and safety of the people of the state, and all its provisions shall be liberally construed for the accomplishment of that purpose.”⁵ Nonetheless, there is no indication that such liberal construction would include regulation of activities stemming from unrelated governor’s emergency Proclamations and/or orders as has been the case with the enforcement of Governor Inslee’s COVID-19-related Proclamations, and as seems to be the case with the purpose, scope, and intent of WSR-21-09-041. A plain reading of RCW 66.08.030, <u>Regulations – Scope</u>, supports our conclusion that the LCB’s authority is limited to the regulation of the alcohol and cannabis manufacture, sale, trafficking, imports, exports, and related licensing and recordkeeping as it addresses these issues, not enforcement of unrelated matters, such as gubernatorial emergency proclamations or orders.⁶ Thus, while RCW 66.08.010 offers the LCB liberal construction to protect the “welfare, health, peace, morals, and safety of the people of the state,” RCW 66.08.030 naturally prescribes and limits to what purpose the LCB may use this authority, and those limitations do not include generic “public safety” protection through governor Proclamations or orders.</p> <p>We object to the LCB’s rulemaking in WSR-21-09-041 as violative of the Washington Constitution Article II and general administrative law and principles upheld by the Washington Supreme Court in <u>Senior Citizens League, Inc. v. Department of Social Security</u> and the United States Supreme Court in <u>Campbell v. Galeno Chemical Company</u>. The LCB lacks express or implied authority to</p>
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38	Ryan Olsen	5/29/2021	<p><u>Email received May 29, 2021—Direct quotation included below:</u></p> <p>“Hello, I'm writing this email as a citizen of Washington State to say I oppose WSR 21-09-041 As this will oppose the freedoms businesses need in order to survive and these powers can be abused whenever someone new comes in and has it out for a business. Due process is a fundamental part of the democratic process of America.”</p>
39	Steven and Lori Olson	5/29/2021	<p><u>Email received May 29, 2021—Direct quotation included below:</u></p> <p>“I am out raged that you would even consider this WSR 21-09-041! We the people have been used and abused by this governor and his natzi rules. My family is against this rule and it needs to go. We want our rights and power back. Its time for everything related to Covid goes and that our rights and freedoms are given back to us.....</p> <p>Steven & Lori Olson”</p>

40	Melody Hall	5/29/2021	<p><u>Email received May 29, 2021—Direct quotation included below:</u></p> <p>“To whom it may concern on the Washington State Liquor & Cannabis Board,</p> <p>I strongly OPPOSE making Gov Inslee's emergency powers permanent. There IS NO NEED for this action.</p> <p>Closing businesses summarily without due process, IS NOT ethical in any way.</p> <p>We are a nation of laws.</p> <p>Stay within the law. There is NOT a need to make the emergency powers permanent. NONE.</p> <p>A very concerned citizen of Washington State</p> <p>Melody Hall”</p>
41	Tim Hilmes	5/30/2021	<p><u>Email received May 30, 2021—Direct quotation included below:</u></p> <p>“I oppose WSR 21-09-041.</p> <p>Sincerely;</p> <p>Tim Hilmes”</p>

42	Dean Dennis	6/01/2021	<p><u>Email received June 1, 2021—Direct quotation included below:</u></p> <p>“I oppose WSR 21-09-041 as it continues to impose tyranny upon the citizens of the State of Washington.</p> <p>Dean Dennis”</p>
43	No name provided	6/01/2021	<p><u>Email received June 1, 2021—Direct quotation included below:</u></p> <p>“Are we feeling a little drunk with power? Hard to give it up once it was granted to you? I am positive that I too can dream up any excuse to keep whatever TEMPORARY power was granted to me so long as it's done in the name of public safety.</p> <p>So my answer to you and your wish lord over the people with such permanency is a hardy Hell No! There isnt a single Government program that runs the way it was intended too, and the LCB is no exception.. So No, you dont get the nod to extend your greedy selves more power.</p> <p>Sincerely,</p> <p>Another citizen who sees your game.”</p>

44	Fraternal Order of Eagles, Pasco 2241	6/01/2021	<p><u>Email received June 1, 2021—Direct quotation included below:</u></p> <p>“To whom it may concern at LCB, I am writing on behalf of the Fraternal Order of Eagles Pasco 2241. We are a non-profit club that exists to help people in need in our community. Due to the recent shutdowns we have been unable to fulfill our mission. We are against the enactment of WSR 21-09-041 as it would unduly harm our ability to continue to do so. There is no longer an emergency, and the rules that were enacted are almost impossible to follow as they were illogical, arbitrary and capricious. At one point even our local agent wasn't sure which rules were currently in force. An excellent example of this illogic would be the fact that up to 10 people could sit together but those same people were not allowed to dance together. There is no difference in breathing the same air at a table or on the dance floor. If this is enacted, clubs like ours as well as many other venues would be consistently unsure of whether they were following the current rules and whether they would change from day to day. This would affect our business and the community we serve in a negative manner. We sincerely request that WSR 21-09-041 not be enacted.</p> <p>Thank you,</p> <p>-- Pasco Eagles 2241 BCC: Officers and Trustees of Aerie 2241”</p>
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45	Steve Simmons	6/01/2021	<p><u>Email received June 1, 2021—Direct quotation included below:</u></p> <p>“Members of the LCB Board,</p> <p>Although the words below were drafted and copied into this email I felt it absolutely important that they are heard again and again as they represent in legal terms my opposition to WSR 21-09-041. What the LCB is proposing will be seen as and is just another agency taking advantage of the pandemic to overstep its authority and violate State law. As an individual, as the head of my household, as a patron of business, and as a representative of the citizens of Precinct 048 in Franklin County who echo the same viewpoint, we OPPOSE WSR-21-09-041!</p> <p>We oppose the LCB’s Rule-making, WSR-21-09-041, filed on April 14, 2021. Through this Rule-making and throughout the COVID-19 pandemic, the LCB has taken an expansive reading of its ability to regulate conduct that presents a threat to public safety. WAC 314-11-015(3)(c). During the pandemic, the LCB adopted two emergency rules (WAC 314-12-250 and 275) and initiated several individual enforcement actions under this self-granted “authority” to enforce the Governor’s “stay home, stay healthy order.” By taking enforcement action against licensees that fail to enforce mask mandates and other restrictions associated with the Governor’s Proclamations, the LCB has weaponized its enforcement officers and individual licensees in the name of “public safety.” The LCB’s legislative history shows no evidence that the Legislature intended for LCB to enforce general health and welfare rules, nor did the Legislature intend for the LCB to enforce gubernatorial proclamations, nor did it offer the LCB authority to generically protect “public safety.” Under</p>
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		<p>these conditions, the LCB lacks authority to issue any of the previously mentioned rules, including any proposed rule under WSR-21-09-041.</p> <p><u>The LCB has exceeded its statutory authority from the Legislature by issuing, implementing, or enforcing “public safety” rules.</u></p> <p>The Governor’s proclamation was silent on LCB enforcement and offered LCB no additional authority to address threats to public safety; therefore, there is no tie to any of the Governor’s Proclamations and WAC 314-11-015 or to LCB’s self-proclaimed authority to enforce a licensee’s failure to prohibit “conduct which presents a threat to public safety.” Further, any attempt by the LCB to generically regulated “public safety” is void as the LCB was never granted such authority from the legislature. Because this authority never was granted LCB from the Legislature, the proposed rules would violate the Washington Constitution and administrative law principles. Furthermore, an Administrative Rule-making violates the Agency’s authority under the following conditions:</p> <ul style="list-style-type: none"> • A rule is Invalid if it Exceeds the Authority Conferred; • Rules Having no Reasonable Relationship to Statutory Purpose Are Void; and • Courts Will Set Aside Rules Deemed to be Unconstitutional or Arbitrary or Unreasonable. <p>As the Attorney General stated, “liquor board rules or regulations would be void to the extent that they purported to extend or modify a statute,” which precisely summarizes the LCB’s prior rule-making as well as the present proposed Rule. Finally, the Attorney General, citing <u>Campbell</u> stated, “In the absence of valid statutory authority, <u>an administrative agency may not, under the guise of a regulation, substitute its judgment for that of the Legislature.</u> It may not exercise its sublegislative powers to modify, alter or enlarge the provisions of the legislative act which is being administered. Administrative regulations in conflict with the Constitution or statutes are generally declared to be null or void...”</p> <p><u>RCW 66.08.010’s liberal construction is no saving grace for WSR-21-09-041 as RCW 66.08.030 limits this liberal construction, disallowing the LCB to</u></p>
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		<p><u>grant itself authority to regulate activities unrelated to manufacturing, sales, and trafficking of alcohol or cannabis products.</u></p> <p>We recognize that the legislature authorized the LCB pursuant to RCW 66.08, and RCW 66.08.010 provides that, “This entire title shall be deemed an exercise of the police power of the state, for the protection of the welfare, health, peace, morals, and safety of the people of the state, and all its provisions shall be liberally construed for the accomplishment of that purpose.” Nonetheless, there is no indication that such liberal construction would include regulation of activities stemming from unrelated governor’s emergency Proclamations and/or orders as has been the case with the enforcement of Governor Inslee’s COVID-19-related Proclamations, and as seems to be the case with the purpose, scope, and intent of WSR-21-09-041. A plain reading of RCW 66.08.030, <u>Regulations – Scope</u>, supports our conclusion that the LCB’s authority is limited to the regulation of the alcohol and cannabis manufacture, sale, trafficking, imports, exports, and related licensing and recordkeeping as it addresses these issues, not enforcement of unrelated matters, such as gubernatorial emergency proclamations or orders. Thus, while RCW 66.08.010 offers the LCB liberal construction to protect the “welfare, health, peace, morals, and safety of the people of the state,” RCW 66.08.030 naturally prescribes and limits to what purpose the LCB may use this authority, and those limitations do not include generic “public safety” protection through governor Proclamations or orders.</p> <p>We object to the LCB’s rulemaking in WSR-21-09-041 as violative of the Washington Constitution Article II and general administrative law and principles upheld by the Washington Supreme Court in <u>Senior Citizens League, Inc. v. Department of Social Security</u> and the United States Supreme Court in <u>Campbell v. Galeno Chemical Company</u>. The LCB lacks express or implied authority to issue such blanket rules; therefore, we request that the LCB rescind the proposed rulemaking effort found in WSR-21-09-041. Furthermore, the LCB lacks express or implied authority to issue citations or license suspensions for licensee failure to enforce Governor Inslee’s emergency proclamations, and the LCB must immediately cease from any and all attempts to enforce the proclamations or related orders.</p> <p>Kindly,</p>
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			Steve Simmons, PCO 048 Franklin County Wa.”
46	Derek Archer	6/01/2021	<p><u>Email received June 1, 2021—Direct quotation included below:</u></p> <p>“Dear Washington Liquor Control Board,</p> <p>i am writing as a concerned citizen regarding the need for the board’s emergency powers granted by the governor due to COVID-19 to become permanent as detailed in document WSR 21-09-041. In short, it is my position that the additional powers should NOT be maintained after the state of emergency has expired. Or better yet, the emergency powers should not be in effect at all.</p> <p>The state liquor control board has long been used as a threatening stick against businesses across the state. It seems that whenever a licensed business either chooses to protest actions of the government, or circumstances not germane to the liquor control board’s core functions occur, that the summary and extrajudicial threat of loss of a business’ liquor license always seems to be first on the table. The loss of such a license can easily devastate a food and beverage service business, which often coerces businesses into compliance for threat of destroying lives and livelihoods. Many of these small businesses employ those at the lower rungs of the economic ladder, and these employees losing their income is a very anxious prospect, even if the action taken against</p>

			<p>them or their employer is unfair and punitive. This extrajudicial action regarding items not germane to liquor control (such as public health edicts) is antithetical to the freedoms that we as residents of the State of Washington and citizens of the United States of America have.</p> <p>In my opinion, the liquor control board should have two jobs and two jobs only. 1) Restrict possession and consumption of alcohol by minors, 2) Restrict overservice of alcohol. The liquor control board is NOT a public health agency and should not continue to be used as the executive branch's wrecking ball against businesses who legitimately question the government when available information regarding a public health issue (or any other issue) is not clear and constantly changing. The benefit of due process of law should always be employed to resolve such disputes, especially during a state of emergency when the executive branch issues orders which are not legislatively originated or voter-approved measures.</p> <p>Thank you for your time. Derek Archer Richland, WA"</p>
47	Brenda J. St. John	6/02/2021	<p><u>Email received June 2, 2021—Direct quotation included below:</u></p> <p>"I would like to officially voice my opposition to the Liquor Control Board being allowed to permanently retain the temporary rules granted under the "emergency plandemic".</p> <p>It is an affront to our American freedom to allow an entity to have that kind of power. It should never have been granted even temporarily, much less be allowed to stand permanently.</p>

			<p>Please do not allow this to happen. God Bless America.</p> <p>Sincerely,</p> <p>Brenda J. St. John”</p>
48	Dana Larson	6/02/2021	<p><u>Email received June 2, 2021—Direct quotation included below:</u></p> <p>“I want to comment on this bill and how it is another step to killing restaurants and bars. Have you noticed all the “help wanted” signs at most of these establishments? People are quick to blame the additional federal unemployment as THE reason - not entirely true. Many people who were in this industry found other jobs that did not pay as much, however do not have the fear of being the first to lose their jobs as restaurants and bars while having a very very low transmission rate were unfairly the first to be shut down! People giving up very good income (with tips a good server will average over \$30 an hour) because they fear government shut down!</p> <p>This resolution should be rejected for the sake of our local bars and restaurants!”</p>

49	LaWanda Hatch	6/02/2021	<p><u>Email received June 2, 2021—Direct quotation included below:</u></p> <p>“To the LCB and my lawmakers,</p> <p>Please read the attached document.</p> <p>Thank you, LaWanda Hatch PCO Officer 100, Franklin County, WA”</p> <p><u>Attached letter received June 2, 2021—Screenshot included below:</u></p>
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- Members of the LCB Board,

We oppose the LCB's Rulemaking, WSR-21-09-041, filed on April 14, 2021. Through this Rulemaking and throughout the COVID-19 pandemic, the LCB has taken an expansive reading of its ability to regulate conduct that presents a threat to public safety. WAC 314-11-015(3)(c). During the pandemic, the LCB adopted two emergency rules (WAC 314-12-250 and 275) and initiated several individual enforcement actions under this self-granted "authority" to enforce the Governor's "stay home, stay healthy order." By taking enforcement action against licensees that fail to enforce mask mandates and other restrictions associated with the Governor's Proclamations, the LCB has weaponized its enforcement officers and individual licensees by in the name of "public safety." The LCB's legislative history shows no evidence that the Legislature intended for LCB to enforce general health and welfare rules, nor did the Legislature intend for the LCB to enforce gubernatorial proclamations, nor did it offer the LCB authority to generically protect "public safety." Under these conditions, the LCB lacks authority to issue any of the previously mentioned rules, including any proposed rule under WSR-21-09-041.

The LCB has exceeded its statutory authority from the Legislature by issuing, implementing, or enforcing "public safety" rules.

The Governor's proclamation was silent on LCB enforcement and offered LCB no additional authority to address threats to public safety; therefore, there is no tie to any of the Governor's Proclamations and WAC 314-11-015 or to LCB's self-proclaimed authority to enforce a licensee's failure to prohibit "conduct which presents a threat to public safety." Further, any attempt by the LCB to generically regulated "public safety" is void as the LCB was never granted such authority from the legislature. Because this authority never was granted LCB from the Legislature, the proposed rules would violate the Washington Constitution and administrative law principles.¹ Furthermore, an Administrative Rulemaking violates the Agency's authority under the following conditions:

- A rule is Invalid if it Exceeds the Authority Conferred;
- Rules Having no Reasonable Relationship to Statutory Purpose Are Void; and
- Courts Will Set Aside Rules Deemed to be Unconstitutional or Arbitrary or Unreasonable.²

As the Attorney General stated, "liquor board rules or regulations would be void to the extent that they purported to extend or modify a statute," which precisely summarizes the LCB's prior rulemaking as well as the present proposed Rule.³ Finally, the Attorney General, citing Campbell stated, "In the absence of valid statutory authority, an administrative agency may not, under the guise of a regulation, substitute its judgment for that of the Legislature. It may not exercise its sub-legislative powers to modify, alter or enlarge the provisions of the legislative act which is being

¹ See: Washington Constitution, Art. II; Senior Cit. L. v. Dept. of Soc. Sec., 38 Wn.2d 142, 152 (1951). See also: Washington Attorney General Opinion No., AGO 1966 No. 103.

² Id. Citing: 1 Cooper, State Administrative Law (1965) at p. 257, 1 Davis, Administrative Law Treatise, § 5.11 at 358; cf. § 7, chapter 234, Laws of 1959, and RCW 34.04.070.

³ See: Campbell v. Galeno Chemical Co., 281 U.S. 599, 610 (1930)

administered. Administrative regulations in conflict with the Constitution or statutes are generally declared to be null or void...⁴

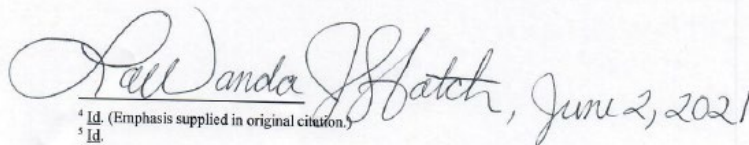
RCW 66.08.010's liberal construction is no saving grace for WSR-21-09-041 as RCW 66.08.030 limits this liberal construction, disallowing the LCB to grant itself authority to regulate activities unrelated to manufacturing, sales, and trafficking of alcohol or cannabis products.

We recognize that the legislature authorized the LCB pursuant to RCW 66.08, and RCW 66.08.010 provides that, "This entire title shall be deemed an exercise of the police power of the state, for the protection of the welfare, health, peace, morals, and safety of the people of the state, and all its provisions shall be liberally construed for the accomplishment of that purpose."⁵ Nonetheless, there is no indication that such liberal construction would include regulation of activities stemming from unrelated governor's emergency Proclamations and/or orders⁶ as has been the case with the enforcement of Governor Inslee's COVID-19-related Proclamations, and as seems to be the case with the purpose, scope, and intent of WSR-21-09-041. A plain reading of RCW 66.08.030, Regulations – Scope, supports our conclusion that the LCB's authority is limited to the regulation of the alcohol and cannabis manufacture, sale, trafficking, imports, exports, and related licensing and recordkeeping as it addresses these issues, not enforcement of unrelated matters, such as gubernatorial emergency proclamations or orders.⁶ Thus, while RCW 66.08.010 offers the LCB liberal construction to protect the "welfare, health, peace, morals, and safety of the people of the state," RCW 66.08.030 naturally prescribes and limits to what purpose the LCB may use this authority, and those limitations do not include generic "public safety" protection through governor Proclamations or orders.

We object to the LCB's rulemaking in WSR-21-09-041 as violative of the Washington Constitution Article II and general administrative law and principles upheld by the Washington Supreme Court in Senior Citizens League, Inc. v. Department of Social Security and the United States Supreme Court in Campbell v. Galeno Chemical Company. The LCB lacks express or implied authority to issue such blanket rules; therefore, we request that the LCB rescind the proposed rulemaking effort found in WSR-21-09-041. Furthermore, the LCB lacks express or implied authority to issue citations or license suspensions for licensee failure to enforce Governor Inslee's emergency proclamations, and the LCB must immediately cease from any and all attempts to enforce the proclamations or related orders.

Kindly,

LaWanda Hatch

 LaWanda Hatch, June 2, 2021

⁴ *Id.* (Emphasis supplied in original citation.)

⁵ *Id.*

⁶ *Id.*

50	Glen Morgan	6/02/2021	<p><u>Email received June 2, 2021—Direct quotation included below:</u></p> <p>“I want to formally notify the LCB Board and note my strong opposition to WSR 21-09-041.</p> <p>It was ugly enough to witness this agency weaponized as a political and partisan tool of the Governor's office over the past year, but it is folly to permanently enshrine these abusive powers post-Covid panic.</p> <p>I suppose implementing this rule could help provide the evidence we need to completely discredit this department and perhaps lead to a future movement to downsize, eliminate, or end this operation (the revenue collection might be more effectively handled by the DOR or other agency). However, the damage this agency would inflict (for partisan reasons) on the small businesses and people who depend on honesty and integrity at the department is too much public harm.</p> <p>In the end, it is up to you, but I urge you to stop hurting people and stop formalizing the damage you inflict by approving this rule.</p> <p>Best Regards,</p> <p>Glen Morgan We the Governed www.wethegoverned.com”</p>
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51	Joe Schmick	6/02/2021	<p><u>Email received June 2, 2021—Direct quotation included below:</u></p> <p>“I am totally opposed to this proposal. This expands the ability to regulate conduct that represents a threat to human safety. In my opinion this is way beyond the legislative intent and purpose of the LCB.</p> <p>Joe Schmick State Representative 9th District”</p>
52	Masako Barnes	6/02/2021	<p><u>Email received June 2, 2021—Direct quotation included below:</u></p> <p>“I oppose WSR21-09-041”</p>
53	Marcia Follett	6/03/2021	<p><u>Email received June 3, 2021—Direct quotation included below:</u></p> <p>“To Whom it May Concern:</p> <p>I recently read that there is a bill which would allow the Liquor Control Board to make pandemic powers permanent. I strongly oppose this move. Gov. Inslee is yet, again, trying to make another power grab. There should not be any powers made permanent as a result of this pandemic. This would allow him, or anyone in his seat, the ability to declare an emergency about most anything. These proclamations are already out of control. The people of this state elected him.</p>

			<p>He works for the people and should not try to "control" them. This is not about public health and safety; it is about control</p> <p>Please vote down WSR 21-09-041</p> <p>Thank you, Marcia Follett”</p>
54	Patrick F. Jensen	6/03/2021	<p><u>Email received June 3, 2021—Direct quotation included below:</u></p> <p>“Dear Sir or Madam;</p> <p>Please do not support WSR 21-09-041. This bill sounds dangerous and gives the governor or Liquor Control Board too much power!! You must oppose this permanent emergency power. It is wrong to be able to yank licenses from bars, restaurants, wine establishments etc as "public safety." We need public safety from these power-hungry government officials. Please vote "NO" on WSR 21-09-041</p> <p>Patrick F. Jensen”</p>

55	Valerie and David Gentzler	6/03/2021	<p><u>Email received June 3, 2021—Direct quotation included below:</u></p> <p>“To whom it may concern,</p> <p>My husband and I oppose the permanent emergency power of the LCB to shut down bars, restaurants or other eating establishments. This is an overreach and should not be allowed in our state. Such laws to control the people and businesses completely contradict our freedom of life, liberty and the pursuit of happiness that has been given us by the constitution and has no place in a free country. Our legislators and governor are to represent and serve us, not rule over our lives.</p> <p>Thank you for listening to my voice.</p> <p>Sincerely,</p> <p>Valerie A. Gentzler David J. Gentzler”</p>
56	Diane Baker	6/03/2021	<p><u>Email received June 3, 2021—Direct quotation included below:</u></p> <p>“Dear LCB: I oppose WSR 21-09-041. This is a terrible bill and will ruin our society with any drug being allowed. This is a death sentence.</p> <p>I OPPOSE WSR 21-09-041. I OPPOSE WSR 21-09-041. I OPPOSE WSR 21-09-041.</p> <p>Thank you. Diane K. Baker. PCO 1681.</p> <p>Diane K. Baker”</p>

57	Trina Wood	6/03/2021	<p><u>Email received June 3, 2021—Direct quotation included below:</u></p> <p>“The liquor control board has no authority to issue, implement or enforce public health matters, or to enforce the Governor's "emergency" mandates. This is not the correct role for this organization, and it's powers should not be expanded. It is in violation of the Washington State Constitution. Please oppose WSR 21-09-041.</p> <p>Trina Wood Richland, WA”</p>
58	Diane Baker	6/04/2021	<p><u>Email received June 4, 2021—Direct quotation included below:</u></p> <p>“The so-called Governor of our state is an administrator of the State of Washington not a DICTATOR. Do NOT let the LCB give unlimited powers to the Governor.</p> <p>I don't understand why so many people believe this garbage about mask wearing.</p> <p>Emergency powers are meant as an EMERGENCY (for example Mount Rainier Blows up).and only for a few days but no more than 30 days. Governor USELESS is stupid enough to declare a lockdown, force the public to wear masks for a FLU VIRUS.</p> <p>I admit I am not a genius but it is against our FIRST amendment rights to be forced to wear a mask and be vaccinated. How in the world did this Idiot get a</p>

			<p>law license? He must have never attended classes in High School, University and Law School and cheated on the exam to get his Law License. Or maybe he paid to have a fake law license printed.</p> <p>Gov. Useless is dumber than my 6 year old grandson.</p> <p>Sincerely,</p> <p>Diane K Baker”</p>
59	Taylor Taranto	6/04/2021	<p><u>Email received June 4, 2021—Direct quotation included below:</u></p> <p>“You guys are the mob. I despise everything you stand for. I oppose you and anything you want to push through (specifically WSR 21-09-041).</p> <p>You are trash. You are unelected garbage. You have never protected the public and you do not use real science. Eat shit and die (as an organization, not a personal threat). You have never represented the people of WASHINGTON state. It doesn't matter what you think and no one cares what you have to say about our health! You can't do anything and I'll boycott the shit out of you and your mafia activities just to say "FUCK YOU!"</p> <p>Taylor FUCKING Taranto”</p>

60	Norma Cooke	6/04/2021	<p><u>Email received June 4, 2021—Direct quotation included below:</u></p> <p>“I oppose WSR 21-09-041 Norma Cooke”</p>
61	Robert Parr	6/04/2021	<p><u>Email received June 4, 2021—Direct quotation included below:</u></p> <p>“I am a Washington Resident and feel that WSR 21-09-041 is inappropriate and not needed. It is beyond the scope of the agency and contradictory to the intent of our citizens when we formed the agency</p> <p>Robert J. Parr Richland, WA”</p>
62	Dallas Parr	6/04/2021	<p><u>Email received June 4, 2021—Direct quotation included below:</u></p> <p>“I oppose the LCB’s Rulemaking, WSR-21-09-041, filed on April 14, 2021. Through this Rulemaking and throughout the COVID-19 pandemic, the LCB has taken an expansive reading of its ability to regulate conduct that presents a threat to public safety. WAC 314-11-015(3)(c). During the pandemic, the LCB adopted two emergency rules (WAC 314-12-250 and 275) and initiated several individual enforcement actions under this self-granted “authority” to enforce the Governor’s “stay home, stay healthy order.” By taking enforcement action against licensees that fail to enforce mask mandates and other restrictions associated with the Governor’s Proclamations, the LCB has</p>

		<p>weaponized its enforcement officers and individual licensees by in the name of “public safety.” The LCB’s legislative history shows no evidence that the Legislature intended for LCB to enforce general health and welfare rules, nor did the Legislature intend for the LCB to enforce gubernatorial proclamations, nor did it offer the LCB authority to generically protect “public safety.” Under these conditions, the LCB lacks authority to issue any of the previously mentioned rules, including any proposed rule under WSR-21-09-041.</p> <p>I object to the LCB’s rulemaking in WSR-21-09-041 as violative of the Washington Constitution Article II and general administrative law and principles upheld by the Washington Supreme Court in <u>Senior Citizens League, Inc. v. Department of Social Security</u> and the United States Supreme Court in <u>Campbell v. Galeno Chemical Company</u>. The LCB lacks express or implied authority to issue such blanket rules; therefore, we request that the LCB rescind the proposed rulemaking effort found in WSR-21-09-041. Furthermore, the LCB lacks express or implied authority to issue citations or license suspensions for licensee failure to enforce Governor Inslee’s emergency proclamations, and the LCB must immediately cease from any and all attempts to enforce the proclamations or related orders.</p> <p>Sincerely, Dallas Parr”</p>
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63	Kenneth Reithmayr	6/04/2021	<p><u>Email received June 4, 2021—Direct quotation included below:</u></p> <p>“I oppose WSR 21-09-041. You have already exceeded your authority from the legislature. I am totally opposed to further exceeding that authority by unelected appointed officials . This authority rests with our elected legislators. Kenneth Reithmayr”</p>
64	Katherine Rowe	6/04/2021	<p><u>Email received June X, 2021—Direct quotation included below:</u></p> <p>“June 4, 2021</p> <p>Ms. Audrey Vasek Policy and Rules Coordinator Washington State Liquor and Cannabis Board</p> <p>Subject: WSR 21-09-041</p> <p>Dear Ms. Vasek and Board Members:</p> <p>I am writing to weigh in against the proposed new rules under WSR-21-09-041. As a citizen of Washington, I am not in favor of making the use of emergency executive powers permanent. They have already exceeded reasonable use by at least a year. In the event of a true emergency, the powers can be requested</p>

		<p>at the time through legitimate channels and can be granted for a short, rational amount of time. It should be very difficult to use such powers.</p> <p>Claims in the proposed rules regarding “preservation of public health and safety” are untrue. Seizing summary license suspension power (as written) in order to enforce numerous proclamation extensions does not preserve health. It sets up a situation in which the government is at odds with the people. Even if you feel it is convenient for you to hold such powers in reserve to make enforcement easier, it is wrong to do so.</p> <p>Perhaps a helpful model for how to think about this in our state is to look toward the federal government, where various agencies do have temporary emergency powers for 30 days in a true emergency. After that time, those agencies may not undercut the legislative process by claiming extended emergency powers. The proposed rules in WSR 21-09-041 say: “it is impossible to know precisely when the state of emergency will end.” The state of emergency ended more than a year ago. The fact that three separate extensions have been issued so far in Washington State is proof.</p> <p>Sincerely,</p> <p>Katherine Rowe”</p>
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65	Terry Evans	6/04/2021	<p><u>Email received June 4, 2021—Direct quotation included below:</u></p> <p>“I oppose WSR-21-09-041.</p> <p>Thanks,</p> <p>Terry Evans”</p>
<p><u>Comments below were received after the CR 101 public comment period closed on June 5, 2021:</u></p>			
66	Pam Melville	6/06/2021	<p><u>Email received June 6, 2021—Direct quotation included below:</u></p> <p>“Compelling any employee to take any current Covid-19 vaccine violates federal and state law.</p> <p>First, federal law prohibits any mandate of the Covid-19 vaccines as unlicensed, emergency-use-authorization-only vaccines. Subsection bbb-3(e)(1)(A)(ii)(III) of section 360 of Title 21 of the United States Code, otherwise known as the Emergency Use Authorization section of the Federal Food, Drug, and Cosmetic Act, demands that everyone give employees the "option to accept or refuse administration" of the Covid-19 vaccine. (...) This right to refuse emergency, experimental vaccines, such as the Covid-19 vaccine, implements the internationally agreed legal requirement of Informed Consent established in the Nuremberg Code of 1947. (http://www.cirp.org/library/ethics/nuremberg/). As the Nuremberg Code established, every person must "be able to exercise free power of choice, without the intervention of any element of force, fraud, deceit, duress, overreaching, or other ulterior form of constraint or coercion; and should have sufficient knowledge and comprehension of the elements of the subject matter involved as to enable him to make an understanding and enlightened decision"</p>

			<p>for any medical experimental drug, as the Covid-19 vaccine currently is. The Nuremberg Code prohibited even the military from requiring such experimental vaccines. (Doe #1 v. Rumsfeld, 297 F.Supp.2d 119 (D.D.C. 2003).</p> <p>Secondly, demanding employees divulge their personal medical information invades their protected right to privacy, and discriminates against them based on their perceived medical status, in contravention of the Americans with Disabilities Act. (42 USC §12112(a).)</p> <p>Third, conditioning continued employment upon participating in a medical experiment and demanding disclosure of private, personal medical information, may also create employer liability under other federal and state laws, including HIPAA, FMLA, and applicable state tort law principles, including torts prohibiting and proscribing invasions of privacy and battery. Indeed, any employer mandating a vaccine is liable to their employee for any adverse event suffered by that employee. (https://www.osha.gov/coronavirus/faqs#vaccine).</p> <p>The CDC records reports of the adverse events already reported to date concerning the current Covid-19 vaccine.(https://www.cdc.gov/.../2019-ncov/vaccines/safety/vaers.html)”</p>
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