



**Washington State
Liquor and Cannabis Board**

Date: September 29, 2021

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

From: Audrey Vasek, Policy and Rules Coordinator

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

Subject: CR 102 for Implementation of 2021 Legislation – E2SHB 1480 (COVID-19 Alcohol Allowances).

The Policy and Rules Coordinator requests approval to file a rule proposal (CR 102) for the rulemaking related to implementation of 2021 legislation E2SHB 1480 (COVID-19 Alcohol Allowances) described in the CR 102 Memorandum attached to this order and presented at the Board meeting on September 29, 2021. If approved for filing, the tentative timeline for this rule proposal is as follows:

September 29, 2021	Board is asked to approve filing proposed rules (CR 102). CR 102 filed with the Office of the Code Reviser. WSLCB webpage updated and notice circulated by GovDelivery distribution list. Formal comment period begins.
October 20, 2021	Notice published in the Washington State Register under WSR 21-20.
November 10, 2021	Public hearing held and formal comment period ends.
No earlier than November 24, 2021	Board is asked to adopt rules if no substantive changes are made (CR 103). Concise Explanatory Statement provided to individuals who offered written or oral comment at the public hearing or during the formal comment period, consistent with RCW 34.05.325. CR 103 and adopted rules are filed with the Office of the Code Reviser. WSLCB webpage updated and notice circulated by GovDelivery distribution list.
December 25, 2021	Rules are effective 31 days after filing, unless otherwise specified. See RCW 34.05.380(2).

Approve Disapprove



David Postman, Chair

9.29.2021
Date

Approve Disapprove



Ollie Garrett, Board Member

9.29.2021
Date

Approve Disapprove

Not Present

Russ Hauge, Board Member

9.29.2021
Date

Attachments: CR 102 Memorandum



CR 102 Memorandum

Regarding Implementation of 2021 Legislation – E2SHB 1480 (COVID-19 Alcohol Allowances).

Date: September 29, 2021
Presented by: Audrey Vasek, Policy and Rules Coordinator

Background

In March of 2020, as the coronavirus (COVID-19) pandemic began to spread rapidly in Washington, the state announced restrictions that impacted the operations of many Washington State Liquor and Cannabis Board (WSLCB) licensees, particularly on-premises licensees. Some licensees were required to close entirely and others had significant limitations on sales and customer service. The WSLCB worked to find temporary ways for businesses to expand their operations using methods that would not put the health of employees or customers at risk. Engrossed Second Substitute House Bill (E2SHB) 1480 (chapter 48, Laws of 2021) took effect on April 14, 2021, providing legislative authorization extending certain temporary privileges that the WSLCB granted to liquor licensees to mitigate the impact of the COVID-19 pandemic.

The WSLCB began to consider rule revisions to implement E2SHB 1480 by filing a pre-proposal statement of inquiry (CR 101) under WSR 21-11-035 on May 12, 2021. The purpose of this rule proposal (CR 102) is to implement E2SHB 1480 by: (1) creating rules for the temporary “to-go” alcohol endorsements; (2) creating and revising rules for the temporary outdoor alcohol service area requirements; and (3) revising food service requirement rules to provide licensees with greater flexibility. The E2SHB 1480 rulemaking has several components:

Temporary Rules Creating Endorsements for “To-Go” Alcohol Sales

E2SHB 1480 creates temporary alcohol to-go endorsements that allow certain licensees to engage in curbside, takeout, or delivery sales of cocktails and wine by the glass, growlers, and other alcohol products. These new endorsements are set to expire July 1, 2023. There are no fees for licensees to obtain these endorsements. See E2SHB 1480, section 2(2)-(7) and (11).¹ The rule proposal creates three new temporary rule sections (intended to expire July 1, 2023) that describe the requirements for licensees to obtain these endorsements.

¹ Section 2 of E2SHB 1480 creating the temporary endorsements for “to-go” alcohol sales is uncoded due to its temporary nature (expiration July 1, 2023). However, section 3 (related to rulemaking authority with respect to food service menu requirements) is codified as RCW 66.08.071.

Temporary Rules for Outdoor Alcohol Service Areas

E2SHB 1480 requires the WSLCB to adopt or revise current rules to allow for temporary outdoor service of alcohol by certain on-premises licensees, and provides the WSLCB with authority to adopt requirements providing for clear accountability at locations where multiple licensees use a shared space for serving customers. These outdoor alcohol service area rules are set to expire July 1, 2023. See E2SHB 1480, section 2(8) and (11). The rule proposal creates a new temporary rule section (intended to temporarily replace the current outdoor alcohol service area rules until July 1, 2023) describing the requirements for outdoor alcohol service areas, including shared spaces.

Permanent Rules Updating Food Service Menu Requirements

E2SHB 1480 requires the WSLCB to consider revising current rules in order to provide greater flexibility regarding the food service menu requirements that licensees must provide in conjunction with alcohol sales. These food service menu requirement changes are permanent. See RCW 66.08.071 (E2SHB 1480, section 3). The rule proposal amends a series of rule sections in chapter 314-02 WAC related to food service menu requirements, including the definitions of “complete meal” and “minimum food service.”

Stakeholder Engagement

The CR 102 rule proposal was developed through a collaborative rule development process involving both internal and external stakeholders. During the initial CR 101 public comment period from May 12 through July 2, 2021, three public comments were received.² These comments were considered as the conceptual draft rules were developed through a series of collaborative internal project team meetings with WSLCB staff from the Licensing Division, Enforcement and Education Division, and the Public Health and Prevention Liaison.

After the conceptual draft rules were developed, the WSLCB Policy and Rules Unit held two virtual Listen and Learn sessions through Microsoft Teams to gather public feedback and suggestions for revisions. The first Listen and Learn session was held on August 5, 2021, from 1:00 to 3:30 PM, and the second session was held on September 2, 2021, from 1:00 to 3:15 PM. At a peak, there were around 60 people in attendance at the first event and 55 people in attendance at the second event. Messages inviting any interested members of the public to participate in the Listen and Learn sessions were sent to GovDelivery subscriber lists two weeks prior to each event, and reminder emails were sent the day before each event.³

² See Attachments D, Table containing public feedback received during the CR 101 public comment period from May 12 through July 2, 2021, as well as comments received after CR 101 public comment period closed that are not related to the Listen & Learn Sessions.

³ See Attachments A & B, Tables containing public feedback received during the Listen and Learn Sessions & GovDelivery Messaging.

The feedback received during Listen and Learn Sessions is provided in Attachments A and B to this memo. The WSLCB incorporated feedback received at the Listen and Learn sessions into the proposed rule language by making a number of changes including, but not limited to, the following:

- *For the temporary manufacturer sealed alcohol products “to-go” endorsement:*
 - The requirement that delivery must be made by employees of the licensed business who are at least 21 years of age is removed. The rule proposal allows delivery by third-party service providers under the existing consumer orders, internet sales, and delivery rules with approval by the WSLCB Licensing Division of an added activity application requesting internet sales privileges.
 - An exception is provided to the requirement that the exterior of to-go bags/packages containing manufacturer-sealed alcohol products be marked with the words “CONTAINS ALCOHOL, FOR PERSONS 21+.” Under the rule proposal, brewery, winery, and distillery licensees are not required to mark or label the exterior of the to-go bag/packaging if the to-go bag/packaging containing the manufacturer-sealed alcohol product is provided to customers through takeout service.
 - Both of the above changes are intended to address the concerns expressed during the first Listen and Learn session about inconsistencies between existing licensee privileges and the new privileges allowed by HB 1480 for certain licensees.
- *For the temporary growlers “to-go” endorsement:*
 - The rule proposal adds language stating that brewery and microbrewery products that meet federal alcohol and tobacco tax and trade bureau labelling requirements are not considered prefilled growlers and are not subject to the overnight storage prohibition on prefilled growlers. This change is intended to address the concern expressed during the first Listen and Learn session about potential confusion between prefilled growlers (as the term is used in E2SHB 1480) and manufacturer sealed products that meet TTB labelling requirements but look similar to growlers.
- *For the temporary cocktails/wine by the glass “to-go” endorsement:*
 - The rule proposal incorporates a reference to the existing consumer orders, internet sales, and delivery rules in response to the suggestion provided during the first Listen and Learn session to add language stating that all transactions need to take place at the licensed premises and that no money may be exchanged between the delivery person and customer upon delivery. The existing consumer orders, internet sales, and delivery rules already contain language stating that “Only a licensee or a licensee's direct employees may accept and process orders and payments.” and “All orders and payments shall be fully processed before liquor transfers ownership or, in the case of delivery, leaves a licensed premises.” (See e.g. WAC 314-03-020 through 314-03-040).
- *For all three temporary “to-go” endorsements:*

- The rule proposal states that delivery sales records must meet the requirements in the consumer orders, internet sales, and delivery rules as well as general record retention requirements in WAC 314-11-035. This change is intended to clarify requirements in response to questions about delivery record requirements received at the first Listen and Learn Session.
- *For the temporary outdoor alcohol service area rules:*
 - The rule proposal clarifies that producers (e.g. breweries, wineries, and distilleries) can qualify for outdoor alcohol service areas without needing indoor dining capacity (i.e. “The licensee must have a building that provides indoor dining or production in order to qualify for an outdoor alcohol service area”). This change is intended to address the concerns expressed during the second Listen and Learn session that the conceptual draft rules would have prevented many producers from having outdoor alcohol service areas.
- *For the food service menu requirement rules:*
 - The rule proposal revises the definitions of “complete meal” and “minimum food service” to clarify that the restriction on menu items that consist solely of precooked frozen food applies to *meals* rather than *food* that is precooked and frozen. The revision is intended to clarify that ingredients or components of meals might be precooked and frozen, and then later used by the food service establishment to prepare a menu item that qualifies as a complete meal/ minimum food service item, in response to feedback and questions received in connection with the second Listen & Learn session.

Estimated Costs of Compliance

For the purpose of the minor cost analysis required by the Regulatory Fairness Act in chapter 19.85 RCW, the CR 102 includes estimated business costs of compliance with the proposed rules. In order to estimate these costs of compliance, WSLCB Policy and Rules Coordinators interviewed twelve volunteer licensees for 45 minutes each from September 15 through September 21, 2021. In order to recruit volunteer interviewees, a GovDelivery message was sent to all liquor licensee subscribers on September 3, 2021, asking for interview volunteers impacted by the alcohol to-go endorsements to provide feedback to help estimate the costs of compliance associated with the draft rules to implement HB 1480.⁴ The estimated costs of compliance and the relevant minor cost thresholds are described in detail in the CR 102 form.

Description of Rule Changes & Rule Necessity

The proposed rules are needed to align existing rules with and implement the law as established by E2SHB 1480, as described in the table below:

Rule section	Description of proposed rule changes	Rule necessity
<i>Category: Food Service Menu Requirements</i>		
WAC 314-02-010	The definitions of “complete meal,” “minimum food service,” and “snack food”	To implement

⁴ See Attachment C, GovDelivery Message re WSLCB Seeking Licensee Interview Volunteers Impacted by HB 1480.

<p>“Definitions.” (AMENDED)</p>	<p>are revised to provide greater flexibility for licensees. (“Complete meal” was previously defined in WAC 314-02-035.) The definition of “limited food service” is removed and consolidated with “minimum food service.” New, culturally diverse food examples are added to all three of these definitions, and the definition of complete meal is expanded to include a “small plates” option in addition to the “entree with at least one side dish available” option.</p>	<p>section 3 of E2SHB 1480 (codified as RCW 66.08.071), which directs the WSLCB to “consider revising current rules in order to provide greater flexibility regarding food service menu requirements.”</p>
<p>WAC 314-02-035 “Food service requirements for a spirits, beer, and wine restaurant license.” (AMENDED)</p>	<p>The required number of complete meals is reduced from eight to four. The section is streamlined by removing content that is repeated in the definition section and replacing it with references to the appropriate definitions in WAC 314-02-010. The section caption is revised from a question to a statement.</p>	<p>To improve clarity of the rules by streamlining and making technical corrections to language and numbering, without changing its effect.</p>
<p>WAC 314-02-0411 “Food service requirements for a hotel license.” (AMENDED)</p>	<p>The required number of complete meals is reduced from eight to four. The section is streamlined by removing content that is repeated in the definition section and replacing it with references to the appropriate definitions in WAC 314-02-010. The section caption is revised from a question to a statement.</p>	
<p>WAC 314-02-065 “Snack bar license.” (AMENDED)</p>	<p>The cross-reference in subsection (2) to the definition of snack food in WAC 314-02-010 is updated. The section caption is revised from a question to a statement.</p>	
<p>WAC 314-02-087 “Spirits, beer, and wine theater license.” (AMENDED)</p>	<p>The section is streamlined by removing food service requirements that are repeated in WAC 314-02-035, the spirits, beer, and wine restaurant license, and replacing that language with a cross-reference. The effect of this change is that the required number of complete meals is reduced from eight to four. The section caption is revised from a question to a statement.</p>	
<p>WAC 314-02-112 “Caterer’s license.” (AMENDED)</p>	<p>The required number of complete meals is reduced from eight to four. The section is streamlined by removing content that is repeated in the definition section and replacing it with references to the appropriate definitions in WAC 314-02-010. The section caption is revised from a question to a statement. The subsection numbering is also revised throughout the section.</p>	
<p>WAC 314-02-114 “Senior center license.” (AMENDED)</p>	<p>The section is streamlined by removing content that is repeated in the definition of “minimum food service” and replacing it with a reference to the definition of “minimum food service” in WAC 314-02-010. The section caption is revised from a question to a statement.</p>	
<p><i>Category: Outdoor Alcohol Service Areas</i></p>		
<p>WAC 314-03-200 “Outside or extended alcohol service.” (AMENDED)</p>	<p>A cross-reference to the proposed temporary rules for outdoor alcohol service in WAC 314-03-205 is added to the first paragraph.</p>	<p>To implement section 2(8) of E2SHB 1480, which directs the WSLCB to “adopt or revise current rules to allow for outdoor service of alcohol by on-premises licensees.”</p>
<p>WAC 314-03-205 “Temporary rules for outdoor alcohol service by on-premises licensees.” (NEW)</p>	<p>Creates a new section. The section applies to all on-premises licensees that want to have ongoing outdoor alcohol service areas. As before, licensees must apply to the WSLCB Licensing Division for approval/alteration request. There are different requirements for outdoor alcohol service areas in private versus public spaces.</p> <p>As compared to the existing rules, the temporary rules provide more flexibility and options for licensees that want to have outdoor alcohol service areas:</p> <p>Outdoor service areas in public spaces (e.g. sidewalk cafes) are no longer limited to restaurants—all licensees are eligible if they have local jurisdiction approval.</p> <p>The outdoor service area does not have to be contiguous to the licensed premises but must be on the same property or parcel.</p> <p>Interior access to the licensed premises from the outdoor service area is no longer required, but there must be a direct line of sight to the outdoor area from within the licensed premises or an employee must be present in the outdoor area at all times when customers are present to monitor alcohol consumption.</p> <p>Requirements for shared outdoor alcohol service areas are established as follows:</p>	<p>To improve clarity of the rules by streamlining and making technical corrections to language and numbering, without changing its effect.</p>

	<ul style="list-style-type: none"> • Licensees' property parcels/buildings must be located in direct physical proximity to one another; • Licensees must maintain separate storage of products and separate financial records for the shared outdoor alcohol service area; • Licensees must use distinctly marked glassware or serving containers in the shared outdoor area to identify the source of any alcohol product being consumed. The distinctive marking may be either permanent or temporary; and • Licensees must complete an operating plan for the shared outdoor alcohol service area. 	
<p><i>Category: Temporary Endorsements for "To-Go" Alcohol Sales</i></p>		
<p>WAC 314-03-500 "Temporary endorsement for sale of manufacturer-sealed alcohol products through curbside, takeout, or delivery service." (NEW)</p>	<p>Creates a new rule section to implement the new temporary endorsement for sale of alcohol products through curbside, takeout, or delivery service created by E2SHB 1480. The endorsement is available to the licensees specified in E2SHB 1480: Spirits, Beer, and Wine (SBW) Restaurants, Beer and/or Wine (BW) Restaurants, Taverns, Wineries, Breweries, Microbreweries, Distilleries, Snack Bars, Nonprofit Arts Licensees, and Caterers. The endorsement includes the following requirements:</p> <ul style="list-style-type: none"> • Alcohol products must be manufacturer-sealed or factory-sealed. • 21+ Labelling requirement: If the alcohol product is enclosed in a bag, box, or other packaging, the exterior of the packaging must be marked with the words "CONTAINS ALCOHOL, FOR PERSONS 21+". Producers (breweries, wineries, and distilleries) selling alcohol products through takeout are exempt from this requirement. • Delivery requirements: Delivery must be made by persons who are 21+. Third-party service providers are allowed if licensees comply with the existing consumer orders, internet sales, and delivery rules. Delivery person must verify that person receiving the alcohol is 21+ and obtain their signature. Alcohol products may not be left unattended. Delivery may not be made to intoxicated persons. • Signage requirements: Signs regarding public consumption and transportation of alcohol products sold through curbside, takeout, or delivery service will be provided electronically by the WSLCB and must be posted at the main entrance and areas of the premises where customers pick up alcohol products for takeout or curbside service. 	<p>To implement E2SHB 1480, section 2(2), (6), and (9).</p>
<p>WAC 314-03-505 "Temporary endorsement for sale of premixed cocktails, cocktail kits, wine by the glass, premixed wine and spirits cocktails, or premixed wine drinks through curbside, takeout, or delivery service." (NEW)</p>	<p>Creates a new rule section to implement the new temporary endorsement for sale of premixed cocktails, cocktail kits, wine by the glass, premixed wine and spirits cocktails, or premixed wine drinks through curbside, takeout, or delivery service created by E2SHB 1480. The endorsement is available to the licensees specified in E2SHB 1480: SBW restaurants (for all of the above drinks), BW restaurants (for wine or premixed wine drinks by the glass). The endorsement includes the following requirements:</p> <ul style="list-style-type: none"> • Food requirements: For SBW restaurants, a complete meal must be sold with the "to-go" cocktail, wine, etc. Up to 3 ounces of spirits may be sold per complete meal. For BW restaurants, a minimum food service item must be sold with the "to-go" wine or premixed wine drink. • Container requirements: The "to-go" cocktails, wine, etc, must be packaged in containers that are sealed in a manner designed to prevent consumption without removal of a tamper-evident lid, cap, or seal. A non-comprehensive list of examples is provided. • 21+ Labelling requirements: The individual "to-go" containers must be clearly marked or labelled with the words "CONTAINS ALCOHOL, FOR PERSONS 21+". If the individual "to-go" containers are enclosed in a bag, box, or other packaging, the exterior of the packaging must be marked with the words "CONTAINS ALCOHOL, FOR PERSONS 21+" • To deter public consumption or consumption in a vehicle, licensees may not put ice directly into the alcohol "to-go" containers. Ice may be provided separately with the order. • Alcohol "to-go" containers must be placed in the trunk of a vehicle or beyond the immediate reach of the driver and any passengers in compliance with open container requirements in RCW. • Delivery requirements: Delivery must be made by employees of the licensed business who are 21+. Delivery may not be made by third-party service providers. Delivery person must verify that person receiving the alcohol is 21+ and obtain their signature. Alcohol products may not be left unattended. Delivery may not be made to intoxicated persons. 	<p>To implement E2SHB 1480, section 2(3), (4), (6), and (9).</p>

	<ul style="list-style-type: none"> Signage requirements: Signs regarding public consumption and transportation of alcohol products sold through curbside, takeout, or delivery service will be provided electronically by the WSLCB and must be posted at the main entrance and areas of the premises where customers pick up alcohol products for takeout or curbside service. <p>The following terms used in E2SHB 1480 are defined: "premixed cocktail," "premixed wine and spirits cocktail," and "premixed wine drink."</p>	
WAC 314-03-510 "Temporary endorsement for sale of growlers through curbside, takeout, or delivery service." (NEW)	<p>Creates a new rule section to implement the new temporary endorsement for sale of growlers through curbside, takeout, or delivery service created by E2SHB 1480. The endorsement is available to the licensees specified in E2SHB 1480: licensees that were authorized by statute or rule before January 1, 2020, to sell growlers, including Taverns, BW restaurants, SBW restaurants, Grocery Stores, Beer and Wine Specialty Shops, Breweries, Microbreweries, Wineries, Combination SBW Licensees, and Hotel Licensees. The endorsement includes the following requirements:</p> <ul style="list-style-type: none"> As specified in E2SHB 1480, sales of growlers must meet federal TTB requirements. Growlers must be filled at the tap by the licensee at the time of sale, except that beer and wine specialty shops and breweries can prefill growlers as allowed by E2SHB 1480. Delivery requirements: Delivery must be made by employees of the licensed business who are 21+. Delivery may not be made by third-party service providers. Delivery person must verify that person receiving the alcohol is 21+ and obtain signature. Alcohol products may not be left unattended. Delivery may not be made to intoxicated persons. Signage requirements: Signs regarding public consumption and transportation of alcohol products sold through curbside, takeout, or delivery service will be provided electronically by the WSLCB and must be posted at the main entrance and areas of the premises where customers pick up alcohol products for takeout or curbside service. 	To implement E2SHB 1480, section 2(5)-(7), and (9).

Attachments:

Attachment A. *Table containing public feedback received during Listen and Learn Session 1 on August 5, 2021 & GovDelivery Messaging.*

Attachment B. *Table containing public feedback received during Listen and Learn Session 2 on September 2, 2021 & GovDelivery Messaging.*

Attachment C. *GovDelivery Messaging re WSLCB Seeking Licensee Interview Volunteers Impacted by HB 1480.*

Attachment D. *Table containing public feedback received during the CR 101 public comment period from May 12 through July 2, 2021, as well as comments received after CR 101 public comment period closed that are not related to the Listen & Learn Sessions.*

PROPOSED RULE MAKING



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

Do NOT use for expedited rule making

Agency: Washington State Liquor and Cannabis Board (WSLCB)

Original Notice

Supplemental Notice to WSR _____

Continuance of WSR _____

Preproposal Statement of Inquiry was filed as WSR 21-11-035 ; or

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

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

Proposal is exempt under RCW _____.

Title of rule and other identifying information: (describe subject) Rules to Implement E2SHB 1480 (chapter 48, Laws of 2021). The proposed rules amend or create the following sections:

Chapter 314-02 WAC, "Requirements for Retail Liquor Licensees"

Amended	WAC 314-02-010 "Definitions."
Amended	WAC 314-02-035 "Food service requirements for a spirits, beer, and wine restaurant license."
Amended	WAC 314-02-0411 "Food service requirements for a hotel license."
Amended	WAC 314-02-065 "Snack bar license."
Amended	WAC 314-02-087 "Spirits, beer, and wine theater license."
Amended	WAC 314-02-112 "Caterer's license."
Amended	WAC 314-02-114 "Senior center license."

Chapter 314-03 WAC, "Allowed Activities"

Amended	WAC 314-03-200 "Outside or extended alcohol service."
New	WAC 314-03-205 "Temporary rules for outdoor alcohol service by on-premises licensees."
New	WAC 314-03-500 "Temporary endorsement for sale of manufacturer-sealed alcohol products through curbside, takeout, or delivery service."
New	WAC 314-03-505 "Temporary endorsement for sale of premixed cocktails, cocktail kits, wine by the glass, premixed wine and spirits cocktails, or premixed wine drinks through curbside, takeout, or delivery service."
New	WAC 314-03-510 "Temporary endorsement for sale of growlers through curbside, takeout, or delivery service."

Hearing location(s):

Date:	Time:	Location: (be specific)	Comment:
November 10, 2021	10:00 am	In response to the coronavirus disease 2019 (COVID-19) public health emergency, the WSLCB will not provide a physical location for this hearing to promote social distancing and the safety of the citizens of Washington State. A virtual public hearing, without a physical meeting space, will be held instead. Board members, presenters, and staff will all participate remotely. The public	For more information about Board meetings, please visit https://lcb.wa.gov/Boardmeetings/Board_meetings .

	<p>may login using a computer or device, or call-in using a phone, to listen to the meeting through the Microsoft Teams application. The public may provide verbal comments during the specified public comment and rules hearing segments.</p>	
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Date of intended adoption: No earlier than November 24, 2021. (Note: This is **NOT** the **effective** date)

Submit written comments to:
 Name: Audrey Vasek, Policy and Rules Coordinator
 Address: 1025 Union Avenue, Olympia, WA 98501
 Email: rules@lcb.wa.gov
 Fax: 360-704-5027
 Other:
 By (date) November 10, 2021

Assistance for persons with disabilities:
 Contact Anita Bingham, ADA Coordinator, Human Resources
 Phone: 360-664-1739
 Fax: 360-664-9689
 TTY: 7-1-1 or 1-800-833-6388
 Email: anita.bingham@lcb.wa.gov
 Other:
 By (date) October 27, 2021

Purpose of the proposal and its anticipated effects, including any changes in existing rules:

Background
 In March of 2020, as the coronavirus (COVID-19) pandemic began to spread rapidly in Washington, the state announced restrictions that impacted the operations of many WSLCB licensees, particularly on-premises licensees. Some licensees were required to close entirely and others had significant limitations to sales and customer service. The WSLCB worked to find temporary ways for businesses to expand their operations using methods that would not put the health of employees or customers at risk. E2SHB 1480 (which took effect on April 14, 2021) provides legislative authorization extending certain temporary privileges that the WSLCB granted to liquor licensees to mitigate the impact of the COVID-19 pandemic. These temporary privileges include:

Temporary Endorsements for “To-Go” Alcohol Sales
 E2SHB 1480 creates temporary alcohol to-go endorsements that allow certain licensees to engage in curbside, takeout, or delivery sales of cocktails and wine by the glass, growlers, and other alcohol products. These new endorsements are set to expire July 1, 2023. There are no fees for licensees to obtain these endorsements. See E2SHB 1480, section 2(2)-(7) and (11).

Outdoor Alcohol Service Areas
 E2SHB 1480 requires the WSLCB to adopt or revise current rules to allow for temporary outdoor service of alcohol by certain on-premises licensees, and provides the WSLCB with authority to adopt requirements providing for clear accountability at locations where multiple licensees use a shared space for serving customers. These outdoor alcohol service area rules are set to expire July 1, 2023. See E2SHB 1480, section 2(8) and (11).

Food Service Menu Requirements
 E2SHB 1480 requires the WSLCB to consider revising current rules in order to provide greater flexibility regarding the food service menu requirements that licensees must provide in conjunction with alcohol sales. These food service requirement changes are permanent. See E2SHB 1480, section 3.

Purpose
 The purpose of this proposal is to implement E2SHB 1480 by: (1) creating rules for the temporary “to-go” alcohol endorsements; (2) creating and revising rules for the temporary outdoor alcohol service area requirements; and (3) revising food service requirement rules to provide licensees with greater flexibility and make it more financially feasible for licensees to comply with the rules. Proposed new rules and changes to existing rules are described in the table below.

Reasons supporting proposal: The proposed rules are needed to align existing rules with and implement the law as established by E2SHB 1480.

Rule section	Description of proposed rule changes	Supporting reasons
Category: Food Service Menu Requirements		
WAC 314-02-010 "Definitions." (AMENDED)	The definitions of "complete meal," "minimum food service," and "snack food" are revised to provide greater flexibility for licensees. ("Complete meal" was previously defined in WAC 314-02-035.) The definition of "limited food service" is removed and consolidated with "minimum food service." New, culturally diverse food examples are added to all three of these definitions, and the definition of complete meal is expanded to include a "small plates" option in addition to the "entree with at least one side dish available" option.	To implement section 3 of E2SHB 1480 (codified as RCW 66.08.071), which directs the WSLCB to "consider revising current rules in order to provide greater flexibility regarding food service menu requirements." To improve clarity of the rules by streamlining and making technical corrections to language and numbering, without changing its effect.
WAC 314-02-035 "Food service requirements for a spirits, beer, and wine restaurant license." (AMENDED)	The required number of complete meals is reduced from eight to four. The section is streamlined by removing content that is repeated in the definition section and replacing it with references to the appropriate definitions in WAC 314-02-010. The section caption is revised from a question to a statement.	
WAC 314-02-0411 "Food service requirements for a hotel license." (AMENDED)	The required number of complete meals is reduced from eight to four. The section is streamlined by removing content that is repeated in the definition section and replacing it with references to the appropriate definitions in WAC 314-02-010. The section caption is revised from a question to a statement.	
WAC 314-02-065 "Snack bar license." (AMENDED)	The cross-reference in subsection (2) to the definition of snack food in WAC 314-02-010 is updated. The section caption is revised from a question to a statement.	
WAC 314-02-087 "Spirits, beer, and wine theater license." (AMENDED)	The section is streamlined by removing food service requirements that are repeated in WAC 314-02-035, the spirits, beer, and wine restaurant license, and replacing that language with a cross-reference. The effect of this change is that the required number of complete meals is reduced from eight to four. The section caption is revised from a question to a statement.	
WAC 314-02-112 "Caterer's license." (AMENDED)	The required number of complete meals is reduced from eight to four. The section is streamlined by removing content that is repeated in the definition section and replacing it with references to the appropriate definitions in WAC 314-02-010. The section caption is revised from a question to a statement. The subsection numbering is also revised throughout the section.	
WAC 314-02-114 "Senior center license." (AMENDED)	The section is streamlined by removing content that is repeated in the definition of "minimum food service" and replacing it with a reference to the definition of "minimum food service" in WAC 314-02-010. The section caption is revised from a question to a statement.	
Category: Outdoor Alcohol Service Areas		
WAC 314-03-200 "Outside or extended alcohol service." (AMENDED)	A cross-reference to the proposed temporary rules for outdoor alcohol service in WAC 314-03-205 is added to the first paragraph.	To implement section 2(8) of E2SHB 1480, which directs the WSLCB to "adopt or revise current rules to allow for outdoor service of alcohol by on-premises licensees." To improve clarity of the rules by streamlining and making technical corrections to language and numbering, without changing its effect.
WAC 314-03-205 "Temporary rules for outdoor alcohol service by on-premises licensees." (NEW)	<p>Creates a new section. The section applies to all on-premises licensees that want to have ongoing outdoor alcohol service areas. As before, licensees must apply to the WSLCB Licensing Division for approval/alteration request. There are different requirements for outdoor alcohol service areas in private versus public spaces.</p> <p>As compared to the existing rules, the temporary rules provide more flexibility and options for licensees that want to have outdoor alcohol service areas:</p> <p>Outdoor service areas in public spaces (e.g. sidewalk cafes) are no longer limited to restaurants—all licensees are eligible if they have local jurisdiction approval.</p> <p>The outdoor service area does not have to be contiguous to the licensed premises but must be on the same property or parcel.</p> <p>Interior access to the licensed premises from the outdoor service area is no longer required, but there must be a direct line of sight to the outdoor area from within the licensed premises or an employee must be present in the outdoor area at all times when customers are present to monitor alcohol consumption.</p> <p>Requirements for shared outdoor alcohol service areas are established as follows:</p> <ul style="list-style-type: none"> • Licensees' property parcels/buildings must be located in direct physical proximity to one another; • Licensees must maintain separate storage of products and separate financial records for the shared outdoor alcohol service area; • Licensees must use distinctly marked glassware or serving containers in the shared outdoor area to identify the source of any alcohol product being consumed. The distinctive marking may be either permanent or temporary; and • Licensees must complete an operating plan for the shared outdoor alcohol service area. 	
Category: Temporary Endorsements for "To-Go" Alcohol Sales		
WAC 314-03-500 "Temporary endorsement for sale of manufacturer-sealed alcohol products through curbside, takeout, or delivery service." (NEW)	<p>Creates a new rule section to implement the new temporary endorsement for sale of alcohol products through curbside, takeout, or delivery service created by E2SHB 1480. The endorsement is available to the licensees specified in E2SHB 1480: Spirits, Beer, and Wine (SBW) Restaurants, Beer and/or Wine (BW) Restaurants, Taverns, Wineries, Breweries, Microbreweries, Distilleries, Snack Bars, Nonprofit Arts Licensees, and Caterers. The endorsement includes the following requirements:</p> <ul style="list-style-type: none"> • Alcohol products must be manufacturer-sealed or factory-sealed. 	To implement E2SHB 1480, section 2(2), (6), and (9).

	<ul style="list-style-type: none"> • 21+ Labelling requirement: If the alcohol product is enclosed in a bag, box, or other packaging, the exterior of the packaging must be marked with the words "CONTAINS ALCOHOL, FOR PERSONS 21+". Producers (breweries, wineries, and distilleries) selling alcohol products through takeout are exempt from this requirement. • Delivery requirements: Delivery must be made by persons who are 21+. Third-party service providers are allowed if licensees comply with the existing consumer orders, internet sales, and delivery rules. Delivery person must verify that person receiving the alcohol is 21+ and obtain their signature. Alcohol products may not be left unattended. Delivery may not be made to intoxicated persons. • Signage requirements: Signs regarding public consumption and transportation of alcohol products sold through curbside, takeout, or delivery service will be provided electronically by the WSLCB and must be posted at the main entrance and areas of the premises where customers pick up alcohol products for takeout or curbside service. 	
<p>WAC 314-03-505 "Temporary endorsement for sale of premixed cocktails, cocktail kits, wine by the glass, premixed wine and spirits cocktails, or premixed wine drinks through curbside, takeout, or delivery service." (NEW)</p>	<p>Creates a new rule section to implement the new temporary endorsement for sale of premixed cocktails, cocktail kits, wine by the glass, premixed wine and spirits cocktails, or premixed wine drinks through curbside, takeout, or delivery service created by E2SHB 1480. The endorsement is available to the licensees specified in E2SHB 1480: SBW restaurants (for all of the above drinks), BW restaurants (for wine or premixed wine drinks by the glass). The endorsement includes the following requirements:</p> <ul style="list-style-type: none"> • Food requirements: For SBW restaurants, a complete meal must be sold with the "to-go" cocktail, wine, etc. Up to 3 ounces of spirits may be sold per complete meal. For BW restaurants, a minimum food service item must be sold with the "to-go" wine or premixed wine drink. • Container requirements: The "to-go" cocktails, wine, etc., must be packaged in containers that are sealed in a manner designed to prevent consumption without removal of a tamper-evident lid, cap, or seal. A non-comprehensive list of examples is provided. • 21+ Labelling requirements: The individual "to-go" containers must be clearly marked or labeled with the words "CONTAINS ALCOHOL, FOR PERSONS 21+". If the individual "to-go" containers are enclosed in a bag, box, or other packaging, the exterior of the packaging must be marked with the words "CONTAINS ALCOHOL, FOR PERSONS 21+" • To deter public consumption or consumption in a vehicle, licensees may not put ice directly into the alcohol "to-go" containers. Ice may be provided separately with the order. • Alcohol "to-go" containers must be placed in the trunk of a vehicle or beyond the immediate reach of the driver and any passengers in compliance with open container requirements in RCW. • Delivery requirements: Delivery must be made by employees of the licensed business who are 21+. Delivery may not be made by third-party service providers. Delivery person must verify that person receiving the alcohol is 21+ and obtain their signature. Alcohol products may not be left unattended. Delivery may not be made to intoxicated persons. • Signage requirements: Signs regarding public consumption and transportation of alcohol products sold through curbside, takeout, or delivery service will be provided electronically by the WSLCB and must be posted at the main entrance and areas of the premises where customers pick up alcohol products for takeout or curbside service. <p>The following terms used in E2SHB 1480 are defined: "premixed cocktail," "premixed wine and spirits cocktail," and "premixed wine drink."</p>	<p>To implement E2SHB 1480, section 2(3), (4), (6), and (9).</p>
<p>WAC 314-03-510 "Temporary endorsement for sale of growlers through curbside, takeout, or delivery service." (NEW)</p>	<p>Creates a new rule section to implement the new temporary endorsement for sale of growlers through curbside, takeout, or delivery service created by E2SHB 1480. The endorsement is available to the licensees specified in E2SHB 1480: licensees that were authorized by statute or rule before January 1, 2020, to sell growlers, including Taverns, BW restaurants, SBW restaurants, Grocery Stores, Beer and Wine Specialty Shops, Breweries, Microbreweries, Wineries, Combination SBW Licensees, and Hotel Licensees. The endorsement includes the following requirements:</p> <ul style="list-style-type: none"> • As specified in E2SHB 1480, sales of growlers must meet federal TTB requirements. • Growlers must be filled at the tap by the licensee at the time of sale, except that beer and wine specialty shops and breweries can prefill growlers as allowed by E2SHB 1480. • Delivery requirements: Delivery must be made by employees of the licensed business who are 21+. Delivery may not be made by third-party service providers. Delivery person must verify that person receiving the alcohol is 21+ and obtain signature. Alcohol products may not be left unattended. Delivery may not be made to intoxicated persons. • Signage requirements: Signs regarding public consumption and transportation of alcohol products sold through curbside, takeout, or delivery service will be provided electronically by the WSLCB and must be posted at the main entrance and areas of the premises where customers pick up alcohol products for takeout or curbside service. 	<p>To implement E2SHB 1480, section 2(5)-(7), and (9).</p>

Statutory authority for adoption: E2SHB 1480 (section 2, chapter 48, Laws of 2021), RCW 66.08.071, RCW 66.08.030.

Statute being implemented: E2SHB 1480 (chapter 48, Laws of 2021).

Is rule necessary because of a:

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

If yes, CITATION:

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

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

Name of agency personnel responsible for:

	Name	Office Location	Phone
Drafting: Rules Coordinator	Audrey Vasek, Policy and	1025 Union Avenue, Olympia WA, 98501	360-664-1758
Implementation: Licensing	Becky Smith, Director of	1025 Union Avenue, Olympia, WA. 98501	360-664-1753
Enforcement: Enforcement and Education	Chandra Brady, Director of	1025 Union Avenue, Olympia, WA, 98501	360-664-1726

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

If yes, insert statement here:

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

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

Is a cost-benefit analysis required under RCW 34.05.328?

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

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

No: Please explain: The proposed rules do not qualify as a type of rule requiring a cost-benefit analysis under RCW 34.05.328(5). The WSLCB is not a listed agency under RCW 34.05.328(5)(a)(i), so the cost-benefit analysis requirements in RCW 34.05.328 are not applicable to the proposed rules unless voluntarily applied or made applicable by the joint administrative rules review committee under RCW 34.05.328(5)(a)(ii).

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

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

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

Citation and description:

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

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

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

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

This rule proposal, or portions of the proposal, is exempt under RCW 19.85.025(3) through the exemptions in RCW 34.05.310 (4) (c), (d), and (e).

Explanation of exemptions, if necessary: Portions of the proposed rules are exempt from the Regulatory Fairness Act's (RFA) Small Business Economic Impact Statement (SBEIS) requirement under RCW 34.05.310(4)(c), (d), and (e) as described in the table below:

Rule	Content	Citation	SBEIS Exemption
Alcohol Products "To-Go" Endorsement	<p><i>The following components of the rule qualify for an SBEIS exemption:</i></p> <p>Specifically dictated by E2SHB 1480:</p> <ul style="list-style-type: none"> • Endorsement is temporary • List of eligible licensees • Upon delivery, signature of person age 21 or over must be obtained • Expiration date <p>Incorporation by reference:</p> <ul style="list-style-type: none"> • At time of alcohol delivery, employee must verify age using acceptable form of ID in WAC 314-11-025. (RCW 66.44.270) • Delivery may not be made of any person who shows signs of intoxication. (RCW 66.44.200) • References to other applicable laws and rules in Title 66 RCW, Title 314 WAC, etc 	<p><u>WAC 314-03-500:</u> Subsection (1) Subsection (2) Subsection (3)(c)(ii) Subsection (3)(c)(iv) Subsection (4) Subsection (5) Subsection (6)</p>	<p>RCW 34.05.310(4)(e): Content of the proposed rules is explicitly and specifically dictated by statute.</p> <p>RCW 34.05.310(4)(c): Adopts or incorporates by reference without material change Washington state statutes.</p>
	<p><i>The following components of the rule do not qualify for an SBEIS exemption:</i></p> <ul style="list-style-type: none"> • 21+ Labelling requirements • Delivery requirements • Signage requirements • Definitions 		
Cocktails and Wine by the Glass "To-Go" Endorsement	<p><i>The following components of the rule qualify for an SBEIS exemption:</i></p> <p>Specifically dictated by E2SHB 1480:</p> <ul style="list-style-type: none"> • Endorsement is temporary • List of eligible licensees • Mini-bottle sales as part of cocktail kits exempt from spirits license issuance fee and tax on retail sale of spirits • Upon delivery, signature of person age 21 or over must be obtained • Expiration date • Definition of mini-bottles <p>Incorporation by reference:</p> <ul style="list-style-type: none"> • At time of alcohol delivery, employee must verify age using acceptable form of ID in WAC 314-11-025. (RCW 66.44.270) • Delivery may not be made of any person who shows signs of intoxication. (RCW 66.44.200) • "To-go" alcohol drinks must be placed in trunk of vehicle, beyond reach of driver in compliance with open container laws (RCW 46.61.519) • References to other applicable laws and rules in Title 66 RCW, Title 314 WAC, etc. • Definitions of spirits and wine 	<p><u>WAC 314-03-505:</u> Subsection (1) Subsection (2) Subsection (3)(g)(ii) Subsection (3)(g)(iv) Subsection (4) Subsection (5)(a),(b),(f),(g) Subsection (6)</p>	<p>RCW 34.05.310(4)(e): Content of the proposed rules is explicitly and specifically dictated by statute.</p> <p>RCW 34.05.310(4)(c): Adopts or incorporates by reference without material change Washington state statutes.</p>

	<p><i>The following components of the rule do not qualify for an SBEIS exemption:</i></p> <ul style="list-style-type: none"> • Food requirements • Container requirements • 21+ Labelling requirements • Delivery requirements • Signage requirements • Definitions of premixed cocktail, premixed wine and spirits cocktail, and premixed wine drink 	<p><u>WAC 314-03-505:</u> Subsection (3), except (3)(g)(ii) and (iv) Subsection (5)(c)-(e)</p>	<p>No exemption applies. See estimated cost of compliance and minor cost analysis in section below.</p>
Growlers "To-Go" Endorsement	<p><i>The following components of the rule qualify for an SBEIS exemption:</i></p> <p>Specifically dictated by E2SHB 1480:</p> <ul style="list-style-type: none"> • Endorsement is temporary • List of eligible licensees • Sale of growlers must meet TTB requirements • BW specialty shops & breweries may sell prefilled growlers • Upon delivery, signature of person age 21 or over must be obtained • Expiration date • Definition of growlers <p>Incorporation by reference:</p> <ul style="list-style-type: none"> • At time of alcohol delivery, employee must verify age using acceptable form of ID in WAC 314-11-025. (RCW 66.44.270) • Delivery may not be made of any person who shows signs of intoxication. (RCW 66.44.200) • References to other applicable laws and rules in Title 66 RCW, Title 314 WAC, etc • Definitions of alcohol product, beer, cider, and wine 	<p><u>WAC 314-03-510:</u> Subsection (1) Subsection (2) Subsection (3)(d)(ii) Subsection (3)(d)(iv) Subsection (4) Subsection (5) Subsection (6)</p>	<p>RCW 34.05.310(4)(e): Content of the proposed rules is explicitly and specifically dictated by statute.</p> <p>RCW 34.05.310(4)(c): Adopts or incorporates by reference without material change Washington state statutes.</p>
	<p><i>The following components of the rule do not qualify for an SBEIS exemption:</i></p> <ul style="list-style-type: none"> • Delivery requirements • Signage requirements 	<p><u>WAC 314-03-510:</u> Subsection (3), except (3)(d)(ii) and (iv)</p>	<p>No exemption applies. See estimated cost of compliance and minor cost analysis in section below.</p>
Outdoor Alcohol Service Areas	<p><i>The following components of the rule qualify for an SBEIS exemption:</i></p> <ul style="list-style-type: none"> • Statement that rules are temporary • Expiration date 	<p><u>WAC 314-03-205:</u> Subsection (1) Subsection (7)</p>	<p>RCW 34.05.310(4)(e): Content of the proposed rules is explicitly and specifically dictated by statute.</p>
	<p><i>The following components of the rule do not qualify for an SBEIS exemption:</i></p> <p>The new temporary rules provide more flexibility and options for licensees that want to have outdoor alcohol service areas, as well as establish requirements for licensees that share outdoor alcohol service areas. The existing outdoor service rule section is revised to include a cross-reference to the new temporary rule section.</p>	<p><u>WAC 314-03-200</u> <u>WAC 314-03-205:</u> Subsections (2)-(6)</p>	<p>No exemption applies, but the changes are not anticipated to impose any new costs on licensees. The changes provide greater flexibility in outdoor alcohol service area options for licensees. See estimated cost of compliance and minor cost analysis in section below.</p>
Food Service Menu Requirements	<p><i>The following components of the rule qualify for an SBEIS exemption:</i></p> <p>For clarity, the language in the section captions for each of these rules is revised from a question to a statement.</p>	<p>Section Captions in: 314-02-010 314-02-035 314-02-0411 314-02-065 314-02-087 314-02-112 314-02-114</p>	<p>RCW 34.05.310(4)(d): Clarifies language of a rule without changing its effect.</p>
	<p><i>The following components of the rule do not qualify for an SBEIS exemption:</i></p> <p>The number of required complete meals for certain licensees is reduced from eight to four.</p> <p>Definitions for "complete meal," "minimum food service," and "snack food" are revised.</p>	<p>314-02-010 314-02-035 314-02-0411 314-02-065 314-02-087 314-02-112 314-02-114</p>	<p>No exemption applies, but the changes are anticipated to reduce licensee costs to comply with food service requirements by providing greater flexibility. The changes are not anticipated to impose any new costs on licensees. See estimated cost of compliance and minor cost analysis in section below.</p>

COMPLETE THIS SECTION ONLY IF NO EXEMPTION APPLIES

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

No Briefly summarize the agency's analysis showing how costs were calculated.

Overview

E2SHB 1480 created new temporary endorsements for the sale of certain alcohol products through curbside, takeout, or delivery service (“to-go” endorsements) that certain licensees may choose to obtain. E2SHB 1480 also requires that the WSLCB create or revise rules to allow for outdoor alcohol service, and to consider revising rules related to food service requirements to provide greater flexibility for licensees. The proposed rules implementing E2SHB 1480 are largely exempt from the RFA’s SBEIS requirement as described in the table above. For the portions of the proposed rules that are not exempt from the RFA’s SEBIS requirement, the estimated annual business costs of compliance and minor cost thresholds are described below. The estimated costs of compliance do not exceed the minor cost thresholds for the affected business industries, so a small business economic impact statement (SBEIS) is not required under RCW 19.85.030.

Estimated Annual Costs of Compliance

The WSLCB applied the following estimated costs of compliance when analyzing whether the proposed rules impose more than “minor costs” as defined in RCW 19.85.020(2) on businesses potentially impacted by the proposed rules. In order to estimate these costs of compliance, WSLCB Policy and Rules Coordinators interviewed twelve volunteer licensees for 45 minutes each in September 2021. In order to recruit volunteer interviewees, a GovDelivery message was sent to all liquor licensee subscribers on September 3, 2021 asking for licensees impacted by the to-go endorsements to provide feedback to help estimate the costs of compliance associated with the draft rules to implement E2SHB 1480. The estimated costs are described below.

(1) Temporary manufacturer-sealed alcohol products “to-go” endorsement: \$122 to \$235.

This is an entirely optional or voluntary endorsement. Licensees are not required to obtain this endorsement unless they wish to engage in the new “to-go” sales privileges provided by this endorsement. Although the endorsement is optional, for licensees that do choose to obtain this endorsement, the WSLCB estimates that the total annual cost of compliance with the proposed rules will range between \$122 to \$235, as described below.

Eligible Businesses: Businesses eligible to apply for this endorsement include SBW and BW restaurants, taverns, wineries, breweries, microbreweries, distilleries, snack bars, nonprofit arts licensees, and caterers.

Portions of proposed rules not exempt	Estimated Annual Costs of Compliance
21+ Labelling requirements	\$189 one-time cost during the first year of the endorsement, and \$90 annually in subsequent years. The agency rules team interviewed 12 licensees to determine estimated annual costs of compliance with the manufacturer-sealed alcohol products to-go “CONTAINS ALCOHOL, FOR PERSONS 21+” labelling requirements. Interviewees were asked to consider equipment, supplies, labor, professional services, and administrative costs. The estimated annual cost of compliance was calculated by averaging the cost estimates provided by licensees. Some licensees indicated this requirement would impose a one-time cost (e.g. if a customized rubber stamp were purchased) while other licensees indicated this requirement would impose an annual cost (e.g. if stickers were purchased). Several other licensees indicated they already marked their to-go packaging in the manner required by the proposed rules and there would be no additional cost. The rules do not require a specific type of labelling method as long as the label is legible and readily visible. One-time first year cost: $[\$10+\$50+\$70+\$250+\$20+\$1100+\$260+\$437.50+\$70+\$0+\$0+\$0]/12 = \sim\$188.96$; Annual cost in subsequent years: $[\$0+\$50+\$0+\$250+\$20+\$0+\$250+\$437.50+\$70+\$0+\$0+\$0]/12 = \sim\$89.79$. For the purpose of the minor cost calculations, these estimated costs are rounded to \$189 and \$90, respectively.
Delivery requirements	None (\$0). The agency rules team interviewed 12 licensees to determine estimated annual costs of compliance with the manufacturer-sealed alcohol products to-go delivery requirements. Interviewees were asked to consider equipment, supplies, labor, professional services, and administrative costs. The licensees interviewed either indicated that they did not plan to do delivery so there would be no additional costs, or that they were already engaging in delivery that met the requirements in the proposed rules so that there would be no additional costs.
Signage requirements	\$40 one-time cost during the first year of the endorsement, and \$32 annually in subsequent years. The agency rules team interviewed 12 licensees to determine estimated annual costs of compliance with the manufacturer-sealed alcohol products to-go signage requirements. The signage requirements for each of the three “to-go” endorsements are the same. Interviewees were asked to consider equipment, supplies, labor, professional services, and administrative costs. The estimated annual cost of compliance was calculated by averaging the cost estimates provided by licensees. One-time first year cost: $[\$30+\$50+\$100+\$100+\$0+\$50+\$10+\$3+\$0+\$2+\$100+\$40]/12 = \sim\$40.42$; Annual cost in subsequent years: $[\$30+\$50+\$0+\$100+\$0+\$50+\$10+\$3+\$0+\$2+\$100+\$40]/12 = \sim\$32.08$; For the purpose of the minor cost calculations, these estimated costs are rounded to \$40 and \$32, respectively.
Definitions	None (\$0).
Licensing— Administrative costs	\$6 one-time cost during the first year of the endorsement, and no cost (\$0) annually in subsequent years. A licensee that chooses to apply for the endorsement will have some administrative costs related to licensing. The agency estimates that applicants will spend approximately 10-15 minutes in order to complete an initial application for an endorsement and interact with agency licensing staff. Since this is an endorsement with no fee, for renewals of the endorsement in subsequent years, the agency estimates that applicants will spend no additional time beyond what is required to renew their underlying license.

	According to the 2021 Occupational Employment and Wage Statistics (OEWS) Online Databook available in the Employment Security Department (ESD) labor market report library (https://esd.wa.gov/labormarketinfo/report-library), the estimated average hourly wage in Washington State for Secretaries and Administrative Assistants, Except Legal, Medical, and Executive (using the Standard Occupational Classification (SOC) Code 43-6014) is \$22.68. Based on that data, the estimated cost for these administrative activities during the initial application year is \$5.67 [$\$22.68 \text{ avg. hourly wage} \times .25 \text{ hours} = \5.67], and the estimated cost during subsequent renewal years is \$0. For the purpose of the minor cost calculations, these estimated administrative costs are rounded up to \$6 and \$0, respectively.
Total	\$235 one-time cost during the first year of the endorsement, and \$122 annually in subsequent years.

(2) Temporary cocktails or wine by the glass “to-go” endorsement: \$768 to \$894.

This is an entirely optional or voluntary endorsement. Licensees are not required to obtain this endorsement unless they wish to engage in the new “to-go” sales privileges provided by this endorsement. Although the endorsement is optional, for licensees that do choose to obtain this endorsement, the WSLCB estimates that the total annual cost of compliance with the proposed rules will range between \$768 to \$894, as described below.

Eligible Businesses: Businesses eligible to apply for this endorsement include SBW and BW restaurants.

Portions of proposed rules not exempt	Estimated Annual Costs of Compliance
Food requirements	None (\$0). SBW Restaurants are already required to sell complete meals and BW Restaurants are already required to provide minimum food service, so the agency does not anticipate that the requirement in the proposed rules that cocktails or wine by the glass to-go orders must include food items (e.g. a “complete meal” for SBW restaurants, or a food item that qualifies as “minimum food service” for BW restaurant) will impose any additional costs on licensees.
Tamper-evident container requirements	\$481 one-time cost during the first year of the endorsement, and \$464 annually in subsequent years. The agency rules team interviewed 12 licensees to determine estimated annual costs of compliance with the cocktail/wine by the glass to-go tamper-evident container requirements. Interviewees were asked to consider equipment, supplies, labor, professional services, and administrative costs. Depending on the type of tamper-evident container selected by the licensees, the estimated costs varied widely. For example, licensees that indicated they planned to use heat shrink wrap bands around the lid or cap of a container or planned to purchase bottles that come with break apart caps provided far lower cost estimates than licensees that indicated they planned to purchase specialized sealing equipment and custom designed bottles. Based on the overall feedback from the licensees interviewed, the agency rules team estimates that the cost of compliance with the tamper-evident requirement in the proposed rules accounts for no more than 25% of the estimated cost of a tamper-evident container. Without the tamper-evident requirement in the proposed rules, there would still be a cost for the licensee to purchase a regular, non-tamper-evident container in which to sell to-go drinks. The costs estimates provided by licensees were multiplied by .25 in order to capture just the added cost of compliance with the tamper-evident requirement in the proposed rules. The estimated annual cost of compliance was calculated by averaging the cost estimates provided by licensees (already multiplied by .25). One-time first year cost: $[\$2012.50 + \$0 + \$31.50 + \$888.71 + \$68.75 + \$1000 + \$250 + \$850 + \$68.35 + \$401 + \$200 + \$0] / 12 = \sim\$480.90$; Annual cost in subsequent years: $[\$2012.50 + \$0 + \$31.50 + \$888.71 + \$68.75 + \$1000 + \$250 + \$850 + \$68.35 + \$401 + \$0 + \$0] / 12 = \sim\$464.23$; For the purpose of the minor cost calculations, these estimated costs are rounded to \$481 and \$464, respectively.
21+ Labelling requirements	\$367 one-time cost during the first year of the endorsement, and \$272 annually in subsequent years. The agency rules team interviewed 12 licensees to determine estimated annual costs of compliance with the cocktail/wine by the glass to-go “CONTAINS ALCOHOL, FOR PERSONS 21+” labelling requirements. Interviewees were asked to consider equipment, supplies, labor, professional services, and administrative costs. The estimated annual cost of compliance was calculated by averaging the cost estimates provided by licensees. Some licensees indicated this requirement would impose a one-time cost (e.g. if a customized rubber stamp were purchased) while other licensees indicated this requirement would impose an annual cost (e.g. if stickers were purchased). Several other licensees indicated they already marked their to-go packaging in the manner required by the proposed rules and there would be no additional cost. The rules do not require a specific type of labelling method as long as the label is legible and readily visible. One-time first year cost: $[\$910 + \$0 + \$490 + \$250 + \$70 + \$1000 + \$260 + \$350 + \$140 + \$936 + \$0 + \$0] / 12 = \sim\$367.17$; Annual cost in subsequent years: $[\$900 + \$0 + \$420 + \$250 + \$20 + \$0 + \$250 + \$350 + \$140 + \$936 + \$0 + \$0] / 12 = \sim\$272.17$. For the purpose of the minor cost calculations, these estimated costs are rounded to \$367 and \$272, respectively.
Delivery requirements	None (\$0). The agency rules team interviewed 12 licensees to determine estimated annual costs of compliance with the cocktail/wine by the glass to-go delivery requirements. Interviewees were asked to consider equipment, supplies, labor, professional services, and administrative costs. The licensees interviewed either indicated that they did not plan to do delivery so there would be no additional costs, or that they were already engaging in delivery that met the requirements in the proposed rules so that there would be no additional costs.
Signage requirements	\$40 one-time cost during the first year of the endorsement, and \$32 annually in subsequent years. The agency rules team interviewed 12 licensees to determine estimated annual costs of compliance with the cocktail/wine by the glass to-go signage requirements. The signage requirements for each of the three “to-go” endorsements are the same. Interviewees were asked to consider equipment, supplies, labor, professional services, and administrative costs. The estimated annual cost of compliance was calculated by averaging the cost estimates provided by licensees. One-time first year cost: $[\$30 + \$50 + \$100 + \$100 + \$0 + \$50 + \$10 + \$3 + \$0 + \$2 + \$100 + \$40] / 12 = \sim\$40.42$; Annual cost in subsequent years: $[\$30 + \$50 + \$0 + \$100 + \$0 + \$50 + \$10 + \$3 + \$0 + \$2 + \$100 + \$40] / 12 = \sim\$32.08$; For the purpose of the minor cost calculations, these estimated costs are rounded to \$40 and \$32, respectively.
Definitions of premixed cocktail, premixed wine and spirits cocktail, and premixed wine drink	None (\$0).
Licensing— Administrative costs	\$6 one-time cost during the first year of the endorsement, and no cost (\$0) annually in subsequent years. A licensee that chooses to apply for the endorsement will have some administrative costs related to licensing. The agency estimates that applicants will spend approximately 10-15 minutes in order to complete an initial application for an endorsement and interact with agency licensing staff. Since this is an endorsement with no fee, for renewals of the endorsement in subsequent years, the agency estimates that applicants will spend no additional time beyond what is required to renew their underlying license. According to the 2021 OEWS Online Databook available in the ESD labor market report library (https://esd.wa.gov/labormarketinfo/report-library), the estimated average hourly wage in Washington State for Secretaries

	and Administrative Assistants, Except Legal, Medical, and Executive (using the SOC Code 43-6014) is \$22.68. Based on that data, the estimated cost for these administrative activities during the initial application year is \$5.67 [$\$22.68 \text{ avg. hourly wage} \times .25 \text{ hours} = \5.67], and the estimated cost during subsequent renewal years is \$0. For the purpose of the minor cost calculations, these estimated administrative costs are rounded up to \$6 and \$0, respectively.
Total	\$894 one-time cost during the first year of the endorsement, and \$768 annually in subsequent years.

(3) Temporary growlers “to-go” endorsement: \$32 to \$46.

This is an entirely optional or voluntary endorsement. Licensees are not required to obtain this endorsement unless they wish to engage in the new “to-go” sales privileges provided by this endorsement. Although the endorsement is optional, for licensees that do choose to obtain this endorsement, the WSLCB estimates that the total annual cost of compliance with the proposed rules will range between \$32 to \$46, as described below.

Eligible Businesses: Businesses eligible to apply for this endorsement include licensees that were authorized by statute or rule before January 1, 2020, to sell growlers, such as taverns, restaurants, grocery stores, BW specialty shops, breweries, wineries, combination SBW licensees, and hotel licensees.

Portions of proposed rules not exempt	Estimated Annual Costs of Compliance
Delivery requirements	None (\$0). The agency rules team interviewed 12 licensees to determine estimated annual costs of compliance with the growlers to-go delivery requirements. Interviewees were asked to consider equipment, supplies, labor, professional services, and administrative costs. The licensees interviewed either indicated that they did not plan to do delivery so there would be no additional costs, or that they were already engaging in delivery that met the requirements in the proposed rules so that there would be no additional costs.
Signage requirements	\$40 one-time cost during the first year of the endorsement, and \$32 annually in subsequent years. The agency rules team interviewed 12 licensees to determine estimated annual costs of compliance with the growlers to-go signage requirements. The signage requirements for each of the three “to-go” endorsements are the same. Interviewees were asked to consider equipment, supplies, labor, professional services, and administrative costs. The estimated annual cost of compliance was calculated by averaging the cost estimates provided by licensees. One-time first year cost: $[\$30+\$50+\$100+\$100+\$0+\$50+\$10+\$3+\$0+\$2+\$100+\$40]/12 = \sim\$40.42$; Annual cost in subsequent years: $[\$30+\$50+\$0+\$100+\$0+\$50+\$10+\$3+\$0+\$2+\$100+\$40]/12 = \sim\$32.08$; For the purpose of the minor cost calculations, these estimated costs are rounded to \$40 and \$32, respectively.
Licensing— Administrative costs	\$6 one-time cost during the first year of the endorsement, and no cost (\$0) annually in subsequent years. A licensee that chooses to apply for the endorsement will have some administrative costs related to licensing. The agency estimates that applicants will spend approximately 10-15 minutes in order to complete an initial application for an endorsement and interact with agency licensing staff. Since this is an endorsement with no fee, for renewals of the endorsement in subsequent years, the agency estimates that applicants will spend no additional time beyond what is required to renew their underlying license. According to the 2021 OEWS Online Databook available in the ESD labor market report library (https://esd.wa.gov/labormarketinfo/report-library), the estimated average hourly wage in Washington State for Secretaries and Administrative Assistants, Except Legal, Medical, and Executive (using the SOC Code 43-6014) is \$22.68. Based on that data, the estimated cost for these administrative activities during the initial application year is \$5.67 [$\$22.68 \text{ avg. hourly wage} \times .25 \text{ hours} = \5.67], and the estimated cost during subsequent renewal years is \$0. For the purpose of the minor cost calculations, these estimated administrative costs are rounded up to \$6 and \$0, respectively.
Total	\$46 one-time cost during the first year of the endorsement, and \$32 annually in subsequent years.

(4) Temporary outdoor alcohol service area rules: \$12 to \$292.

The creation of outdoor alcohol service areas by licensees is entirely optional or voluntary. The proposed changes to the outdoor alcohol service area rules do not add any new restrictions on existing outdoor alcohol service areas; instead, the rule changes are intended to increase flexibility and provide more options for licensees that wish to have outdoor alcohol service areas through the period of time established by E2SHB 1480 (until July 1, 2023). For licensees that do choose to apply for or alter their outdoor alcohol service areas under the proposed temporary new rule section, the WSLCB estimates that the total annual cost of compliance with the proposed rule changes will range between \$12 to \$292, as described below.

Eligible Businesses: Businesses eligible to apply for an outdoor alcohol service area include all on-premises licensees.

Portions of proposed rules not exempt	Estimated Annual Costs of Compliance
Licensing— Administrative costs for applications or alterations of an outdoor alcohol service area	\$12 one-time cost. A licensee that chooses to apply for or alter an outdoor alcohol service area will have licensing costs related to an application or alteration request. The agency estimates that a licensee will spend 15-30 minutes to complete an application or alteration request and interact with agency licensing staff. This is a one-time cost. Licensees are not required to reapply in subsequent years. According to the 2021 OEWS Online Databook available in the ESD labor market report library (https://esd.wa.gov/labormarketinfo/report-library), the estimated average hourly wage in Washington State for Secretaries and Administrative Assistants, Except Legal, Medical, and Executive (using the SOC Code 43-6014) is \$22.68. Based on that data, the estimated cost for these administrative activities during is a one-time cost of \$11.34 [$\$22.68 \text{ avg. hourly wage} \times .5 \text{ hour} = \11.34]. For the purpose of the minor cost calculations, this estimated administrative cost is rounded up to \$12.
Requirements for shared outdoor alcohol service areas.	\$280 one-time cost during the first year, and \$178 annually in subsequent years. The proposed rules provide more flexibility and options for licensees by allowing shared outdoor alcohol service areas under certain circumstances. For licensees that choose to share outdoor alcohol service areas, there may be some compliance costs associated with (1) the requirement to use distinctly marked glassware and serving containers in the shared outdoor alcohol service area to identify the source of

	<p>any alcohol product being consumed, and (2) the requirement to complete an operating plan for the shared outdoor area that demonstrates how responsibility for the outdoor alcohol service area is shared among the licensees.</p> <p>(1) \$262 one-time cost during the first year, and \$178 annually in subsequent years. The agency rules team interviewed 12 licensees to determine estimated annual costs of compliance with the glassware/serving container distinctive markings requirements for shared outdoor areas. Interviewees were asked to consider equipment, supplies, labor, professional services, and administrative costs. The costs varied widely depending on the type of markings that licensees indicated they planned to use. Licensees that indicated they planned to use temporary markings (e.g. using pre-printed distinctive stickers/tags and placing these on the glassware or serving containers) estimated moderate annual costs. Licensees that indicated they planned to purchase new logo-etched glassware or otherwise distinct serving containers estimated relatively expensive one-time costs. Other licensees indicated that they did not anticipate any new costs because they already had glassware/serving containers that were distinct from the licensees with which they are planning to share outdoor space (e.g. their glassware/serving containers were already logo-etched or came in different styles, colors, and shapes than the glassware/serving containers used by other licensees in the shared space). The estimated annual cost of compliance was calculated by averaging the cost estimates provided by licensees. One-time first year cost: $[\\$630+\\$1000+\\$0+\\$1010+\\$500+\\$0+\\$0+\\$0+\\$0+\\$0+\\$0]/12 = \sim\\261.67; Annual cost in subsequent years: $[\\$630+\\$1000+\\$0+\\$10+\\$500+\\$0+\\$0+\\$0+\\$0+\\$0+\\$0]/12 = \sim\\178.33; For the purpose of the minor cost calculations, these estimated costs are rounded to \$262 and \$178, respectively.</p> <p>(2) \$18 one-time cost. To create the operating plan and get approval from licensing, there will be additional administrative costs. The agency estimates that licensees will spend 45 minutes to complete an operating plan and interact with licensing staff. This is a one-time cost. Licensees are not required to re-submit an operating plan in subsequent years.</p> <p>According to the 2021 OEWS Online Databook available in the ESD labor market report library (https://esd.wa.gov/labormarketinfo/report-library), the estimated average hourly wage in Washington State for Secretaries and Administrative Assistants, Except Legal, Medical, and Executive (using the SOC Code 43-6014) is \$22.68. Based on that data, the estimated cost for these administrative activities during is a one-time cost of \$17.01 [$\\$22.68 \text{ avg. hourly wage} \times .75 \text{ hour} = \\17.01]. For the purpose of the minor cost calculations, this estimated administrative cost is rounded up to \$18.</p>
Total	\$12 one-time cost; or, if the licensees chooses to create a shared outdoor alcohol service area: \$292 one-time cost during the first year, and \$178 annually in subsequent years.

(5) Food service menu requirement rules: None (\$0).

The WSLCB does not anticipate that there will be any costs of compliance for licensees affected by proposed changes to the food service menu requirement rules. The proposed rules provide more flexibility and options for licensees that currently have food service menu requirements. The creation of more flexibility and options is anticipated to reduce business costs, and there are no associated licensing or administrative costs.

Affected Businesses: Businesses with existing food service requirements include licensees such as SBW restaurants, BW restaurants, snack bars, caterers, hotel licensees, senior center licensees, and SBW theater licensees.

Portions of proposed rules not exempt	Estimated Annual Costs of Compliance
The number of required complete meals for certain licensees is reduced from eight to four.	None (\$0). Provides licensees previously subject to the complete meal requirement with more flexibility. The agency anticipates that reducing the required number of complete meals will reduce costs for licensees.
Definitions for “complete meal,” “minimum food service,” and “snack food” are revised.	None (\$0). Provides licensees with existing complete meal, minimum food service, and snack food requirements with more flexibility by adding new, culturally diverse food examples to all three of these definitions and by expanding the definition of complete meal to include a “small plates” option.
Licensing—Administrative costs	None (\$0). There are no licensing applications or alterations required in order for licensees to take advantage of the proposed changes to the food service requirements.
Total	None (\$0).

Estimated Annual Costs of Compliance by Licensee Type:

The three new alcohol “to-go” endorsements are entirely optional or voluntary. Licensees are not required to obtain these endorsements unless they wish to engage in the new “to-go” sales privileges provided by these endorsements. Similarly, the creation of outdoor alcohol service areas by licensees is entirely optional or voluntary. Although the new endorsements and outdoor alcohol service areas are optional, for licensees that choose to obtain these optional endorsements and/or apply for or alter an outdoor alcohol service area, the table below illustrates the potential estimated range of costs per licensee type by adding together the estimated costs of compliance for each of the portions of the proposed rules potentially applicable to each licensee type. Some licensees may be eligible for multiple endorsement types, in addition to an outdoor alcohol service area.

Licensee Type/Proposed Rule Section	Manufacturer-Sealed Alcohol Products “To-Go” Endorsement	Cocktails and Wine by the Glass “To-Go” Endorsement	Growlers “To-Go” Endorsement	Outdoor Alcohol Service Area (New or Alteration)	Food Service Requirements	Total Estimated Compliance Costs
Distilleries and Craft Distilleries	\$122 to \$235	N/A	N/A	\$12 to \$292	N/A	\$0 to \$527
Wineries	\$122 to \$235	N/A	\$0 to \$46	\$12 to \$292	N/A	\$0 to \$573

Breweries and Microbreweries	\$122 to \$235	N/A	\$0 to \$46	\$12 to \$292	N/A	\$0 to \$573
Taverns	\$122 to \$235	N/A	N/A	\$12 to \$292	\$0	\$0 to \$527
SBW Restaurants	\$122 to \$235	\$768 to \$894	\$0 to \$46	\$12 to \$292	\$0	\$0 to \$1467
BW Restaurants	\$122 to \$235	\$768 to \$894	\$0 to \$46	\$12 to \$292	\$0	\$0 to \$1467
Snack Bars	\$122 to \$235	N/A	N/A	\$12 to \$292	\$0	\$0 to \$527
Caterers	\$122 to \$235	N/A	N/A	N/A	\$0	\$0 to \$235
Hotels	N/A	N/A	\$0 to \$46	\$12 to \$292	\$0	\$0 to \$338
BW Specialty Shops, Combination SBW Licensees	N/A	N/A	\$0 to \$46	N/A	N/A	\$0 to \$46

Minor Cost Threshold Estimates: The agency applied the following North American Industry Classification System (NAICS) codes to estimate minor cost thresholds for licensees:

Licensee Type	NAICS Code	Description from the 2017 NAICS Manual (https://www.census.gov/library/publications/2017/econ/2017-naics-manual.html)
Distilleries and Craft Distilleries	312140 Distilleries	"This industry comprises establishments primarily engaged in one or more of the following: (1) distilling potable liquors (except brandies); (2) distilling and blending liquors; and (3) blending and mixing liquors and other ingredients." There are no separate NAICS codes available for craft distilleries.
Wineries	312130 Wineries	"This industry comprises establishments primarily engaged in one or more of the following: (1) growing grapes and manufacturing wines and brandies; (2) manufacturing wines and brandies from grapes and other fruits grown elsewhere; and (3) blending wines and brandies."
Breweries and Microbreweries	312120 Breweries	"This industry comprises establishments primarily engaged in brewing beer, ale, lager, malt liquors, and nonalcoholic beer." There are no separate NAICS codes available for microbreweries.
Taverns and Nightclubs	722410 Drinking Places (Alcoholic Beverages)	"This industry comprises establishments known as bars, taverns, nightclubs, or drinking places primarily engaged in preparing and serving alcoholic beverages for immediate consumption. These establishments may also provide limited food services."
SBW Restaurants	722511 Full-Service Restaurants	"This U.S. industry comprises establishments primarily engaged in providing food services to patrons who order and are served while seated (i.e., waiter/waitress service) and pay after eating. These establishments may provide this type of food service to patrons in combination with selling alcoholic beverages, providing carryout services, or presenting live nontheatrical entertainment."
BW Restaurants	722513 Limited Service Restaurants	"This U.S. industry comprises establishments primarily engaged in providing food services (except snack and nonalcoholic beverage bars) where patrons generally order or select items and pay before eating. Food and drink may be consumed on premises, taken out, or delivered to the customer's location. Some establishments in this industry may provide these food services in combination with selling alcoholic beverages."
Snack Bars	722515 Snack and Nonalcoholic Beverage Bars	"This U.S. industry comprises establishments primarily engaged in (1) preparing and/or serving a specialty snack, such as ice cream, frozen yogurt, cookies, or popcorn, or (2) serving nonalcoholic beverages, such as coffee, juices, or sodas for consumption on or near the premises. These establishments may carry and sell a combination of snack, nonalcoholic beverage, and other related products (e.g., coffee beans, mugs, coffee makers) but generally promote and sell a unique snack or nonalcoholic beverage."
Caterers	722320 Caterers	"This industry comprises establishments primarily engaged in providing single event-based food services. These establishments generally have equipment and vehicles to transport meals and snacks to events and/or prepare food at an off-premise site. Banquet halls with catering staff are included in this industry. Examples of events catered by establishments in this industry are graduation parties, wedding receptions, business or retirement luncheons, and trade shows."
Hotels	721110 Hotels (except Casino Hotels) and Motels	"This industry comprises establishments primarily engaged in providing short-term lodging in facilities known as hotels, motor hotels, resort hotels, and motels. The establishments in this industry may offer food and beverage services, recreational services, conference rooms, convention services, laundry services, parking, and other services."
BW Specialty Shops, Combination SBW Licensees	445310 Beer, Wine, and Liquor Stores	"This industry comprises establishments primarily engaged in retailing packaged alcoholic beverages, such as ale, beer, wine, and liquor. <i>Cross-References.</i> Establishments primarily engaged in retailing packaged liquor in combination with providing prepared drinks for immediate consumption on the premises are classified in Industry 722410, Drinking Places (Alcoholic Beverages)."

As shown in the table below, the estimated cost of compliance for businesses in each of these industries does not exceed the minor cost estimate for these industries, so a small business economic impact statement (SBEIS) is not required under RCW 19.85.030.

2017 Industry NAICS Code	Estimated Cost of Compliance	Industry Description [Licensee Type]	NAICS Code Title	Minor Cost Estimate = MAX (RT,\$100, WT)	Wage Threshold (WT) 1% of Avg Annual Payroll (0.01*AvgPay)	Revenue Threshold (RT) 0.3% of Avg Annual Gross Business Income (0.003*AvgGBI)
312140	\$0 to \$527	Distilleries and Craft Distilleries	Distilleries	\$2,808.53	\$2,808.53 2020 Dataset pulled from USBLS	\$1,707.60 2020 Dataset pulled from DOR


312130	\$0 to \$573	Wineries	Wineries	\$3,905.58	\$3,905.58 2020 Dataset pulled from ESD	\$3,560.33 2020 Dataset pulled from DOR
312120	\$0 to \$573	Breweries and Microbreweries	Breweries	\$3,085.32	\$2,805.97 2020 Dataset pulled from USBLS	\$3,085.32 2020 Dataset pulled from DOR
722410	\$0 to \$527	Taverns and Nightclubs	Drinking Places (Alcoholic Beverages)	\$1,388.67	\$1,388.67 2020 Dataset pulled from USBLS	\$1,376.99 2020 Dataset pulled from DOR
722511	\$0 to \$1467	SBW Restaurants	Full-Service Restaurants	\$3,221.87	\$3,221.87 2020 Dataset pulled from ESD	\$2,464.57 2020 Dataset pulled from DOR
722513	\$0 to \$1467	BW Restaurants	Limited-Service Restaurants	\$5,011.98	\$5,011.98 2020 Dataset pulled from ESD	\$3,976.52 2020 Dataset pulled from DOR
722515	\$0 to \$527	Snack Bars	Snack and Nonalcoholic Beverage Bars	\$2,722.49	\$2,722.49 2020 Dataset pulled from ESD	\$2,307.40 2020 Dataset pulled from DOR
722320	\$0 to \$235	Caterers	Caterers	\$2,067.35	\$2,067.35 2020 Dataset pulled from USBLS	\$639.07 2020 Dataset pulled from DOR
721110	\$0 to \$338	Hotels	Hotels (except Casino Hotels) and Motels	\$6,259.68	\$6,259.68 2020 Dataset pulled from ESD	\$4,099.84 2020 Dataset pulled from DOR
445310	\$0 to \$46	BW Specialty Shops, Combination SBW Licensees	Beer; Wine; and Liquor Stores	\$2,730.56	\$2,730.56 2020 Dataset pulled from USBLS	\$2,544.95 2020 Dataset pulled from DOR

The revenue and wage thresholds used to determine the minor cost estimates for each of the business industries listed in the table above were calculated using the 2020 raw datasets distributed by the Employment Security Department (ESD), Department of Revenue (DOR), and U.S. Bureau of Labor Statistics (USBLS), following the instructions for finding the minor cost of a business industry (*updated September 2021*) provided by the Governor's Office for Regulatory Innovation and Assistance (ORIA). For more information, see the ORIA Regulatory Fairness Act Tools & Guidance webpage at https://www.oria.wa.gov/site/alias_oria/934/Regulatory-Fairness-Act-Support.aspx.

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

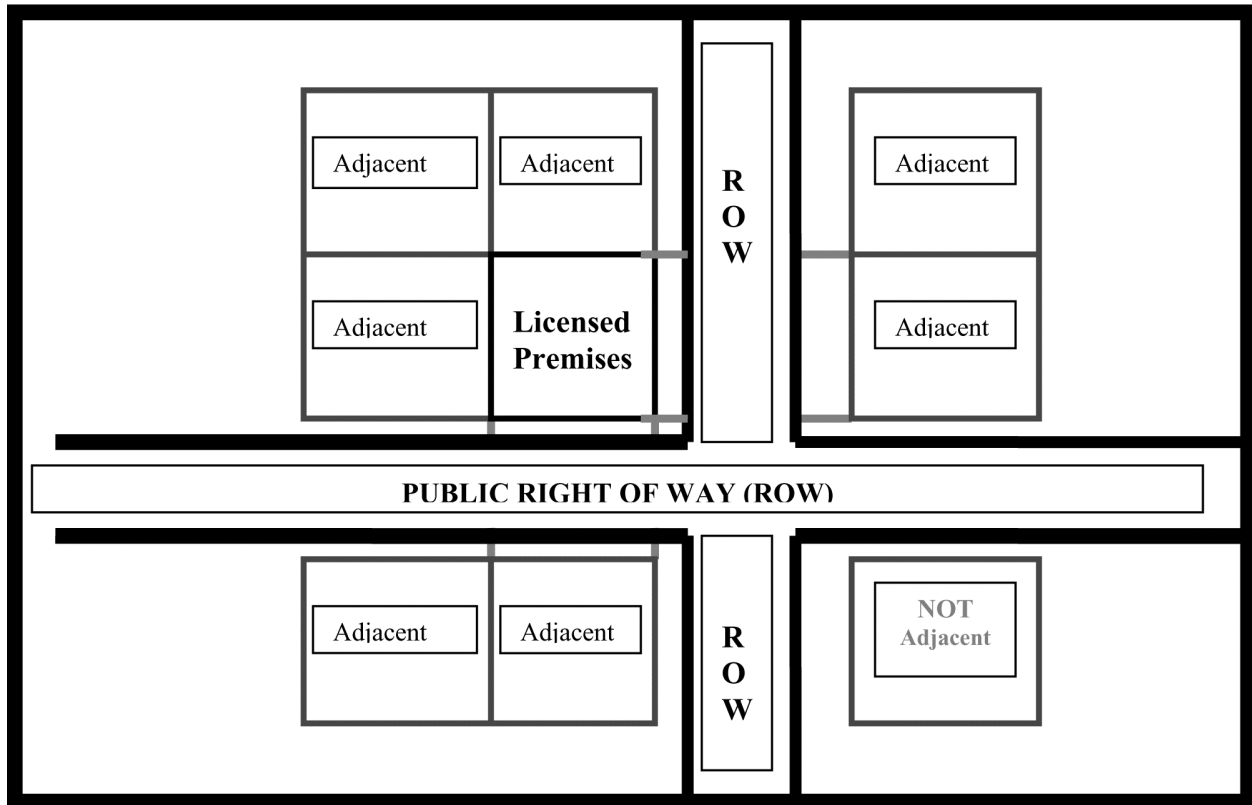
The public may obtain a copy of the small business economic impact statement or the detailed cost calculations by contacting:

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

Date: September 29, 2021	Signature: 
Name: David Postman	
Title: Chair	

WAC 314-02-010 Definitions. ~~The ((following definitions are to clarify the purpose and intent of the rules and laws governing liquor licenses and permits))~~ definitions in this section apply throughout this title unless the context clearly requires otherwise. Additional definitions can be found in RCW 66.04.010.

(1) "Adjacent" means having a common endpoint or border where the extension of the property lines of the licensed premises contacts that common border.



(2) ~~((~~"Appetizer" means a small portion of food served before the main course of a meal to stimulate the appetite. An appetizer does not qualify as minimum food service.

~~(3-))~~ "Banquet room" means any room used primarily for the sale and service of food and liquor to private groups.

(3) (a) "Complete meal" means:

(i) An entree with at least one side dish available to order. Side dishes must be offered and available to order with the entree, but are not required to be included; or

(ii) A combination of small plates that are intended to be ordered many at a time or on a rolling basis throughout the meal service.

(b) Menu items that consist solely of the following types of food do not qualify as complete meals: Precooked frozen meals that are reheated, carry-out items obtained from another business, or snack food.

(c) For the purposes of this subsection, the following definitions apply unless the context clearly requires otherwise:

(i) "Entree" means the main course of a meal. Some examples of entrees include, but are not limited to, fish, steak, chicken, pork, pasta, pizza, burgers, pho, sushi, street tacos, tikka masala, quiche, fufu, curry, seafood salad, Cobb salad, chef's salad, sandwiches, and breakfast items.

(ii) "Side dish" includes soups, vegetables, salads, potatoes, beans, rice, naan, couscous, irio, fruit, bread, banchan, and other similar dishes. Garnishes do not qualify as side dishes. Some examples of garnishes include, but are not limited to, pickles, salsa, and dips.

(iii) "Small plate" means a type of menu item that has a small portion size and is intended to be ordered many at a time or on a rolling basis throughout the meal service. Small plates are often shared among guests. Some examples of small plates include, but are not limited to, tapas, dim sum, and meze. Many cultures have different types of small plates. Small plates do not include snack food.

(4) "Customer service area" means areas where food and/or liquor are normally sold and served to the public, i.e., lounges and dining areas. A banquet room is not considered a customer service area.

(5) "Dedicated dining area." In order for an area to qualify as a dedicated dining area, it must be a distinct portion inside of a restaurant that is used primarily for the sale, service, and consumption of food, and have accommodations for eating, e.g., tables, chairs, booths, etc. See WAC 314-02-025 for more information.

(6) "Designated area" means a space where alcohol may be sold, served, or consumed.

(7) "Entertainer" means someone who performs for an audience such as a disc jockey, singer, or comedian, or anyone providing entertainment services for the licensee. An entertainer is considered an employee of the liquor licensee per WAC 314-01-005. Patrons participating in entertainment are not considered employees.

(8) "Entertainment" means dancing, karaoke, singing, comedy shows, concerts, TV broadcasts, contests with patron participation and/or performing for an audience.

(9) "Food counter" means a table or counter set up for the primary purpose of food service to customers who sit or stand at the counter. Any alcohol served is incidental to food service.

(10) "Game room" means an area of a business set up for the primary purpose of patrons using games or gaming devices.

~~(11) ("Limited food service" means items such as appetizers, sandwiches, salads, soups, pizza, hamburgers, or fry orders.~~

~~(12))~~ (12) "Liquor bar" means a table or counter where alcohol is stored or prepared and served to customers who sit or stand at the bar. Liquor bars can only be in lounges or in premises where minors are not allowed at any time.

~~((13))~~ (13) "Lounge" means the portion of a restaurant used primarily for the preparation, sale, and service of beer, wine, or spirits. Minors are not allowed in a lounge (see RCW 66.44.316 for information on employees and professional musicians under ~~((twenty-one))~~ 21 years of age).

~~((14))~~ (14)(a) "Minimum food service" means that menu items such as sandwiches, salad, soup, pizza, hamburgers, ((and fry orders)) fries, savory pies, tacos, dumplings, fried rice, and other similar items are available to order.

(b) Menu items that consist solely of the following types of food do not qualify as minimum food service: Precooked frozen meals that

are reheated, carry-out items obtained from another business, or snack food.

~~((15))~~ (14) "Minor" means a person under ~~((twenty-one))~~ 21 years of age.

~~((16))~~ (15) "On-premises liquor licensed premises" means a building in which a business is located inside that is allowed to sell alcohol for consumption on the licensed premises.

~~((17))~~ (16) "Service bar" means a fixed or portable table, counter, cart, or similar work station primarily used to prepare, mix, serve, and sell alcohol that is picked up by employees or customers. Customers may not be seated or allowed to consume food or alcohol at a service bar.

~~((18))~~ (17) "Snack food" ~~((means))~~ includes items such as peanuts, popcorn, ~~((and))~~ chips, jerky, candy, cookies, crackers, edamame, and other similar food items.

AMENDATORY SECTION (Amending WSR 18-13-063, filed 6/14/18, effective 7/15/18)

WAC 314-02-035 ~~((What are the))~~ Food service requirements for a spirits, beer, and wine restaurant license(?). (1) A spirits, beer, and wine restaurant licensee must serve at least ~~((eight))~~ four complete meals. ~~((The board may make an exception to the eight complete meal requirement on a case-by-case basis.))~~ Establishments shall be maintained in a substantial manner as a place for preparing, cooking, and serving of complete meals. ~~((For purposes of this title:~~

~~(a) "Complete meal" means an entree and at least one side dish. Side dishes are not required to be included with the entrée, however must be offered.~~

~~(b) "Entree" means the main course of a meal. Some examples of entrees are fish, steak, chicken, pork, pasta, pizza, burgers, pho, sushi, street tacos, tikka masala, quiche, seafood salad, Cobb salad, chef's salad, sandwiches, and breakfast items (as long as they include a side dish). Entrees do not include snack items, or menu items which consist solely of precooked frozen food that is reheated, or consist solely of carry-out items obtained from another business.~~

~~(c) Examples of side dishes are soups, vegetables, salads, potatoes, rice, fruit, and bread. Garnishes such as, but not limited to, pickles, salsa, and dips do not qualify as a side dish.)~~ "Complete meal" is defined in WAC 314-02-010.

(2) The restaurant must maintain the kitchen equipment necessary to prepare the complete meals required under this section.

(3) The complete meals must be prepared on the restaurant premises.

(4) A chef or cook must be on duty while complete meals are offered.

(5) A menu must be available to customers.

(6) The food items required to maintain the menu must be on the restaurant premises. These items must be edible.

(7) Restaurants that have ~~((one-hundred))~~ 100 percent dedicated dining area must maintain complete meal service any time liquor is available for sale, service, or consumption.

(8) (a) Restaurants with less than ~~((one-hundred))~~ 100 percent dedicated dining area must maintain complete meal service for a mini-

mum of five hours a day during the hours of 8:00 a.m. and 11:00 p.m., three days a week.

~~((Limited food service, such as appetizers, sandwiches, salads, soups, pizza, burgers, or fry orders, must be available outside of these hours. Snacks such as peanuts, popcorn, and chips do not qualify as limited food service.))~~ (b) Minimum food service must be available during hours of alcohol service when complete meal service is not offered. "Minimum food service" is defined in WAC 314-02-010.

(9) The hours of complete meal service must be conspicuously posted on the premises or listed on the menu. A statement that ~~((limited))~~ minimum food service is available outside of those hours must also be posted or listed on the menu.

AMENDATORY SECTION (Amending WSR 11-23-045, filed 11/9/11, effective 12/10/11)

WAC 314-02-0411 ((What are the)) Food service requirements for a hotel license(?).

(1) A hotel licensee must have the ability to serve at least ~~((eight))~~ four complete meals to hotel guests or any other patron of the hotel who is offered alcohol service for on-premise consumption at a food outlet on the hotel premises. Food outlets include room service, banquets, bars/lounges, restaurants, or coffee shops. "Complete meal" is defined in WAC ~~((314-02-035))~~ 314-02-010.

(2) Complete meals must be prepared on the hotel premises.

(3) A menu must be available to hotel guests and patrons offered alcohol service that lists, at a minimum, the required complete meals.

(4) The food items required to maintain the menu must be located on the licensed premises. These items must be edible.

(5)(a) Licensees must maintain complete meal service for a minimum of five hours a day between the hours of 11:00 a.m. and 2:00 a.m. on any day that liquor is served. The board may consider written requests for exceptions to this requirement due to a demonstrated hardship and may allow exceptions under terms and conditions the board determines are in the best interests of the public.

(b) Minimum food service must be available during hours of alcohol service when complete meal service is not offered. "Minimum food service" ~~((includes items such as hamburgers or fry orders. Snacks such as peanuts, popcorn, and chips do not qualify as minimum food service))~~ is defined in WAC 314-02-010.

(6) Hours of complete meal service must be listed on the menu. If applicable, a statement must be posted or listed on the menu that minimum food service is available when alcohol is served and complete meal service is unavailable.

AMENDATORY SECTION (Amending WSR 11-23-045, filed 11/9/11, effective 12/10/11)

WAC 314-02-065 ((What is a)) Snack bar license(?). (1) Per RCW 66.24.350, a snack bar license allows a licensee to serve beer by the opened bottle or can for on-premises consumption only.

(2) Snack bar licensees must have snack food, as defined in WAC 314-02-010(~~((15))~~), available whenever beer is sold or served.

(3) Snack bars must have designated seating for on-premises consumption of beer.

(4) The annual fee for this license is (~~(one hundred twenty-five dollars)~~) \$125.

AMENDATORY SECTION (Amending WSR 17-12-030, filed 5/31/17, effective 7/1/17)

WAC 314-02-087 (~~(What is a)~~) Spirits, beer, and wine theater license (?). (1) A spirits, beer, and wine theater is a place of business where motion pictures or other primarily nonparticipatory entertainment or events are shown. The holder of a beer and wine theater license is allowed to sell spirits, beer, strong beer, and wine, at retail, for consumption on the licensed premises.

(2) The requirements for the spirits, beer, and wine theater license are as follows:

(a) The theater has no more than (~~(one hundred twenty)~~) 120 seats per theater room.

(b) All servers of beer and wine are required to attend a mandatory alcohol server training (MAST) program.

(c) The serving size for spirits is one and one quarter ounce. The serving size for wine is five ounces. The serving size for beer is twelve ounces.

(d) There must be tabletop accommodations for in theater dining.

(e) If the theater premises will be frequented by minors an alcohol control plan agreement must be signed and submitted to the board during the application process.

(3) A spirits, beer, and wine theater licensee must (~~(serve at least eight complete meals. Establishments shall be maintained in a substantial manner as a place for preparing, cooking, and serving of complete meals.~~

~~(a) "Complete meal" means an entree and at least one side dish.~~

~~(b) "Entree" means the main course of a meal. Some examples of entrees are fish, steak, chicken, pork, pasta, pizza, hamburgers, seafood salad, Cobb salad, chef's salad, sandwiches, and breakfast items (as long as they include a side dish). Entrees do not include snack items, or menu items which consist solely of precooked frozen food that is reheated, or consist solely of carry-out items obtained from another business.~~

~~(c) Examples of side dishes are soups, vegetables, salads, potatoes, french fries, rice, fruit, and bread. Garnishes such as, but not limited to, pickles, salsa, and dips do not qualify as a side dish.~~

~~(d) The restaurant must maintain the kitchen equipment necessary to prepare the complete meals required under this section.~~

~~(e) The complete meals must be prepared on the restaurant premises.~~

~~(f) A chef or cook must be on duty while complete meals are offered.~~

~~(g) A menu must be available to customers.~~

~~(h) The food items required to maintain the menu must be on the restaurant premises. These items must be edible)) meet the same food~~

service requirements that apply to spirits, beer, and wine restaurant licensees in WAC 314-02-035.

(4) The alcohol control plan agreement will be provided on a form by the board and includes the following requirements:

(a) Ensure that alcoholic beverages are not sold to persons under the age of (~~twenty-one~~) 21, staff will request identification from any patron who appears to be age (~~thirty~~) 30 or under and who is attempting to purchase an alcoholic beverage.

(b) Alcoholic beverages must be served in containers that differ significantly from containers utilized for nonalcoholic beverages.

(c) All alcoholic beverages sold under this license must be sold by the individual drink.

(d) If staff observes a patron who is in the possession of or who is consuming an alcoholic beverage, who appears to be of questionable age, staff will request identification from that patron. If the patron is unable to produce an acceptable form of identification verifying their age, the alcohol will be confiscated.

(e) Staff will accept only those forms of identification that are acceptable per WAC 314-11-025 to verify a person's age for the purpose of selling, serving, or allowing a person to possess or consume alcohol.

(f) All employees involved in the sale, service, and/or supervision of alcoholic beverages will be required to attend MAST to obtain the appropriate permit for their level of service.

(g) Sufficient lighting must be maintained at the point of sale so that identification can be confirmed and patrons observed for signs of intoxication.

(h) To ensure alcoholic beverages are served in a safe, responsible, and controlled manner, sales and service of alcoholic beverages will be limited to one serving per person per transaction.

(i) If a patron is accompanied by another patron who wants to pay for both people's drinks, they may do so, provided that both patrons are of legal age to purchase, and have proper identification, if requested, and are not displaying signs of intoxication.

(j) Alcohol may only be sold, served, and consumed in areas designated in the alcohol control plan agreement and approved by the board.

(k) Staff will refuse to sell an alcoholic beverage to any person who appears to be intoxicated. Alcoholic beverages will be removed from any person who appears to be intoxicated.

(l) This alcohol control plan agreement will be prominently posted on the licensed premises.

(5) Penalties are doubled for a violation involving minors or the failure to follow the signed alcohol control plan agreement.

(6) If the theater premises has a restaurant located outside of the actual theater screening areas, spirits, beer, and wine may be served and consumed in the restaurant area.

(a) Spirits may be sold by the individual drink.

(b) Beer may be sold by the pitcher as well as by individual serving for consumption in the restaurant area.

(c) Wine may be sold by the bottle as well as by the individual serving for consumption in the restaurant area.

WAC 314-02-112 ((What is a) Caterer's license(?)). (1) A caterer's license allows the licensee to sell spirits, beer, and wine by the individual serving for consumption on the premises at a catered event location.

(2) The catered event location must be owned, leased, or operated by:

(a) The holder of the caterer's license; or

(b) The sponsor of the event for which the catering services are being provided.

(3) The caterer licensee is responsible for all areas of a location where alcohol is sold, served, consumed, or stored.

(4) If the catered event is open and advertised to the public, the event must be sponsored by a nonprofit society or organization as defined in RCW 66.24.375.

(a) A registered nonprofit holding a public or civic event may invite a caterer to provide alcohol service at a location within the parameters of the event.

(b) If attendance at the catered event is limited to members or invited guests of the sponsoring individual, society, or organization, the requirement in subsection (2) of this section does not apply.

(5) A spirits, beer, and wine caterer licensee must have the ability to serve at least ~~((eight))~~ four complete meals. A commissary kitchen, licensed by the city and/or county health department, shall be maintained in a substantial manner as a place for preparing and cooking complete meals. The caterer licensee must maintain the kitchen equipment necessary to prepare the complete meals required under this section. The complete meals must be prepared at the licensed commissary kitchen premises. ~~((For the purposes of this title:~~

~~(a) "Complete meal" means an entrée and at least one side dish.~~

~~(b) "Entrée" means the main course of a meal. Some examples of entrées are fish, steak, chicken, pork, pasta, pizza, hamburgers, sea-food salad, Cobb salad, chef's salad, sandwiches, and breakfast items (as long as they include a side dish). Entrées do not include snack items, or menu items which consist solely of precooked frozen food that is reheated, or consist solely of carry-out items obtained from another business.~~

~~(c) Examples of side dishes are soups, vegetables, salads, potatoes, french fries, rice, fruit, and bread.))~~ "Complete meal" is defined in WAC 314-02-010.

(6) A beer and wine caterer licensee must have the ability to provide minimum food service. A commissary kitchen shall be maintained in a substantial manner as a place for preparing and cooking minimum food service. The caterer licensee must maintain the kitchen equipment necessary to prepare minimum food service required under this section. The minimum food service must be prepared at the licensed commissary kitchen premises. ~~((For purposes of this title:~~

~~"Minimum food service" means items such as sandwiches, salad, soup, hamburgers, pizza, and fry orders.))~~ "Minimum food service" is defined in WAC 314-02-010.

(7) Licensees holding a caterer's license may share a commissary kitchen under the following conditions:

(a) Each licensee has their own secure area for their own liquor stock. Liquor stock cannot be shared.

(b) If using a shared commissary kitchen, each applicant/licensee must provide a sketch of the commissary kitchen to licensing indicating the separate secured area for each licensee.

~~((7))~~ (8) The applicant must provide the liquor and cannabis board with a copy of their commissary kitchen license issued by the city or county health department.

~~((8))~~ (9)(a) The licensee is required to send a list of scheduled catered events to their regional enforcement office on the first of each month. The licensee must provide the following information:

~~((a))~~ (i) Date of the catered events;

~~((b))~~ (ii) Time of the catered events; and

~~((c))~~ (iii) Place and location of catered events.

(b) Any changes to the information provided to the board must be reported to the regional enforcement office (~~seventy-two~~) 72 hours prior to the catered event.

~~((9))~~ (10) A caterer's license holder is not allowed to cater events at a liquor licensed premises.

~~((10))~~ (11) The holder of the caterer's license may store liquor on other premises operated by the licensee if the licensee owns or has a leasehold interest at the other premises. Documentation must be provided to the board showing the licensee owns or has a leasehold interest in the property.

~~((11))~~ (12) All employees that sell or serve alcohol must hold MAST permits.

~~((12))~~ (13) The annual fee for the caterer's license is as follows:

(a) The annual fee for beer is (~~two hundred dollars~~) \$200;

(b) The annual fee for wine is (~~two hundred dollars~~) \$200; and

(c) The annual fee for a combined spirits, beer, and wine is (~~one thousand dollars~~) \$1,000.

AMENDATORY SECTION (Amending WSR 14-20-048, filed 9/24/14, effective 10/25/14)

WAC 314-02-114 ((What is a)) Senior center license((?)). (1) A senior center license can only be issued to a nonprofit organization whose primary service is providing recreational and social activities for seniors on the licensed premises.

(2) The senior center license permits the sale of spirits by the individual glass, including mixed drinks and cocktails mixed on the premises only, beer and wine, at retail for consumption on the licensed premises.

(3) To qualify for the senior center license, the applicant must:

(a) Be a nonprofit organization under RCW 24.03.005;

(i) "Corporation" or "domestic corporation" means a corporation not for profit subject to the provisions of this chapter, except a foreign corporation.

(ii) "Foreign corporation" means a corporation not for profit organized under laws other than the laws of this state.

(iii) "Not for profit corporation" or "nonprofit corporation" means a corporation no part of the income of which is distributable to its members, directors or officers.

(b) Only serve alcohol between the hours of 6 a.m. and 2 a.m.; and

(c) Provide ((limited)) at least minimum food service anytime alcohol is sold. "Minimum food service" is defined in WAC 314-02-010. ((Limited food service means foods such as:

- ~~(i) Appetizers;~~
- ~~(ii) Sandwiches;~~
- ~~(iii) Salads and soups;~~
- ~~(iv) Pizza;~~
- ~~(v) Hamburgers; and~~
- ~~(vi) Fry orders.)~~

(4) Alcohol may be sold and served at the following types of events:

(a) Events hosted by the senior center; and

(b) Private events where the facility is rented by a private party for an event such as a wedding reception, family reunion, etc.

(5) If minors are allowed on the premises, floor plans must meet the requirements in WAC 314-02-025.

(6) All alcohol servers must have a valid mandatory alcohol server training permit.

(7) The annual fee for this license is ((seven hundred twenty dollars)) \$720.

WAC 314-03-200 Outside or extended alcohol service. A licensee must request approval from the board's licensing division for ongoing outside or extended alcohol service. Except as provided in the temporary rules for outdoor alcohol service in WAC 314-03-205 that are effective until July 1, 2023, unless extended by law, the following conditions must be met:

(1) The area must be enclosed with a permanent or movable barrier a minimum of (~~forty-two~~) 42 inches in height.

(2) There must be an interior access to the licensed premises. If the interior access is from a minor restricted area of the premises, minors are prohibited in the outside or extended alcohol service area.

(3) There must be an attendant, wait staff, or server dedicated to the outside service area when patrons are present.

(4) Must have leasehold rights to the area and have and be connected to the licensed premises.

(5) Openings into and out of the outside area cannot exceed (~~ten~~) 10 feet. If there is more than one opening along one side, the total combined opening may not exceed (~~ten~~) 10 feet.

(6) **Exception.** For sidewalk cafe outside service, the board allows local regulations that, in conjunction with a local sidewalk cafe permit, requires a (~~forty-two~~) 42 inch barrier or permanent demarcation of the designated alcohol service areas for continued enforcement of the boundaries.

(a) The permanent demarcation must be at all boundaries of the outside service area;

(b) The permanent demarcation must be at least six inches in diameter;

(c) The permanent demarcation must be placed no more than (~~ten~~) 10 feet apart;

(d) There must be an attendant, wait staff, or server dedicated to the outside service area when patrons are present;

(e) This exception only applies to restaurant liquor licenses with sidewalk cafe service areas contiguous to the liquor licensed premises. "Contiguous" means touching along a boundary or at a point;

(f) This exception does not apply to beer gardens, standing room only venues, and permitted special events. Board approval is still required with respect to sidewalk cafe barrier requirements.

(7) **Limited exception.** The board may grant limited exceptions to the required (~~forty-two~~) 42 inch high barrier for outside alcohol service areas.

(a) The licensee must have exclusive leasehold rights to the outside service area.

(b) There must be permanent demarcations at all boundaries of the outside service area for continued enforcement of the boundaries.

NEW SECTION

WAC 314-03-205 Temporary rules for outdoor alcohol service by on-premises licensees. (1) As authorized in section 2(8), chapter 48, Laws of 2021, the temporary rules for outdoor alcohol service descri-

bed in this section are effective until July 1, 2023, unless extended by law. These rules create a temporary exception to the requirements in WAC 314-03-200. These rules apply to all on-premises licensees.

(2) For ongoing outdoor alcohol service located in privately owned spaces, a licensee must request approval from the board's licensing division and meet the following requirements:

(a) The licensee must have legal authority to use the outdoor alcohol service area including, but not limited to, ownership or leasehold rights;

(b) The licensee must have a building that provides indoor dining or production in order to qualify for an outdoor alcohol service area;

(c) The outdoor alcohol service area must be (i) contiguous to the licensed business, or (ii) located on the same property or parcel of land as the licensed business;

(d) The outdoor alcohol service area must have an attendant, wait staff, or server dedicated to the area when patrons are present;

(e) Interior access to the licensed premises from the outdoor alcohol service area is not required. However, unless there is (i) interior access to the licensed premises from the outdoor alcohol service area, or (ii) an unobstructed direct line of sight from inside the licensed premises to the outdoor alcohol service area, an employee with a mandatory alcohol server training (MAST) permit under chapter 314-17 WAC must be present in the outdoor alcohol service area at all times that patrons are present, in order to monitor alcohol consumption. This requirement is in addition to the requirement in (d) of this subsection that the outdoor alcohol service area must have an attendant, wait staff, or server dedicated to the area when patrons are present;

(f) The same food service offered inside the licensed premises must also be offered in the outdoor alcohol service area;

(g) The outdoor alcohol service area must be enclosed with a permanent or movable barrier a minimum of 42 inches in height. The board may grant limited exceptions to the required 42 inch high barrier for outdoor alcohol service areas if the licensee has permanent boundaries for the outdoor alcohol service area;

(h) Openings into and out of the outdoor alcohol service area cannot exceed 10 feet. If there is more than one opening along one side, the total combined opening may not exceed 10 feet; and

(i) Licensees must comply with local building codes, local health jurisdiction requirements, department of labor and industries requirements, and any other applicable laws and rules.

(3) For ongoing outdoor alcohol service located in public spaces, a licensee must request approval from the board's licensing division and meet the following requirements:

(a) The licensed business must have a permit from their local jurisdiction allowing the business to use the public space as a service area, such as a sidewalk cafe permit or other similar outdoor area permit authorized by local regulation;

(b) The licensee must have a building that provides indoor dining or production in order to qualify for an outdoor alcohol service area;

(c)(i) Except as provided in (c)(ii) of this subsection, the outdoor alcohol service area must be enclosed with a permanent or movable barrier a minimum of 42 inches in height. Openings into and out of the outdoor alcohol service area cannot exceed 10 feet. If there is more than one opening along one side, the total combined opening may not exceed 10 feet;

(ii) Licensees with outdoor alcohol service areas contiguous to the licensed premises may use a permanent demarcation of the designa-

ted alcohol service area for continued enforcement of the boundaries, instead of a permanent or movable barrier a minimum of 42 inches in height. If a permanent demarcation is used, the permanent demarcation must be at all boundaries of the outdoor alcohol service area, must be at least six inches in diameter, and must be placed no more than 10 feet apart;

(d) The outdoor alcohol service area must have an attendant, wait staff, or server dedicated to the area when patrons are present;

(e) The same food service offered inside the licensed premises must also be offered in the outdoor alcohol service area; and

(f) Licensees must comply with local building codes, local health jurisdiction requirements, department of labor and industries requirements, and any other applicable laws and rules.

(4) For multiple licensees to share an outdoor alcohol service area, the licensees must request approval from the board's licensing division and meet the following requirements:

(a) The licensees' property parcels or buildings must be located in direct physical proximity to one another. For the purposes of this subsection, "direct physical proximity" means that the property parcels or buildings are physically connected or touching each other along a boundary or at a point;

(b) (i) If the shared outdoor alcohol service area is located on public space, the licensees sharing the space must meet all of the requirements in subsection (3) of this section and shared use of the outdoor service area must be authorized by the licensees' local jurisdiction permits; or

(ii) If the shared outdoor alcohol service area is located in a privately owned space, the licensees sharing the space must meet all of the requirements in subsection (2) of this section and must have legal authority to share use of the outdoor service area including, but not limited to, ownership or leasehold rights;

(c) The licensees must maintain separate storage of products and separate financial records for the shared outdoor alcohol service area. If licensees share any point of sale system, the licensees must keep complete documentation and records for the shared point of sale system showing clear separation as to what sales items and categories belong to each respective licensee;

(d) The licensees must use distinctly marked glassware or serving containers in the shared outdoor alcohol service area to identify the source of any alcohol product being consumed. The distinctive markings may be either permanent or temporary. Any temporary markings must remain on the glassware or serving containers through the duration of use by the customer;

(e) The licensees must complete an operating plan for the shared outdoor alcohol service area. The operating plan should demonstrate in general how responsibility for the outdoor alcohol service area is shared among the licensees. Licensees are required to submit the operating plan to the board's licensing division at the time of application or alteration and must keep documentation of an up-to-date plan available for inspection on premises; and

(f) Consistent with WAC 314-11-065, a licensee may not permit the removal of alcohol in an open container from the shared outdoor alcohol service area, except to reenter the licensed premises where the alcohol was purchased. Signage prohibiting the removal of alcohol in an open container must be visible to patrons in the shared outdoor alcohol service area.

(5) If multiple licensees use a shared outdoor alcohol service area as described in subsection (4) of this section, all participating licensees are jointly responsible for any violation or enforcement issues unless it can be demonstrated that the violation or enforcement issue was due to one or more licensee's specific conduct or action, in which case the violation or enforcement action applies only to those identified licensees.

(6) The definitions in this subsection apply throughout this section unless the context clearly requires otherwise.

(a) "Alcohol service" means service of liquor as defined in RCW 66.04.010.

(b) "Contiguous" means touching along a boundary or at a point.

(c) "Sidewalk cafe" means a designated seating area on the sidewalk, curb space, or other public space where a business provides table service and seating for their patrons during business hours.

(7) This section expires July 1, 2023, pursuant to section 2(11), chapter 48, Laws of 2021, unless extended by law.

NEW SECTION

WAC 314-03-500 Temporary endorsement for sale of manufacturer sealed alcohol products through curbside, takeout, or delivery service.

(1) As authorized in section 2, chapter 48, Laws of 2021, the temporary endorsement described in this section is available until July 1, 2023, unless extended by law. There is no fee for a licensee to apply for and obtain this endorsement.

(2)(a) Consistent with section 2(2), chapter 48, Laws of 2021, an endorsement to sell manufacturer sealed alcohol products at retail through curbside, takeout, or delivery service is available to the following licensees: Beer and wine restaurants; spirits, beer, and wine restaurants; taverns; domestic wineries; domestic breweries and microbreweries; distilleries; snack bars; nonprofit arts licensees; and caterers.

(b) This endorsement is separate from the endorsements in WAC 314-03-505 and 314-03-510 that authorize the sale through curbside, takeout, or delivery service of nonmanufacturer or nonfactory sealed premixed cocktails, cocktail kits, wine by the glass, premixed wine and spirits cocktails, premixed wine drinks, or growlers.

(3) In order to obtain and maintain the endorsement described in this section, licensees must meet the following requirements:

(a) Alcohol products must be sold in closed, factory or manufacturer sealed packages or containers, such as cans, bottles, and kegs. Licensees may only sell the types of manufacturer sealed alcohol products under this endorsement that they are authorized to sell under the terms of their license.

(b)(i) Except as provided in (b)(ii) of this subsection, if an alcohol product authorized for sale under this endorsement is enclosed inside a bag, box, or other packaging before the alcohol product is provided to the customer through curbside, takeout, or delivery service, the exterior of the bag, box, or other packaging must be clearly marked or labeled with the words "CONTAINS ALCOHOL, FOR PERSONS 21+" in a size that is legible and readily visible.

(ii) Brewery, winery, and distillery licensees are not required to mark or label the exterior of the bag, box, or other packaging as described in (b)(i) of this subsection if the alcohol product is provided to the customer through takeout service.

(c) If the alcohol products authorized for sale under this endorsement are sold through delivery service:

(i) Licensees must comply with the requirements in the consumer orders, internet sales, and delivery rules in this title. For these requirements, see WAC 314-03-020 through 314-03-040. Delivery by third-party service providers is allowed with approval by the board's licensing division of an added activity application requesting internet sales privileges.

(ii) At the time of delivery, the employee making the delivery must verify that the person receiving the delivery is at least twenty-one years of age using an acceptable form of identification in WAC 314-11-025. See RCW 66.44.270.

(iii) Consistent with section 2(9), chapter 48, Laws of 2021, upon delivery of the alcohol product, the signature of the person age twenty-one or over receiving the delivery must be obtained. Delivery sales records must meet the requirements in the consumer orders, internet sales, and delivery rules. For general record retention requirements, see WAC 314-11-095.

(iv) If no person age twenty-one or over is present to accept the alcohol product at the time of delivery, the alcohol product must be returned. An alcohol product may not be left unattended at a delivery location.

(v) Delivery of an alcohol product may not be made to any person who shows signs of intoxication. See RCW 66.44.200.

(d)(i) In addition to the signs required by WAC 314-11-060, signs provided electronically by the board regarding public consumption and transportation of any alcohol products sold through curbside, takeout, or delivery service must be posted in plain view at:

(A) The main entrance to the area of the premises where alcohol products are sold; and

(B) The areas of the premises where alcohol products are picked up for takeout, curbside, or delivery service.

(ii) The signs will be designed to remind customers purchasing alcohol products through curbside, takeout, or delivery service that they must comply with applicable laws and rules including, but not limited to, restrictions on consuming alcohol in public in RCW 66.44.100 and restrictions on drinking or having an open container in a vehicle in RCW 46.61.519.

(4) In addition to the requirements listed in this section, licensees must comply with all applicable requirements in Title 66 RCW, Title 314 WAC, and any other applicable laws and rules including, but not limited to: Keg sale requirements in WAC 314-02-115 and restrictions on sales to minors and intoxicated persons in chapter 66.44 RCW and WAC 314-16-150.

(5) The definitions in this subsection apply throughout this section unless the context clearly requires otherwise.

(a) "Alcohol product" means liquor as defined in RCW 66.04.010.

(b) "Factory sealed" or "manufacturer sealed" means that a package or container is in one hundred percent resalable condition, with all manufacturer's seals intact.

(6) This section expires July 1, 2023, pursuant to section 2(11), chapter 48, Laws of 2021, unless extended by law.

NEW SECTION

WAC 314-03-505 Temporary endorsement for sale of premixed cocktails, cocktail kits, wine by the glass, premixed wine and spirits cocktails, or premixed wine drinks through curbside, takeout, or delivery service. (1) As authorized in section 2, chapter 48, Laws of 2021, the temporary endorsement described in this section is available until July 1, 2023, unless extended by law. There is no fee for a licensee to apply for and obtain this endorsement.

(2) Consistent with section 2(3) and (4), chapter 48, Laws of 2021:

(a) An endorsement is available to spirits, beer, and wine restaurants to sell premixed cocktails, cocktail kits, wine by the glass, or premixed wine and spirits cocktails through curbside, takeout, or delivery service. This endorsement does not authorize the sale of full bottles of spirits for off-premises consumption, although mini-bottles may be sold as part of cocktail kits. Consistent with section 2(3), chapter 48, Laws of 2021, mini-bottle sales as part of cocktail kits

are exempt from the spirits license issuance fee under RCW 66.24.630 (4) (a) and the tax on each retail sale of spirits under RCW 82.08.150.

(b) An endorsement is also available to beer and wine restaurant licensees to sell wine or premixed wine drinks by the glass through curbside, takeout, or delivery service.

(3) In order to obtain and maintain the endorsement described in this section, licensees must meet the following requirements:

(a) (i) For spirits, beer, and wine restaurants, food that qualifies as a complete meal under WAC 314-02-010 must be sold with the premixed cocktails, cocktail kits, wine by the glass, or premixed wine and spirits cocktails authorized for sale through curbside, takeout, or delivery service under this endorsement. Spirits, beer, and wine restaurants can sell up to 3 ounces of spirits per complete meal.

(ii) For beer and wine restaurants, a food item that qualifies as minimum food service under WAC 314-02-010 must be sold with the wine or premixed wine drinks by the glass authorized for sale through curbside, takeout, or delivery service under this endorsement.

(b) The alcohol products authorized for sale through curbside, takeout, or delivery service under this endorsement must be prepared the same day they are sold.

(c) The alcohol products authorized for sale through curbside, takeout, or delivery service under this endorsement must be packaged in a container that has been sealed in a manner designed to prevent consumption without removal of the tamper-evident lid, cap, or seal. For the purposes of this subsection, "tamper-evident" means a lid, cap, or seal that visibly demonstrates when a container has been opened. Tape is not a tamper-evident seal. The following list of examples is not comprehensive and is not intended to capture all of the possible types of allowed or disallowed containers:

(i) Examples of containers that are allowed:

(A) Containers with a screw top cap or lid that breaks apart when the container is opened.

(B) Containers with a plastic heat shrink wrap band, strip, or sleeve extending around the cap or lid to form a seal that must be broken when the container is opened.

(C) Vacuum or heat-sealed pouches without holes or openings for straws.

(ii) Examples of containers that are not allowed:

(A) Containers with lids with sipping holes or openings for straws.

(B) Containers such as styrofoam, paper, or plastic cups that lack a tamper-evident lid, cap, or seal.

(d) The containers that the alcohol products authorized for sale under this endorsement are packaged in must be clearly marked or labeled with the words "CONTAINS ALCOHOL, FOR PERSONS 21+" in a size and manner that is legible and readily visible. If a container of alcohol authorized for sale under this endorsement is enclosed inside a bag, box, or other packaging before it is provided to the customer through curbside, takeout, or delivery service, the exterior of the bag, box, or other packaging must be clearly marked or labeled with the words "CONTAINS ALCOHOL, FOR PERSONS 21+" in a size and manner that is legible and readily visible.

(e) To deter public consumption or consumption in a vehicle of premixed cocktails, cocktail kits, wine by the glass, premixed wine and spirits cocktails, and premixed wine drinks sold through curbside, takeout, or delivery service, licensees may not put ice directly into the containers that the alcohol products authorized for sale under

this endorsement are packaged in, except for frozen or blended drinks. Ice may be provided separately along with the curbside, takeout, or delivery order.

(f) The premixed cocktails, cocktail kits, wine by the glass, premixed wine and spirits cocktails, and premixed wine drinks authorized for sale through curbside, takeout, or delivery service under this endorsement must be placed in the trunk of the vehicle or beyond the immediate reach of the driver or any passengers in compliance with open container requirements in RCW 46.61.519 before being transported off the licensee's premises.

(g) If the premixed cocktails, cocktail kits, wine by the glass, premixed wine and spirits cocktails, and premixed wine drinks authorized for sale under this endorsement are sold through delivery service:

(i) Licensees must comply with the requirements in the consumer orders, internet sales, and delivery rules in this title, except to the extent that those rules allow delivery by third-party service providers and prohibit the sale of nonfactory sealed containers. For these requirements, see WAC 314-03-020 through 314-03-040.

(ii) Delivery must be made by an employee of the licensed business who is at least twenty-one years of age and holds a class 12 mandatory alcohol server training (MAST) permit under chapter 314-17 WAC. Delivery may not be made by third-party service providers.

(iii) At the time of delivery, the employee making the delivery must verify that the person receiving the delivery is at least twenty-one years of age using an acceptable form of identification in WAC 314-11-025. See RCW 66.44.270.

(iv) Consistent with section 2(9), chapter 48, Laws of 2021, upon delivery of the alcohol product, the signature of the person age twenty-one or over receiving the delivery must be obtained. Delivery sales records must meet the requirements in the consumer orders, internet sales, and delivery rules. For general record retention requirements, see WAC 314-11-095.

(v) If no person age twenty-one or over is present to accept the alcohol product at the time of delivery, the alcohol product must be returned. An alcohol product may not be left unattended at a delivery location.

(vi) Delivery of an alcohol product may not be made to any person who shows signs of intoxication. See RCW 66.44.200.

(h)(i) In addition to the signs required by WAC 314-11-060, signs provided electronically by the board regarding public consumption and transportation of any alcohol products sold through curbside, takeout, or delivery service must be posted in plain view at:

(A) The main entrance to the area of the premises where alcohol products are sold; and

(B) The areas of the premises where alcohol products are picked up for takeout, curbside, or delivery service.

(ii) The signs will be designed to remind customers purchasing alcohol products through curbside, takeout, or delivery service that they must comply with applicable laws and rules including, but not limited to, restrictions on consuming alcohol in public in RCW 66.44.100 and restrictions on drinking or having an open container in a vehicle in RCW 46.61.519.

(4) In addition to the requirements listed in this section, licensees must comply with all applicable requirements in Title 66 RCW, Title 314 WAC, and any other applicable laws and rules including, but

not limited to, restrictions on sales to minors and intoxicated persons in chapter 66.44 RCW and WAC 314-16-150.

(5) The definitions in this subsection apply throughout this section unless the context clearly requires otherwise.

(a) "Alcohol product" or "alcoholic beverage" means liquor as defined in RCW 66.04.010.

(b) "Mini-bottles" has the same meaning as defined in section 2(10), chapter 48, Laws of 2021: Original factory-sealed containers holding not more than 50 milliliters of a spirituous beverage.

(c) "Premixed cocktail" means a drink made by combining spirits with other alcoholic or nonalcoholic beverages and ingredients including, but not limited to, fruit juice, carbonated beverages, flavorings, or cream.

(d) "Premixed wine and spirits cocktail" means a drink made by combining wine and spirits with other alcoholic or nonalcoholic beverages and ingredients including, but not limited to, fruit juice, carbonated beverages, flavorings, or cream.

(e) "Premixed wine drink" means a drink made by combining wine with nonalcoholic beverages and ingredients including, but not limited to, fruit juice, carbonated beverages, flavorings, or cream. A premixed wine drink may not include alcoholic beverages other than wine.

(f) "Spirits" has the same meaning as defined in RCW 66.04.010.

(g) "Wine" has the same meaning as defined in RCW 66.04.010.

(6) This section expires July 1, 2023, pursuant to section 2(11), chapter 48, Laws of 2021, unless extended by law.

NEW SECTION

WAC 314-03-510 Temporary endorsement for sale of growlers through curbside, takeout, or delivery service. (1) As authorized in section 2, chapter 48, Laws of 2021, the temporary endorsement described in this section is available until July 1, 2023, unless extended by law. There is no fee for a licensee to apply for and obtain this endorsement.

(2) Consistent with section 2(5), chapter 48, Laws of 2021, an endorsement to sell growlers for off-premises consumption through curbside, takeout, or delivery service is available to licensees that were authorized by statute or rule before January 1, 2020, to sell growlers.

(a) Licensees eligible for this endorsement include: Taverns; beer and wine restaurants; spirits, beer, and wine restaurants; grocery stores; beer and wine specialty shops; breweries; microbreweries; wineries; combination spirits, beer, and wine licensees; and hotel licensees.

(b) For a beer and wine specialty shop to be eligible for the endorsement described in this section, the beer and wine specialty shop must meet the requirement in RCW 66.24.371(3), as it existed on December 31, 2019, that the licensee's beer and/or wine sales must be more than fifty percent of the licensee's total sales.

(3) In order to obtain and maintain this endorsement, licensees must meet the following requirements:

(a) Sale of growlers must meet federal alcohol and tobacco tax and trade bureau requirements.

(b) (i) Growlers must be filled at the tap by the licensee at the time of sale, except that beer and wine specialty shops licensed under RCW 66.24.371 and domestic breweries and microbreweries with this endorsement may sell prefilled growlers consistent with section 2(7), chapter 48, Laws of 2021. Prefilled growlers must be sold the same day they are prepared for sale and not stored overnight for sale on future days.

(ii) Brewery and microbrewery products that meet federal alcohol and tobacco tax and trade bureau labeling requirements are not considered prefilled growlers and are not subject to the overnight storage prohibition.

(c) Growlers must be filled with alcohol products, such as beer, wine, or cider, that the licensee was authorized by statute or rule before January 1, 2020, to sell in growlers.

(d) If the growlers authorized for sale under this endorsement are sold through delivery service:

(i) Licensees must comply with the requirements in the consumer orders, internet sales, and delivery rules in this title, except to the extent that those rules allow delivery by third-party service providers and prohibit the delivery of growlers. For these requirements, see WAC 314-03-020 through 314-03-040.

(ii) Delivery must be made by an employee of the licensed business who is at least twenty-one years of age. Delivery may not be made by third-party service providers.

(iii) At the time of delivery, the employee making the delivery must verify that the person receiving the delivery is at least twenty-one years of age using an acceptable form of identification in WAC 314-11-025. See RCW 66.44.270.

(iv) Consistent with section 2(9), chapter 48, Laws of 2021, upon delivery of the alcohol product, the signature of the person age twenty-one or over receiving the delivery must be obtained. Delivery sales records must meet the requirements in the consumer orders, internet sales, and delivery rules. For general record retention requirements, see WAC 314-11-095.

(v) If no person age twenty-one or over is present to accept the alcohol product at the time of delivery, the alcohol product must be returned. An alcohol product may not be left unattended at a delivery location.

(vi) Delivery of an alcohol product may not be made to any person who shows signs of intoxication. See RCW 66.44.200.

(e) (i) In addition to the signs required by WAC 314-11-060, signs provided electronically by the board regarding public consumption and transportation of any alcohol products sold through curbside, takeout, or delivery service must be posted in plain view at:

(A) The main entrance to the area of the premises where alcohol products are sold; and

(B) The areas of the premises where alcohol products are picked up for takeout, curbside, or delivery service.

(ii) The signs will be designed to remind customers purchasing alcohol products through curbside, takeout, or delivery service that they must comply with applicable laws and rules including, but not limited to, restrictions on consuming alcohol in public in RCW 66.44.100 and restrictions on drinking or having an open container in a vehicle in RCW 46.61.519.

(4) In addition to the requirements listed in this section, licensees must comply with all applicable requirements in Title 66 RCW, Title 314 WAC, and any other applicable laws and rules including, but

not limited to, restrictions on sales to minors and intoxicated persons in chapter 66.44 RCW and WAC 314-16-150.

(5) The definitions in this subsection apply throughout this section unless the context clearly requires otherwise.

(a) "Alcohol product" means liquor as defined in RCW 66.04.010.

(b) "Beer" has the same meaning as defined in RCW 66.04.010.

(c) "Cider" has the same meaning as defined in RCW 66.24.210.

(d) "Growlers" has the same meaning as defined in section 2(10), chapter 48, Laws of 2021: Sanitary containers brought to the premises by the purchaser or furnished by the licensee and filled by the retailer at the time of sale.

(e) "Wine" has the same meaning as defined in RCW 66.04.010.

(6) This section expires July 1, 2023, pursuant to section 2(11), chapter 48, Laws of 2021, unless extended by law.

Attachment A

Aug. 5, 2021, Listen & Learn Forum Public Comment Table

Topic: Conceptual Draft Rules for Implementation of HB 1480, To-Go Alcohol Endorsements

Background: A virtual Listen & Learn session on [conceptual draft rules](#) for the temporary alcohol to-go endorsements created by [HB 1480](#) was held on August 5, 2021 through Microsoft Teams. A public invitation was shared through [GovDelivery](#) on July 21, 2021, and a [reminder](#) was sent on August 4, 2021. At a peak, there were around 60 people in attendance online or by phone. The table below includes the comments received verbally or by chat message during the event, and comments received by email before, during, and after the event. The comments are organized by theme and are not necessarily listed in the order received.

	Name	Sec./Theme	Comment	Agency Response/ Notes
Topic: Temporary endorsement for sale of premixed cocktails, cocktail kits, wine by the glass, premixed wine and spirits cocktails, or premixed wine drinks through curbside, takeout, or delivery service.				
1	Kevin Standley, with The Myers Group	WAC 314-03-505(2): Cocktails to go/wine by the glass endorsement	<u>Chat comment received during the L&L forum:</u> “Why not allow wine by the bottle”	Summary: Question about why wine by the bottle is not allowed under the cocktails to go endorsement. Agency Response: We appreciate this participation in the rulemaking process. This question was offered in relation to the cocktails to go/wine by the glass endorsement created by HB 1480, which is specifically for premixed cocktails, cocktail kits, wine by the glass, premixed wine and spirits cocktails, and premixed wine drinks. Wine by the bottle would be allowed for certain licensees under the separate endorsement for the sale of manufacturer sealed alcohol products (see draft new WAC 314-03-500).
2	Tony Clark	Same as above	<u>Chat comment received during the L&L Forum:</u> “What constitutes a “mini-bottle”? Airline bottles, less than 750 ML (ie 375ML)?”	Summary: Question about the definition of a mini-bottle. Agency Response: We appreciate this participation in the rulemaking process. Mini-bottle is defined by HB 1480 Section 2(10)(c) as “Original factory-sealed containers holding not more than 50 milliliters of a spirituous beverage.” This definition is cross-referenced in the conceptual draft rules at WAC 314-03-505(5)(b).

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Topic: Conceptual Draft Rules for Implementation of HB 1480, To-Go Alcohol Endorsements

3	Ron Keller, Lakes Moose Lodge	Same as above	<p><u>Chat comment received during the L&L Forum:</u> “can they be pre mixed in glasses or do have to be seprate”</p> <p>“can the alcohol be pre mixed or does it to seprate”</p>	<p>Summary: Question about whether cocktails to go can be premixed. Agency Response: We appreciate this participation in the rulemaking process. Under the cocktails/wine by the glass to-go endorsement (as authorized by HB 1480 Section 2(3) and (4)), SBW restaurant licensees may sell “premixed cocktails and cocktail kits” as well as “wine by the glass or premixed wine and spirits cocktails”. BW restaurant licensees may sell “wine or premixed wine drinks by the glass.” Note: Ron raised his hand during the L&L Forum to speak but was unable to unmute due to technical difficulties. LCB staff attempted to troubleshoot but were unable to resolve the issue.</p>
4	Casey Brown, Cascade Government Affairs (representin g Diageo distribution)	Same as above	<p><u>Chat comment received during the L&L Forum:</u> “For example, if you order a margarita, can you add the alcohol to the margarita mixture, or does the tequila and triple sec have to be put into a different container than the sour mix?”</p>	<p>Summary: Questions about whether cocktails to go can be premixed. Agency Response: We appreciate this participation in the rulemaking process. Yes, HB 1480 would allow a SBW restaurant licensee with the cocktails to go endorsement to sell <i>both</i> premixed cocktails and cocktail kits. See agency response to Ron Keller’s comment #3 above. The conceptual draft rules define “premixed cocktail” as “a drink made by combining spirits with other alcoholic or nonalcoholic beverages and ingredients including, but not limited to, fruit juice, carbonated beverages, flavorings, or cream.”</p>
5	Mary Segawa,	WAC 314-03-505 (3)(a):	<p><u>Verbal comment received during the L&L Forum:</u></p>	<p>Summary: Suggestion to reduce amount of spirits allowed to one</p>

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	Public Health and Prevention Consultant	Cocktails to go/wine by the glass endorsement, SBW complete meal requirement & 3oz limit on spirits per complete meal	<p>“This is Mary Segawa. I am a prevention and public health consultant. I would like to say I really appreciate the requirement for food, for a meal, to be sold with alcohol. We know that food will assist in keeping people safer as they’re consuming alcohol.</p> <p>I am concerned about the limit on 3 ounces of spirits per complete meal with no limit on other alcoholic drinks. Three ounces generally is equivalent to, is considered 2 servings. So we’re saying that’s 2 standard drinks per meal and there’s no limit on number of standard drinks for other types of alcohol. I would appreciate seeing a limit. My recommendation would be one standard drink per meal served.</p> <p>Thank you very much.”</p>	<p>standard drink per meal served, include limit for wine and premixed wine drinks by the glass.</p> <p>Agency Response: We appreciate this feedback and participation in the rulemaking process. The agency considered the suggested revision, but this suggestion is not reflected in the rule proposal. Three ounces of spirits is around 2 standard drinks. A customer could likely consume 3 ounces of spirits with a meal and not run into an overconsumption issue. Limits on the amount of wine allowed in wine or premixed wine drinks by glass were not included because customers can already order a bottle of wine to consume with a meal at a restaurant and bring the recorked/recapped unfinished bottle home with them. Allowing wine and premixed wine drinks by the glass to be sold to-go without imposing a limit on the size of the glass or amount of wine that may be contained in a glass does not present a greater risk to public health and safety than allowing a bottle of unfinished wine to be recorked/recapped and brought home after consumption with a meal.</p>
6	Katie Doyle, Washington Hospitality Association	Same as above	<p><u>Verbal comment received during the L&L Forum:</u></p> <p>“Thank you Jeff and Audrey. I am in a coffee shop in Montana, so sorry if my sound quality is highly questionable.</p> <p>We do echo some of Mary’s sentiments on the appreciation for meals to be included with the sale</p>	<p>Summary: Suggestion to increase amount of spirits allowed to at least 4 ounces per complete meal.</p> <p>Agency Response: We appreciate this feedback and participation in the rulemaking process. The agency considered the suggested revision, but</p>

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Topic: Conceptual Draft Rules for Implementation of HB 1480, To-Go Alcohol Endorsements

			<p>of spirits to go. But while we do think that 3 ounces is normally equivalent to two beverages, we do have a number of operators that are selling larger quantities as a family package. They are selling beverages that are more than two drinks—so maybe they’re three, maybe it’s something like sangria, so we are making the request that the 3 ounces be moved up to at least 4 ounces per complete meal. And that’s all I got on that section.”</p>	<p>this suggestion is not reflected in the rule proposal. Three ounces of spirits is around 2 standard drinks. As the amount of spirits allowed to-go increases, the potential public health and safety risks increase. The cocktails to-go endorsement is new, and the agency is still assessing the impacts of this endorsement on public health and safety. With the family package example, the total limit on the amount of spirits allowed would likely be greater than 3 ounces since a family package usually includes more than one complete meal. For example, if a family package includes 2 complete meals, then up to 6 total ounces of spirits would be allowed.</p>
7	<p>Trillium Swanson, Coalition for Orcas Youth, Prevention Professional serving Orcas Island/San Juan County</p>	<p>Same as above</p>	<p><u>Chat comment received during the L&L Forum:</u> “Unable to unmute. The unmute button is remaining blocked for me. definitely can't but adding my comment”</p> <p>“The comment I would like to make in support of a limitation of 1-2 drinks of spirits per meal, (premixed cocktails): There is increased risk of access by youth in the home and other environments if more than one drink is being delivered per adult receiving a meal. This is a simple way of reducing likelihood that drinks are being purchased for underage individuals”</p> <p>“And to add to that I would correct my initial statement to clarify that I support one premixed cocktail per meal, not 2”</p>	<p>Summary: Suggestion to reduce the amount of spirits allowed to one standard drink per meal served. Agency Response: We appreciate this feedback and participation in the rulemaking process. The agency considered the suggested revision, but this suggestion is not reflected in the rule proposal. See agency response to Mary Segawa’s comment #5 above. The cocktails to-go endorsement is new, and the agency is still assessing the impacts of this endorsement on public health and safety. In addition to the 3 ounce limit on spirits per complete meal, the draft rules also include safeguards related to checking ID and delivery requirements that are intended to mitigate youth access concerns.</p>

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				Note: Trillium raised her hand during the L&L Forum to speak but was unable to unmute due to technical difficulties. LCB staff attempted to troubleshoot but were unable to resolve the issue.
8	Alison Sanders	Same as above	<u>Chat comment received during the L&L Forum:</u> “Can one of the organizers unmute Trillium?”	See note for Trillium Swanson’s comment #7 above.
9	Tierney Hamilton-Steele (LCB)	Same as above	<u>Chat comment received during the L&L Forum:</u> “Thank you, Trillium. Apologies for the un-muting issue.”	See note for Trillium Swanson’s comment #7 above.
10	Tony Clark	Same as above	<u>Verbal comment received during the L&L Forum:</u> “Well I just want to revisit this limitation—three ounces, or four ounces. Are we talking just spirits? Or are we talking beer and wine as well here in terms of limitations, because you know four ounces of wine is not even a standard glass of wine. And likewise for beer. Furthermore, I would like to suggest that I can walk into a restaurant, sit down, and order a bottle of wine with my meal. So why would I be limited to what I could deliver to a person’s home? I understand the safety concern, but to me—they’re at home. We’ve already eliminated the potentially drunk driving situation—unless they have meal, drink and go driving. But of course you have the same problem in a restaurant. So I guess I’m just, what I like or don’t like. I’m not sure I like the limitation as it sits. Because honestly at this point the value of delivering three ounces of spirits to my business is minimal. And this also seems to directly contradict other endorsement, such as the ability to sell growlers and other bottles	Summary: Suggestion to increase amount of spirits allowed per complete meal, clarify that this limit doesn’t apply for beer and wine. Agency Response: We appreciate this feedback and participation in the rulemaking process. The agency considered the suggested revision, but this suggestion is not reflected in the rule proposal. The conceptual draft rule language states that there is a 3 ounce limit for spirits but does not specify a limit for the amount of wine allowed in wine or premixed wine drinks by the glass. “Spirits” has the same meaning as defined in RCW 66.04.010 : “any beverage which contains alcohol obtained by distillation, except flavored malt beverages, but including wines exceeding twenty-four percent of alcohol by volume.” See agency response to Mary Segawa’s comment #5 above and Katie Doyle’s comment #6 above.

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			of wine to go. Seems like to me this is confusing the way it is written in this endorsement and again contradictory to other endorsements.”	
11	Alison Sanders	Same as above	<u>Chat comment received during the L&L Forum:</u> “I second that Mary Segawa. I would appreciate a limit on other drinks as well.”	Summary: In support of suggestion to reduce amount of spirits allowed to one standard drink per meal served, include limit for beer and wine. Agency Response: See agency response to Mary Segawa’s comment # 5 above.
12	Megan Moore, Kitsap Public Health District, Prevention Voices.	Same as above	<u>Chat comment received during the L&L Forum:</u> “I agree with Mary Segawa’s comments. I appreciate the one drink per meal provision.”	Summary: In support of suggestion to reduce amount of spirits allowed to one standard drink per meal served, include limit for beer and wine. Agency Response: See agency response to Mary Segawa’s comment # 5 above.
13	Tony Clark	Same as above	<u>Chat comment received during the L&L Forum:</u> “Why 1 standard drink, when you can go into a restaurant and order a bottle of wine with your meal?” “Just to be on the record, I do not agree with the 1 drink per meal limitation. With all the packaging and handling requirements it will not be financially lucrative to deliver cocktails”	Summary: Against the suggestion to include a one standard drink limit. Agency Response: We appreciate this feedback and participation in the rulemaking process. The conceptual draft rules include a three ounce limit on spirits per complete meal, not a one standard drink limit. The one standard drink limit was suggested by other attendees at the Listen & Learn forum. The agency considered the suggested revisions from other attendees to include a one standard drink limit, but this suggestion is not reflected in the rule proposal. See also, agency response to Tony Clark’s comment # 10 above.

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14	Pat Caffall	Same as above	<p><u>Chat comment received during the L&L Forum:</u> “agreed Tony”</p> <p>“1 drink per meal is way too unreasonable”</p>	<p>Summary: Against the suggestion to include a one standard drink limit. Agency Response: See agency response to Tony Clark’s comment # 13 above.</p>
15	Stacey Okland, Okanogan County Community Coalition-WASAVP	Same as above	<p><u>Chat comment received during the L&L Forum:</u> “I agree with Mary Segawa. One serving of alcohol per meal provision.”</p>	<p>Summary: In support of suggestion to reduce amount of spirits allowed to one standard drink per meal served, include limit for beer and wine. Agency Response: We appreciate this feedback and participation in the rulemaking process. See agency response to Mary Segawa’s comment # 5 above.</p>
16	Megan Moore, Kitsap Public Health District, Prevention Voices.	Same as above	<p><u>Chat comment received during the L&L Forum:</u> “Please add language: 12oz per beer and 5oz per glass of wine per complete meal.”</p>	<p>Summary: Suggestion to include 12 ounce limit for beer and 5 ounces limit for wine per complete meal. Agency Response: We appreciate this feedback and participation in the rulemaking process. See agency response to Mary Segawa’s comment # 5 above. Also, please note that cocktails to go/wine by the glass endorsement created by HB 1480 is specifically for premixed cocktails, cocktail kits, wine by the glass, premixed wine and spirits cocktails, and premixed wine drinks. This does not include beer by the glass.</p>
17	Linda Thompson	Same as above	<p><u>Chat comment received during the L&L Forum:</u> “According to the WA State of Department of Health's Alcohol Drug Information School (ADIS) workbook for the ADIS classes: A standard drink is: 12 oz. beer (5% alcohol), 5 oz. wine (12% alcohol) or 1.5 oz. liquor (80-proof, 40% alcohol).”</p>	<p>Summary: Information offered but no feedback on the rule language suggested. Agency Response: We appreciate this participation in the rulemaking process. The conceptual draft rules do not reference standard drink sizes.</p>

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18	Pat Caffall	Same as above	<p><u>Chat comment received during the L&L Forum:</u> “Linda, consumption at home is not defined by the DOH”</p>	<p>Summary: Information offered but no feedback on the rule language suggested. Agency Response: We appreciate this participation in the rulemaking process. The conceptual draft rules do not regulate consumption of alcohol at home.</p>
19	Tony Clark	Same as above	<p><u>Chat comment received during the L&L Forum:</u> “In the State of WA parents are allowed to supply alcohol to their children in their home</p> <p>RCW66.44.270</p> <p>(3) Subsections (1) and (2)(a) of this section do not apply to liquor given or permitted to be given to a person under the age of twenty-one years by a parent or guardian and consumed in the presence of the parent or guardian.”</p>	<p>Summary: Information offered but no feedback on the rule language suggested. Agency Response: We appreciate this participation in the rulemaking process. The conceptual draft rules do not regulate consumption of alcohol at home.</p>
20	Katie Jacoy, CA Wine Institute	Same as above	<p><u>Chat comment received during the L&L Forum:</u> “The CA Wine Institute likes that the draft rule does not limit the size of wine by the glass to go. We believe the size should be driven by a restaurant's menu, so any size included on a menu of wine by the glass should be allowed to be sold to go. There is no federally defined standard serving size or something that all alcohol stakeholders are in agreement with.”</p>	<p>Summary: In support of no limit on size of wine by the glass to go. Agency Response: We appreciate this feedback and participation in the rulemaking process.</p>
21	Kelsey Curran	WAC 314-03-505 (3)(c): Cocktails to go/wine by the glass	<p><u>Verbal comment received during the L&L Forum:</u> “Hi, this is Kelsey Curran, I’m a restaurant owner and I just want to put my two cents in for allowing tape to be allowed as a seal. I understand it’s not allowed as it’s currently written, and I think it would</p>	<p>Summary: Suggestion to allow use of tamper-evident tape to seal to-go cups, including standard to-go coffee cups or soft drink cups.</p>

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		<p>endorsement, Tamper-evident definition and examples</p>	<p>be incredibly helpful. I think a lot of businesses are already doing this anyway. That’s what tamper-evident tape is for. The other containers are cost-prohibitive. That’s really all I have.”</p> <p><u>Follow-up Q from LCB Policy & Rules Coordinator, Audrey Vasek:</u> “Thank you very much for that feedback Kelsey. I might want to follow up with you after or outside of this meeting and learn more about the type of options you’re describing—the tape and whatnot. Or if you could share a little more now, that might be helpful. What the tamper-evident tape looks like?”</p> <p><u>Kelsey Curran:</u> “Sure, I’ve seen a lot of restaurants using a standard to-go cup, like for a hot drink. The same kind of coffee cup you would get at a coffee shop, or for a cold drink—what you would typically see a soft drink served in, with tamper-evident tape that completely seals over the top so if someone tried to remove the lid or remove the tape, it’s really obvious that’s happening. So it’s not just like a piece of scotch tape or masking tape. It’s tape designed to show it’s been tampered with—usually red, when I’ve seen it.”</p>	<p>Agency Response: We appreciate this feedback and participation in the rulemaking process. The agency considered the suggested revision, but this suggestion is not reflected in the rule proposal. There are traffic safety and public health concerns with allowing the use of tape, including tamper-evident tape, to seal a to-go cup. For example, tape placed over a paper coffee cup lid or soft drink cup lid is not as strong a deterrent to opening a cocktail in public or in a vehicle as using a container with a screw top, plastic heat shrink wrap band, or vacuum or heat-sealed pouch would be. Coffee and soft drink cup lids typically have sipping holes or openings for straws that—even if covered with tape— can be accessed relatively easily without removing the lid, such as by peeling back or puncturing the tape. Additionally, paper coffee cups and soft drink cups are more difficult for individuals, including customers, restaurant employees, and enforcement officers, to identify as cocktail to-go containers than the other container examples provided in the conceptual draft rules because of how commonly coffee cups and soft drink cups are used. This presents a public safety risk due to potential confusion as to the contents of the container.</p>
22	Amber Carter	Same as above	<p><u>Chat comment received during the L&L Forum:</u> “Cannabis is allowed tamper proof tape with regular jars”</p>	<p>Summary: Statement regarding use of tamper proof tape for cannabis packaging.</p>

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				<p>Agency Response: We appreciate this participation in the rulemaking process. The terms “tamper-evident” and “tamper-proof” are not used in the LCB cannabis packaging rules. Additionally, “tamper-proof” or “tamper-evident” tape would not meet the child resistant packaging requirement for cannabis concentrates or infused edibles. Although tamper proof tape might meet the requirement in WAC 314-55-105(5)(a) for useable cannabis, the purpose of the packaging rules for useable cannabis is to protect the product from contamination, whereas the purpose of the requirement in the conceptual draft rules to use tamper-evident seals on cocktails/wine by the glass to go is to prevent/deter consumption of alcohol in public or in a vehicle.</p>
23	Megan Moore, Kitsap Public Health District, Prevention Voices	Same as above	<p><u>Chat comment received during the L&L Forum:</u> “We appreciate the examples for allowed and disallowed containers.”</p>	<p>Summary: In support of the container examples included. Agency Response: We appreciate this feedback and participation in the rulemaking process.</p>
24	Megan Moore, Kitsap Public Health District, Prevention Voices	WAC 314-03-505 (3)(d): Cocktails to go/wine by the glass endorsement, 21+ labelling/mark	<p><u>Verbal comment received during the L&L Forum:</u> “Megan Moore, Kitsap Public Health District. I appreciate this wording here. Having an actual marker for persons 21 and over to distinguish an alcoholic drink versus—in a previous example someone mentioned just a coffee cup or soda cup—we know there has been a higher incidence of accidental exposure by youth drinking out of a</p>	<p>Summary: In support of keeping the outside of the cocktail to-go cups marked as containing alcohol. Agency Response: We appreciate this feedback and participation in the rulemaking process.</p>

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		ing of container and box/packaging	<p>cup that is unmarked. Also, it is pretty easy to conceal in vehicles and for people doing public consumption of alcohol, if the cup is not marked.</p> <p>I want to point out this could be pretty cost effective—you can by a roll of stickers by the thousand for under \$20, so I just want to point that out.</p> <p>One thing I would like to see added is that the markings—shouldn't be wipeable. Even a sharpie on a wet cup, it can wipe off. I just want to have that be clear.”</p>	
25	Amanda Dugger, Community Outreach Coordinator for Greater Spokane Substance Abuse Council	Same as above	<p><u>Chat comment received during the L&L Forum:</u> “I agree Megan please use stickers and not markers.”</p>	<p>Summary: In support of keeping the outside of the cocktail to-go cups marked as containing alcohol, would like to see stickers used and not markers.</p> <p>Agency Response: We appreciate this feedback and participation in the rulemaking process. The conceptual draft rules do not specify the method (e.g. sticker, marker, pre-printed, etc) that the licensee must use to mark or label the to-go cup or to-go bag/box, as long as the required words are legible and visible. This provides flexibility for licensees while still supporting the goal of providing notice that cocktail/ wine by the glass to-go containers have alcoholic beverages and are only intended for consumption by persons 21 and over.</p>
26	Alison Sanders	Same as above	<p><u>Chat comment received during the L&L Forum:</u> “I agree Megan, stickers not markers”</p>	<p>Summary: In support of keeping the outside of the cocktail to-go cups marked as containing alcohol, would like to see stickers used and not markers.</p>

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				<p>Agency Response: We appreciate this feedback and participation in the rulemaking process. See agency response to Amanda Dugger’s comment #25 above.</p>
27	Ron Keller	Same as above	<p><u>Chat comment received during the L&L Forum:</u> “sticker can be peeled off so pre marked cups”</p>	<p>Summary: Suggests that pre-marked cups for cocktails to-go would be preferable to stickers. Agency Response: We appreciate this feedback and participation in the rulemaking process. See agency response to Amanda Dugger’s comment #25 above.</p>
28	Kelsey Curran	Same as above	<p><u>Verbal comment received during the L&L Forum:</u> “Just a clarifying question. So we would need to mark the physical cup, which seems totally reasonable to me. But we would also—like if someone, like if we had a premixed cocktail in a jar and we were bagging it up like with a salad—Even if the container is marked, the bag would also need to be marked. Is that right?”</p> <p><u>Follow-up response from LCB Policy & Rules Coordinator, Audrey Vasek:</u> “Correct, if it’s closed in there, inside a bag, it would have to be marked as well, under the draft rules.”</p> <p><u>Kelsey Curran:</u> “Okay, I think that seems like overkill if the container itself is marked, but that’s just my opinion.”</p> <p><u>Audrey Vasek:</u> “Thank you, appreciate that feedback. So just to follow up on that—is the suggestion then, you’d like to not have any requirement on the bag, box, or packaging.”</p>	<p>Summary: Suggestion to keep outside of cup marked, but remove requirement that bag must be marked. Agency Response: We appreciate this feedback and participation in the rulemaking process. The agency considered the suggested revision, but this suggestion is not reflected in the rule proposal. The conceptual draft rules require both the to-go cup and the to-go bag/box to be marked with the language “CONTAINS ALCOHOL, FOR PERSONS 21+”, whether for curbside, takeout, or delivery, in order to mitigate public health and safety and youth access concerns. This labelling/marketing helps ensure that customers and employees are aware that the to-go bag/box contains alcohol and that IDs need to be checked for that order. The employee that fills an order in a restaurant and places a cocktail to-go inside a bag or box may not be the</p>

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			<u>Kelsey Curran:</u> "I think that if the container itself is clearly marked, I don't think that the bag that that is in should also have to be marked."	employee that handles the transaction with the customer at point of sale, the employee that hands the order to the customer at the curbside or takeout location, or the employee that makes deliveries.
29	Mary Segawa, Public Health and Prevention Consultant	Same as above	<u>Verbal comment received during the L&L Forum:</u> "I support having the outside container marked to ensure that the delivery person asks for ID when delivering to the location. I think that if the alcohol is inside the container, there is the chance of that ID check not happening when the delivery is made to the home, so I support having the outside of the bag or box marked."	Summary: In support of keeping outside of bag marked as containing alcohol, especially for delivery purposes. Agency Response: We appreciate this feedback and participation in the rulemaking process.
30	Megan Moore, Kitsap Public Health District, Prevention Voices	Same as above	<u>Chat comment received during the L&L Forum:</u> "Sounds reasonable to use a marker on a to-go bag."	Summary: In support of keeping the outside of to-go bag marked as containing alcohol. Agency Response: We appreciate this feedback and participation in the rulemaking process.
31	Whitney Anderson Gillings	Same as above	<u>Chat comment received during the L&L Forum:</u> "I agree its reasonable, you can't read the marking on a container in a bag"	Summary: In support of keeping the outside of to-go bag marked as containing alcohol. Agency Response: We appreciate this feedback and participation in the rulemaking process.
32	Alison Sanders	Same as above	<u>Chat comment received during the L&L Forum:</u> "I would like to see the bag marked as containing alcohol. Marker seems fine, no sticker necessary."	Summary: In support of keeping the outside of bag marked as containing alcohol, and supporting use of marker. Agency Response: We appreciate this feedback and participation in the rulemaking process. See agency

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				response to Amanda Dugger’s comment #25 above.
33	Megan Moore, Kitsap Public Health District, Prevention Voices	Same as above	<u>Chat comment received during the L&L Forum:</u> “A pre-printed cup would be best practice, but also cost prohibitive for some.”	Summary: Noting that pre-printed cocktail to-go cups would be best practice but potentially cost-prohibitive. Agency Response: We appreciate this feedback and participation in the rulemaking process. See agency response to Amanda Dugger’s comment #25 above.
34	Stacey Okland, Okanogan County Community Coalition-WASAVP	Same as above	<u>Chat comment received during the L&L Forum:</u> “Do agree that the to-go and delivery cups of alcohol need to be marked as 21+. I do worry about stickers easily being able to be peeled off the cup. I prefer pre-printed cup.”	Summary: In support of keeping to-go cups marked as containing alcohol, with preference for pre-printed cups over stickers. Agency Response: We appreciate this feedback and participation in the rulemaking process. See agency response to Amanda Dugger’s comment #25 above.
35	Tony Clark	Same as above	<u>Chat comment received during the L&L Forum:</u> “Flexibility is good, not all solutions work for all businesses.”	Summary: In support of keeping marking/labelling requirements flexible. Agency Response: We appreciate this feedback and participation in the rulemaking process. See agency response to Amanda Dugger’s comment #25 above.
36	Kelsey Curran	Same as above	<u>Verbal comment received during the L&L Forum:</u> “Thanks so much. I totally hear the comment on the delivery bag, especially if that driver. I would hope that they’re familiar with what’s in the order and that something on the ticket that says what they’re delivering would indicate that they need to check ID. In a restaurant setting where a patron is walking inside and interacting directly with staff, it seems	Summary: Suggestion to have the outside of the bag marking requirement be for delivery only, not pick up or curbside. Agency Response: We appreciate this feedback and participation in the rulemaking process. See agency response to Kelsey Curran’s comment #28 above.

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			like overkill, but I totally hear the comment on delivery. That’s all I have.”	
37	Linda Thompson	Same as above	<p><u>Verbal comment received during the L&L Forum:</u> “This is Linda Thompson with the Greater Spokane Substance Abuse Council and WA Association for Substance Abuse and Violence Prevention. I just want to say I really appreciate this line about being legible and readily visible. However it is put on the bag and the cup, I feel that it is important to make it the norm that we see there is always a label on the bag.</p> <p>My concerns come from experience with marijuana billboards that did have the required language on it but printed in a yellow or beige color that was not readable. It was actually, you could see there was something there, and I’m sure it was legible. So I just want to share—that’s why the concern and making sure that these labels are truly legible and visible to help us make it the norm that we know there is alcohol in there and so that everyone is aware.”</p>	<p>Summary: In support of the requirement that the “CONTAINS ALCOHOL, FOR PERSONS 21+” language is legible and readily visible, regardless of how it is put on the bag or cup.</p> <p>Agency Response: We appreciate this feedback and participation in the rulemaking process.</p>
38	Megan Moore, Kitsap Public Health District, Prevention Voices	WAC 314-03-505 (3)(e): Cocktails to go/wine by the glass endorsement, no ice directly in containers	<p><u>Verbal comment received during the L&L Forum:</u> “Megan Moore, Kitsap Public Health. I really appreciate this provision. I think that it’s a no-cost really easy way to deter customer from drinking cocktails in their car and/or in a public space. We know that nobody wants ice melt in their cocktails, and if your ice is melting in your cup, you’re probably more likely to drink it or go to the park to drink it.</p> <p>There is a provision there about ice being provided separately. I think this provision actually eliminates the entire purpose of this statement. But for those</p>	<p>Summary: Suggestion to require that the customer must ask for ice in order for it to be provided in a separate cup.</p> <p>Agency Response: We appreciate this feedback and participation in the rulemaking process. The agency considered the suggested revision, but this suggestion is not reflected in the rule proposal. The LCB would not be able to enforce a requirement that a customer must ask for ice in order for it to be included in a separate cup. However, the conceptual draft rules provide licensees</p>

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			<p>maybe that don't have ice at home for some reason, I think it should state something like, the customer must ask for ice, or word it in some way that it doesn't standard come with a cup of ice so that you can just dump in the cup of ice. The customer must ask for it. Thanks."</p>	<p>with the flexibility to make that their business practice if they so choose.</p>
39	Tony Clark	<p>WAC 314-03-505 (3)(f): Cocktails to go/wine by the glass endorsement, Open container requirements —placement of alcohol products in trunk/ out of reach of the driver</p>	<p><u>Verbal comment received during the L&L Forum:</u> "I understand the intent of this but I'm thinking less about an individual coming and getting alcohol to-go, and more about delivery people who might have multiple bags and boxes. It might not be feasible to put things in the trunk. Wondering about more in that sort of scenario. A delivery person is not going to be drinking their customers' drinks, because if they are, they're going to get fired. So I'm wondering about maybe some language around that. Because the last thing you want is for your delivery driver to get pulled over and arrested because the food with the booze was in the front seat."</p> <p><u>Verbal follow-up from Justin Nordhorn, LCB Policy and External Affairs Director during the L&L Forum:</u> "Just as clarification, and I see somebody did point it out in the chat as well, so folks have an understanding. To think about when you offer language to us—it would be good to keep in mind that we need to have some standards around the alcohol in the vehicle in order to meet standards for national highway traffic safety as we've seen in other states. I believe it was Iowa that had some considerations in that particular area. We tried to design some of this language to make sure we're compliant with that so we don't lose any federal dollars around compliance related issues for this.</p>	<p>Summary: Suggestion to create an exception for delivery persons to the requirement that alcohol be kept out of the reach of the driver. Agency Response: We appreciate this feedback and participation in the rulemaking process. The agency considered the suggested revision, but this suggestion is not reflected in the rule proposal. This rule section is based on the requirements in the existing open container law in RCW 46.61.519 and is required for compliance with the US Department of Transportation's National Highway Traffic Safety Administration laws and regulations (23 USC Sec. 154; 23 CFR Part 1270). All drivers, including delivery drivers, are required by existing law to keep open containers of alcohol out of reach/in the trunk.</p>

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			So as we look at modifying and responding to the comments being made today, just know that has to be in the back of our mind as we're looking through these. So if you have any suggestions around those, that would be helpful. Thank you."	
40	Megan Moore, Kitsap Public Health District, Prevention Voices	Same as above	<u>Chat comment received during the L&L Forum:</u> “(3)(f) This provision is necessary for NSTA compliance. Thank you for including it.”	Agency Response: We appreciate this feedback and participation in the rulemaking process.
41	Megan Moore, Kitsap Public Health District, Prevention Voices	Same as above	<u>Chat comment received during the L&L Forum:</u> “The alcohol can be in the backseat, out of the reach of the driver.”	Agency Response: We appreciate this feedback and participation in the rulemaking process.
42	Tony Clark	Same as above	<u>Chat comment received during the L&L Forum:</u> “no back seat in my miata. (smile)”	Agency Response: We appreciate this feedback and participation in the rulemaking process. See agency response to Tony Clark’s comment #39 above.
43	Katie Doyle, Washington Hospitality Association	WAC 314-03-505 (3)(g)(i): Cocktails to go/wine by the glass endorsement, Delivery requirements, 21+, MAST,	<u>Verbal comment received during the L&L Forum:</u> “Hello again everyone, our real only request in this particular section is to remove that delivery cannot be done by 3 rd party service providers. We understand that right now there are pretty limited exceptions for the ability for third party delivery services to do alcohol to go or deliver alcohol, whether that’s beer or wine, and we know that there are currently no exceptions to spirits. However, I do believe the 3 rd party delivery market	Summary: Suggestion to allow 3 rd party delivery for all three new to-go endorsements. Agency Response: We appreciate this feedback and participation in the rulemaking process. The agency considered the suggested revision, and incorporated part of this suggestion into the rule proposal by allowing 3 rd party delivery for the manufacturer sealed

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		<p>no 3rd party delivery</p>	<p>is rapidly evolving and changing in a way that would allow for future delivery of any alcohol product through 3rd party delivery services. I know that DoorDash, for example, has the ability to scan IDs. So I think we need to keep an open mind to what 3rd party delivery looks like going forward. To write a hard no in all of these three of these endorsements to 3rd party delivery is just a little bit disheartening to us.</p> <p>I would also add that I think that it would be possible for a 3rd party delivery services to be required to get a MAST permit so that they do have that more general understanding like our servers do, or bartenders, on how to recognize signs of intoxication, how to properly read an ID, so on and so forth. And this is something that the association [WHA] would happily get behind because not only would we love to see these drivers have MAST permits, we would also love to see them have food permits. Total aside and irrelevant to this particular group but I think that there are checks and balances we can put in place for 3rd party delivery of any alcohol product.”</p> <p><u>Follow-up Q from LCB Policy & Rules Coordinator, Audrey Vasek:</u> “Thank you very much for that feedback Katie. Was there anything else on this section that you wanted to offer?”</p> <p><u>Katie Doyle:</u> “That is it from me. And those comments do—Audrey—apply to all three endorsements. I know that you’re going to go over the other two. But in case I do drop off—because, you know, Montana life, I wanted to share that on</p>	<p>alcohol products since some licensees were allowed to sell these products via 3rd party delivery prior to HB 1480. However, even with tamper-evident sealing requirements, from a public health and safety perspective, there are differences between non-manufacturer sealed products (such as cocktails and growlers) and manufacturer sealed products (such as cans of beer and unopened bottles of wine). The cocktails to-go endorsement is new and the agency is still assessing the impacts of this endorsement on public health and safety.</p> <p>HB 1480 includes a mandate for a study to assess the impacts of the alcohol allowances contained in bill, including any changes in alcohol consumption, youth access, and alcohol harms. There are a lot of potential public health and safety impacts to study with respect to cocktails to-go, even without adding 3rd party delivery. Additionally, recent compliance checks on 3rd party delivery of manufacturer sealed products indicate that despite rule requirements, there are challenges with ensuring that ID is checked and that delivery packages are marked as containing alcohol. These challenges with 3rd party delivery will likely not be limited to delivery of manufacturer sealed products.</p>
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			<p>behalf of all three endorsements we're going to go over today.”</p> <p><u>Audrey Vasek</u>: “Great, thank you so much Katie.”</p>	<p>The MAST permit statute RCW 66.20.300 specifies the types of licensees whose employees are required to be MAST certified and receive MAST training. Without a statutory mandate, we would not be able to construct rules requiring the MAST training for delivery persons in general. For example, third party delivery services are not licensees and the MAST requirements in statute do not apply to them.</p>
44	Brian Ream	Same as above	<p><u>Verbal comment received during the L&L Forum</u>: “Brian Ream with Ste. Michelle Wine Estates. I understand there is sort of an opening window for new hires with respect to the MAST permit. Where there's like a window within which they can pour while on-premises but then have to have that MAST permit completed after that time. I think it's like 40 days, not sure. Just wondering whether or not that same window will apply in this instance across all of the endorsements.”</p>	<p>Summary: Question about MAST permit window for new hires. Agency Response: We appreciate this feedback and participation in the rulemaking process. The MAST permit rules in WAC 314-17-030 state that “Any person who holds a license to sell liquor at a retail licensed premises must ensure that any person who engages in the sale or service of liquor for on-premises consumption, or who supervises such activities, has a current and valid class 12 or 13 permit within sixty calendar days of the date of hire. See RCW 66.20.310 for exceptions for grocery stores that have an on-premises liquor license.” The new alcohol to-go endorsements do not change existing MAST permit requirements, so the 60 day window still applies.</p>
45	No name provided	Same as above	<p><u>Chat comment received during the L&L Forum</u>: “60 days of initial hire is when MAST is needed by”</p>	<p>Agency Response: We appreciate this feedback and participation in the rulemaking process. See agency</p>

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				response to Brian Ream’s Comment #44 above.
46	Megan Moore, Kitsap Public Health District, Prevention Voices	Same as above	<p><u>Verbal comment received during the L&L Forum:</u> “Hi, I really appreciate Katie’s comments about 3rd party delivery services and needing health cards and MAST cards. That would be great. But I guess this is more of a question than anything, and maybe Justin can answer. My question is—aren’t MAST cards—the LCB can only enforce its licensees, and if there was non-compliance of ID checks among 3rd party delivery services, would you even be able to enforce that 3rd party delivery service because they’re not your licensee. It seems like cutting them out might be just removing some of the confusion of how to enforce non-compliance. Thank you”</p> <p><u>Follow-up from LCB Policy & Rules Coordinator, Audrey Vasek:</u> “Thanks for that Megan. Justin—I don’t know if you were just about to say something or not—but you’re correct that 3rd parties are not licensees at this point.”</p> <p><u>Follow-up from LCB Policy & External Affairs Director, Justin Nordhorn:</u> “Yeah, I would agree with that. Also on the MAST permit, the MAST provisions are all set out by statute on who’s required to get one. So without a statutory mandate, I’m not sure we would be able to construct rules requiring the permit to be for those 3rd party folks. And then of course, there’s the gap in licensing for those companies. So we have to navigate and research some of that to see where those options would fall.”</p>	<p>Summary: Question re whether the LCB would be able to enforce compliance of ID checks among 3rd party delivery services.</p> <p>Agency Response: We appreciate this feedback and participation in the rulemaking process. The options for enforcing compliance of ID checks among 3rd party delivery services would depend on the case. Third-party delivery services are not licensees, but drivers may be responsible for delivery to minors and licensees may be responsible for not labelling packages containing alcohol properly. Additional options may also be available depending on the case. See verbal follow up responses from LCB staff in column to the left.</p>

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47	Pat Caffall	Same as above	<p><u>Chat comment received during the L&L Forum:</u></p> <p>“You can't cut out 3rd party delivery”</p>	<p>Summary: Suggestion to allow 3rd party delivery.</p> <p>Agency Response: We appreciate this feedback and participation in the rulemaking process. See agency response to Katie Doyle’s comment #43 above.</p>
48	Tony Clark	Same as above	<p><u>Chat comment received during the L&L Forum:</u></p> <p>“Agreed, Uber Eats, DoorDash etc. it will prevent some smaller places from having delivery options”</p>	<p>Summary: In support of suggestion to allow 3rd party delivery.</p> <p>Agency Response: We appreciate this feedback and participation in the rulemaking process. See agency response to Katie Doyle’s comment #43 above.</p>
49	Katie Doyle, Washington Hospitality Association	Same as above	<p><u>Chat comment received during the L&L Forum:</u></p> <p>“We totally understand there would need to be a statutory change to require food handlers cards + MAST permits for 3rd party delivery. Our request for the purpose of these rules would simply be to remove the 3rd party delivery piece or state there are limited exceptions.”</p>	<p>Summary: Suggestion to allow 3rd party delivery or state there are limited exceptions.</p> <p>Agency Response: We appreciate this feedback and participation in the rulemaking process. See agency response to Katie Doyle’s comment #43 above..</p>
50	Hailey	Same as above	<p><u>Chat comment received during the L&L Forum:</u></p> <p>“Agreed on the 1 drink limit. Additionally, please consider adding language in (3)(c)[g?](i).... Delivery must be made by an employee of the licensed business who is at least twenty-one years of age "and possesses a valid MAST cetificate in the State of Washington.””</p>	<p>Summary: Suggestion to add the word “valid” next to MAST. Also in support of adding a 1 drink limit to WAC 314-03-505 (3)(a).</p> <p>Agency Response: We appreciate this feedback and participation in the rulemaking process. The agency considered the suggested revision, but this suggestion is not reflected in the rule proposal. Adding the word “valid” before “MAST” is not necessary. If the employee holds an invalid MAST permit,</p>

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				then they would not satisfy the requirement to hold a MAST permit.
51	Alison Sanders	Same as above	<p><u>Chat comment received during the L&L Forum:</u></p> <p>“Adding the word ‘Valid’”</p>	<p>Summary: In support of suggestion to add the word “valid” next to MAST.</p> <p>Agency Response: We appreciate this feedback and participation in the rulemaking process. See agency response to Hailey’s comment #50 above.</p>
52	Joe Long - Surge	WAC 314-03-505 (3)(g)(ii): Cocktails to go/wine by the glass endorsement, Delivery requirements, age verification, signature collection	<p><u>Chat comment received during the L&L Forum:</u></p> <p>“How is age verified at the time of order in the case of delivery?”</p> <p><u>Verbal comment received during the L&L Forum:</u></p> <p>“I guess ultimately what I was trying to understand is in the case of whether it be online or by phone, how does the licensee know that the individual is of legal age?”</p>	<p>Summary: Question regarding how age is verified at the time of order for delivery orders.</p> <p>Agency Response: We appreciate this feedback and participation in the rulemaking process. Licensees would be able to continue their existing age verification policies at the time of order, such as asking if the customer is over 21 years of age or asking for date of birth. The conceptual draft rules do not regulate how to verify age at the time of order, although it would be a best practice for businesses to have verification policies in place. Washington state law prohibits the sale of alcohol to minors, and per chapter 66.44 RCW, any person under 21 is prohibited from purchasing alcohol. See also WAC 314-11-020. The acceptable forms of ID for the purpose of selling, serving, or allowing a person to possess or consume alcohol are listed in WAC 314-11-025. The conceptual draft rules require that age be verified using an acceptable form of ID in WAC 314-11-025 at the time of delivery.</p>

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53	Alison Sanders	Same as above	<p><u>Verbal comment received during the L&L Forum:</u> “Hi, I have a question that I’m not sure if it will be addressed later. Do you need a valid ID for each drink that has been ordered? So if there’s 5 meals and 5 cocktails are ordered, do you need 5 people’s IDs, or just one person’s ID for all orders?”</p> <p><u>Chat comment received during the L&L Forum:</u> “I would like to see an ID checked for each drink ordered. This would cut down on the likely hood of a person 21+ buying alcohol for underage youth.”</p>	<p>Summary: Suggestion to check ID per drink ordered.</p> <p>Agency Response: We appreciate this feedback and participation in the rulemaking process. The agency considered the suggested revision, but this suggestion is not reflected in the rule proposal. The rule proposal requires that the ID of the person who accepts delivery of the order be verified as 21+ using an acceptable form of ID in WAC 314-11-025, and the person must also sign for the order. The person who accepts delivery of the order would be responsible for ensuring that alcohol is not provided to underage individuals in accordance with RCW 66.44.270. Requiring licensees or delivery persons to check the ID for each drink ordered is not feasible because an individual could choose to order more than one meal and more than one drink for their own consumption. Additionally, the agency does not regulate alcohol consumption in the home.</p>
54	Stacey Okland, Okanogan County Community Coalition-WASAVP	Same as above	<p><u>Chat comment received during the L&L Forum:</u> “Alison brings up a good point. A server would check all five IDs.”</p> <p>“I agree with licensees delivering alcohol under their license through LCB and that driver's are 21 or older and need to have a MAST permit.”</p>	<p>Summary: In support of suggestion to require ID checked per drink ordered, and in support of requirement that licensees deliver alcohol (i.e. not 3rd parties) and that drivers be 21+ and have a MAST permit.</p> <p>Agency Response: We appreciate this feedback and participation in the rulemaking process. See agency</p>

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				response to Alison Sanders’s comment #53 above.
55	Amanda Dugger, Community Outreach Coordinator for Greater Spokane Substance Abuse Council	Same as above	<u>Chat comment received during the L&L Forum:</u> “Could there be wording that states one ID per drink?”	Summary: In support of suggestion to require one ID per drink. Agency Response: We appreciate this feedback and participation in the rulemaking process. See agency response to Alison Sanders’s comment #53 above.
56	Ron Keller	Same as above	<u>Chat comment received during the L&L Forum:</u> “who will receive this paper work”	Summary: Question about who will receive the signature collection paperwork. Agency Response: We appreciate this feedback and participation in the rulemaking process. The delivery person is required to collect the signatures. Since the delivery person for cocktails to go is an employee of the licensee, this means the licensee will receive the paperwork.
57	Tony Clark	Same as above	<u>Chat comment received during the L&L Forum:</u> “And what would be the "retention" requirements for that paper work?”	Summary: Question about the retention requirements for the signature collection paperwork. Agency Response: We appreciate this feedback and participation in the rulemaking process. There are no new retention requirements added to rule, but the general 3 year record retention requirements in WAC 314-11-095 and the required information for delivery sales in the consumer orders, internet sales, and delivery rules (see e.g. WAC

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				314-03-020 through 314-030-040) would apply. In response to this question, the rule proposal incorporates references to these requirements.
58	Tony Clark	Same as above	<p><u>Verbal comment received during the L&L Forum:</u></p> <p>“I would just, to me—I know we’re trying to validate who got the booze, who received it. The signature thing to me feels like it’s overkill. We have a MAST card holder checking ID and we don’t have people sign receipts when they buy in a bar. And if you’re not going to require people to retain those records, I don’t really see what signing for the booze really solves here. I’m a big proponent for minimizing things that my drivers have to do that don’t seem to have any purpose. My opinion would be don’t even bother with the signature as long as you check ID. And of course you have to trust people at some point that they are checking IDs properly. I would just remove the signature requirement.”</p> <p><u>Chat response from Jeanne McShane, LCB Licensing Deputy Director during the L&L Forum:</u></p> <p>“Section 2 (9) of 1480 : Upon delivery of any alcohol product authorized to be delivered under this section, the signature of the person age 21 or over receiving the delivery must be obtained.”</p>	<p>Summary: Suggestion to remove signature collection requirements.</p> <p>Agency Response: We appreciate this feedback and participation in the rulemaking process. The agency considered the suggested revision, but this suggestion is not reflected in the rule proposal. Signature collection for delivery of cocktails to go is required by HB 1480—WA State law. See section 2(9), chapter 48, Laws of 2021 (HB 1480). See also response from LCB staff in column to the left.</p>
59	Megan Moore, Kitsap Public Health District,	WAC 314-03-505 (3)(g)(iii): Cocktails to go/wine by the glass endorsement, alcohol may	<p><u>Chat comment received during the L&L Forum:</u></p> <p>“(3)(g)(ii) and (iii) are consistent with other states. Thank you for including them.”</p>	<p>Summary: In support of requirement that delivery person verify the age of the recipient of alcohol and not leave alcohol unattended at a delivery location.</p> <p>Agency Response: We appreciate this feedback and participation in the rulemaking process.</p>

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	Prevention Voices	not be left unattended at delivery location/ returned		
60	Trillium Swanson, Coalition for Orcas Youth, Prevention Professional serving Orcas Island/San Juan County	Same as above	<u>Chat comment received during the L&L Forum:</u> “I support (3)(g)(iii), it follows that if the delivery person needs to verify ID(s) upon delivery of alcoholic drinks, that they cannot drop the beverages without anyone present.”	Summary: In support of requirement that alcohol may not be left unattended at a delivery location. Agency Response: We appreciate this feedback and participation in the rulemaking process.
61	Amanda Dugger, Community Outreach Coordinator for Greater Spokane Substance Abuse Council	Same as above	<u>Chat comment received during the L&L Forum:</u> “Have wording that states orders that are returned must be document”	Summary: Suggestion to add documentation requirement for orders that are returned. Agency Response: We appreciate this feedback and participation in the rulemaking process. The agency considered the suggested revision, but this suggestion is not reflected in the rule proposal. Under existing consumer orders, internet sales, and delivery rules (e.g. WAC 314-03-020 through 314-03-040), licensees are required to keep certain delivery sales records but are not required to document a delivery that is returned. While documenting returns might be a best practice for licensees, this data is not something that the agency would need for compliance checks. Recognizing that the concern

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				behind documenting returned orders is related to youth access concerns, it might be helpful to note that HB 1480 also includes a mandate for a study to assess the impacts of the alcohol allowances contained in bill, including any changes in alcohol consumption, youth access, and alcohol harms. An RFP for this work is currently in development by LCB and expected to be live in September. The chosen contractor will have to submit a research study plan with specific measures by December 2021 and final report by November 2022.
62	Stacey Okland, Okanogan County Community Coalition-WASAVP	Same as above	<u>Chat comment received during the L&L Forum:</u> “Agree that alcohol should not be left unattended at any delivery location”	Summary: In support of requirement that alcohol may not be left unattended at a delivery location. Agency Response: We appreciate this feedback and participation in the rulemaking process.
63	Pat Caffal	Same as above	<u>Chat comment received during the L&L Forum:</u> “how would this work with 3rd party apps?”	Summary: Question about how cocktails to go delivery will work with 3 rd party applications. Agency Response: We appreciate this feedback and participation in the rulemaking process. See agency response to Katie Doyle’s comment #43 above.
64	Megan Moore, Kitsap Public Health District,	WAC 314-03-505 (3)(h): Cocktails to go/wine by the glass endorsement,	<u>Verbal comment received during the L&L Forum:</u> “I just wanted to say thank you for this section. There has been a lot of anecdotal stories over COVID, especially as restaurants have been closed or limited capacity that people are drinking in public more often, and for multiple reasons for	Summary: In support of mandatory signage requirements for cocktails/wine by the glass, growlers, and other alcohol to-go products.

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	Prevention Voices	Mandatory Signage Requirements	youth that’s not good. It’s also illegal to drink in public. A sign just reminding customers that is the case, I think is a great idea. Those comments are going to go for the next two sections too. Thank you.”	Agency Response: We appreciate this feedback and participation in the rulemaking process.
65	Eric Dorman	Same as above	<u>Chat comment received during the L&L Forum:</u> “Time Frame when these signs will be available?”	Summary: Question regarding the timeframe when the mandatory signs required by the draft rules will be available. Agency response: We appreciate this participation in the rulemaking process. The signs should be available once the rules are finalized. While we do not have a final timeframe available at this point, our target is to adopt and finalize the rules by the end of the year.
66	Stacey Okland, Okanogan County Community Coalition-WASAVP	Same as above	<u>Chat comment received during the L&L Forum:</u> “I have heard the same stories, Megan. A reminder of these laws is a good idea.”	Summary: In support of mandatory signage requirements for cocktails/wine by the glass, growlers, and other alcohol to-go products. Agency Response: We appreciate this feedback and participation in the rulemaking process. See agency response to Megan Moore’s comment #64 above.
67	Mary Segawa, Public Health and Prevention Consultant	WAC 314-03-505 (4)-(6): Cocktails to go/wine by the glass endorsement, Other applicable laws,	<u>Chat comment received during the L&L Forum:</u> “Thank you Audrey, this is not in here and I don’t know if it’s in the statute so I wanted to mention it. I know that Idaho in their regulations state that all transactions need to take place at the licensed premises, whether that’s in person or by phone, and they specifically state that no money may be exchanged between the delivery person and the customer upon delivery. I would like to recommend that something along those lines be added if it’s not	Summary: Suggestion to incorporate language in rule stating that all transactions need to take place at the licensed premises and that no money may be exchanged between the delivery person and customer upon delivery. Agency Response: We appreciate this feedback and participation in the rulemaking process. To address this concern, the rule proposal incorporates a

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		<p>Definitions, Expiration</p>	<p>already in statute, just to help ensure that the transactions are all recorded and above board. Thank you.”</p> <p><u>Email received on 08/05/2021 after L&L Forum:</u> “Hello Audrey and Team,</p> <p>As a follow-up to my comment about Idaho requiring that no money is exchanged between the delivery person and the customer. Here is a link to the guidelines on the Idaho Alcohol Beverage Control website, and I think the wording here could be used in the WAC language. Specifically, it states:</p> <p>All transactions must be paid for by credit/debit card at the time the order is placed. No money may be exchanged between the delivery person and the customer upon delivery for the purchase of beer or wine.</p> <p>Thank you for considering this additional provision.</p> <p>Best, Mary”</p> <p><u>Follow up email from LCB Policy & Rules Coordinator, Audrey Vasek on 08/06/2021:</u></p> <p>“Hi Mary,</p> <p>Thank you very much for sharing this suggested language and for your participation in the Listen and Learn yesterday. I will add this to the rulemaking file for consideration. Would it be</p>	<p>reference to the existing consumer orders, internet sales, and delivery rules. The existing consumer orders, internet sales, and delivery rules contain language stating that “Only a licensee or a licensee’s direct employees may accept and process orders and payments.” and “All orders and payments shall be fully processed before liquor transfers ownership or, in the case of delivery, leaves a licensed premises.” (See e.g. WAC 314-03-020 through 314-03-040).</p>
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		<p>possible to help me understand why this type of provision is important from a PH/Prevention perspective?</p> <p>Thank you,</p> <p>Audrey Vasek”</p> <p><u>Follow-up email from Mary Segawa received on 08/06/2021:</u> “Hi, Audrey,</p> <p>I appreciated the opportunity to participate. Thank you for holding this session.</p> <p>As I look at this, I see it as both a PH/prevention issue and, but maybe even more importantly, from an enforcement perspective, a way to keep clear documentation of transactions that occur. It reduces the opportunity for hidden fees, transactions, etc., and avoidance of tax payments. Plus, I don't know of any food deliveries that are not prepaid when the order is made, unless one was picking up the order at the restaurant. Then I would pay at the time of pick-up, but it was still an on-site payment, and if necessary, ID's were checked at that time. Granted, bad actors can always find a way around these safeguards, but it makes it clear that the expectations are that there will be no other charges/costs upon delivery, and all transactions remain above board. It is also a safety issue, ensuring that drivers are not carrying large amounts of cash. If I recall correctly, this is how cannabis sales are handled. This would provide consistency.</p>	
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			<p>Regarding prevention, when I think of potential party situations (even small get-togethers) where most participants may be underage, it forces one person to take responsibility rather than collecting cash when the delivery person arrives. It should also prevent delivery drivers from carrying extra alcohol and making additional sales with or without checking ID.</p> <p>Please let me know if you have other questions. Thanks for reaching out for clarification.</p> <p>Best, Mary”</p>	
<p>Topic: Temporary endorsement for sale of manufacturer sealed alcohol products through curbside, takeout, or delivery service.</p>				
68	Katie Doyle, Washington Hospitality Association	WAC 314-03-500(2): Manufacturer Sealed Alcohol Products To Go Endorsement, Eligible Licensees	<p><u>Verbal comment received during the L&L Forum:</u> “I don’t have a comment. I actually have a question. If I am a spirits, beer, wine [restaurant] licensee, do I need to apply for multiple endorsements, or does the endorsement we covered in the last section apply to all alcohol products, cocktails, and growlers?”</p> <p><u>Response from LCB Policy & Rules Coordinator, Audrey Vasek:</u> “Good question. These are three separate endorsements, so they would need to get the different endorsements—is my understanding—and maybe someone from Licensing can also raise their hand and chime in. The endorsement we covered prior to this one is just for the cocktails to go and wine by the glass, so if they want to also do these manufacturer sealed products, so like the can of beer or what have you, that would be a</p>	<p>Summary: Question about whether SBW restaurant licensees would need to get three separate endorsements to have the cocktails/wine by the glass to go privilege, the manufacturer sealed alcohol products privilege, and the growlers privilege.</p> <p>Agency Response: We appreciate this feedback and participation in the rulemaking process. Three separate endorsements would be required. The rule proposal incorporates language to help clarify this issue in the manufacturer sealed alcohol products to-go endorsement. See verbal responses from LCB staff provided during the meeting in the column to the left. HB 1480 includes a mandate for a study to assess the impacts of the alcohol</p>

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			<p>separate endorsement. Same with the growlers—a separate endorsement.”</p> <p><u>Follow up from Jeanne McShane, LCB Licensing Deputy Director:</u> “They will be separate endorsements. And part of that is because the bill calls for a study on the impacts of these endorsements, and so we want to be able to provide as much information for that study as possible. Thank you.”</p> <p><u>Chat comment received from Katie Doyle during the L&L Forum:</u> “Thank you Jeanne! So helpful!”</p>	<p>allowances contained in bill, including any changes in alcohol consumption, youth access, and alcohol harms. An RFP for this work is currently in development by LCB and expected to be live in September. The chosen contractor will have to submit a research study plan with specific measures by December 2021 and final report by November 2022.</p>
69	Annie McGrath, Washington Brewers Guild	Same as above	<p><u>Verbal comment received during the L&L Forum:</u> “Thank you Audrey and the rest of your rulemaking team and policy team for putting this together and hearing us today. I have a suggestion in looking at this particular endorsement. It authorizes curbside, takeout, and delivery service, but as non-retail licensees, breweries already have retailing privileges to do takeout, and then we also do internet sales deliveries. So when we get further into this endorsement, some of the requirements are inconsistent with what we are already allowed to do under that, so our suggestion would be that you would create a separate endorsement for non-retail that would apply just to breweries and potentially wineries, if they line up with us on this, that would only include the new temporary privileges. As far as I can tell, the new temporary privileges would include, for us, curbside and then—creeping into the growlers discussion—the delivery for growlers, and also the pre-fills, so those are the things that we’ve identified as being the new temporary allowances for our licensees, and we would appreciate a separate endorsement</p>	<p>Summary: Suggestion to create a separate endorsement for breweries, other non-retail licensees, that would include only the new temporary privileges to avoid overlap/inconsistencies with pre-existing/current licensee privileges.</p> <p>Agency Response: We appreciate this feedback and participation in the rulemaking process. To address the concerns about inconsistencies between existing privileges and the new privileges allowed by HB 1480 for non-retail licensees (i.e. breweries, wineries, and distilleries), the rule proposal includes the following changes as compared to the conceptual draft rules: (1) an exception for non-retail licensees to the “CONTAINS ALCOHOL, FOR PERSONS 21+” labelling requirement for takeout orders of manufacturer sealed products, and (2) allowing 3rd party</p>

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			<p>so that everything stays really consistent and that the rules stay consistent for what we are already allowed to do under our license.”</p> <p><u>Follow up from LCB Policy & Rules Coordinator, Audrey Vasek:</u> “Thanks for that feedback Annie, and I may want to follow up with your more on what that might look like. Or if you have any language to suggest for that. I think what I heard was carving out just the new privilege, in this case for this endorsements, curbside, and isolating that so that there’s not a duplication. But I want to follow-up more on that because the bill did kind of lump all of these together as one endorsement. So I’m not sure at this point what that would like, if we would be able to carve it out in that way. Is there anything else you have to add or suggest in terms of language?”</p> <p><u>Annie McGrath:</u> “I am happy to follow up with some language. I don’t have anything ready as of today, but we do have some ideas about how a separate endorsement might cover the new temporary privileges without overlapping and adding new requirements or inconsistencies to what we are currently doing and have been doing.”</p> <p><u>Audrey Vasek:</u> “Okay, thank you very much. I guess we will follow up separately on this and you can email us about what that might look like so we can kind of eliminate some of that overlap. Whether or not that’s a separate endorsement, or maybe some way to clarify in here that this endorsement doesn’t cause any of those overlapping problems, we can try to work on a solution for that.</p>	<p>delivery under the manufacturer sealed alcohol products to-go endorsements provided that licensees comply with current consumer orders, internet sales, and delivery rules (e.g. in WAC 314-03-020 through 314-03-040).</p> <p>However, creating a separate endorsement for breweries and other non-retail licensees that would include only the new temporary privileges is not feasible. Developing additional endorsements would require resources that the budget allotment for HB 1480 does not provide. The fiscal note for HB 1480 was prepared based on the software development costs of adding three new endorsements to the existing licensing information system.</p>
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			<p>I would just note this new endorsement isn't intended to take away from any of the previous, or pre-existing, or current privileges that breweries or other non-retail might have, so it's not supposed to take away from any of that, just add on and be additive. Is there anything else you wanted to add on that?"</p> <p><u>Annie McGrath:</u> "No, thank you Audrey, I'll probably pipe in when we go through the separate sections and point out where some of the inconsistencies might be between what we're already doing and what this particular endorsement would require, if that's helpful."</p> <p><u>Audrey Vasek:</u> "Great, yeah that would be helpful. Thank you Annie."</p>	
70	Ron Keller, Lakes Moose Lodge	Same as above	<p><u>Chat comment received during the L&L Forum:</u> "how about just nonprofits" "as of moose lodges" "thank you"</p> <p><u>Response from LCB Policy & Rules Coordinator, Audrey Vasek:</u> "Okay, that's a good question. I'm not sure I'm able to answer that. I think Moose Lodges, private clubs, that category is not specifically called out by the bill for this section. The list of [eligible] licensees here does cover nonprofit arts licensees but not the other types of private clubs. The answer might be that this [endorsement] doesn't directly apply to that type of license. But we can follow up individually if you have a question, Ron. If you</p>	<p>Summary: Question as to whether the endorsement to sell manufacturer sealed alcohol products to-go covers nonprofits such as Moose Lodges.</p> <p>Agency Response: We appreciate this feedback and participation in the rulemaking process. Moose Lodges would generally be licensed as private clubs under RCW 66.24.450 and 66.24.452. Private clubs were not included in HB 1480 as part of the list of licensees eligible for the manufacturer sealed alcohol products endorsement. See section 2(2), chapter 48, Laws of 2021 (HB 1480). See also verbal response from LCB Staff provided during the event.</p>

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			shoot that to our email address, we can look into your specific situation as well.”	
71	Annie McGrath, Washington Brewers Guild	WAC 314-03-500(3)(b): Manufacturer Sealed Alcohol Products To Go Endorsement, 21+ marking/labelling required on outside of to-go bag/box/packaging	<p><u>Verbal comment received during the L&L Forum:</u> “Thank you. So this would be one of the areas that would be inconsistent with what is current practice in a brewery. If a case of beer goes out of the brewery, that case is going to have packaging that is very clear that it is beer already, so adding another sticker that says “CONTAINS ALCOHOL, FOR PERSONS 21+” would be a step further than currently breweries are doing when they are making to-go sales. And I think it’s where we’re just a little bit different and that our product is already going to be packaged by the manufacturer and clearly beer when it’s leaving our premises.”</p>	<p>Summary: Suggestion to exempt breweries/non-retail from this requirement due to inconsistency with current practice. Agency Response: We appreciate this feedback and participation in the rulemaking process. To address this concern, the rule proposal creates an exception for non-retail licensees (breweries, wineries, and distilleries) to the “CONTAINS ALCOHOL, FOR PERSONS 21+” labelling requirement for takeout orders of manufacturer sealed products. See also, agency response to Annie McGrath’s comment #69 above.</p>
72	Megan Moore, Kitsap Public Health District, Prevention Voices	Same as above	<p><u>Verbal comment received during the L&L Forum:</u> “Hello, I appreciate this provision here. Just an example, I’m sure everybody has seen this if they’ve done grocery delivery. If you get a bottle of wine or beer, even premixed already manufacturer sealed cocktails in your grocery delivery, the bag that contains the product in it will have a sticker or some other indicator suggesting that that is the specific bag with the alcohol in it. I know a lot of businesses are already doing this. I think that youth access wise, this is the best practice, so thank you for adding this provision.”</p>	<p>Summary: In support of the 21+ labelling/markings requirement for the outside of the bag/box. Agency Response: We appreciate this feedback and participation in the rulemaking process. Please note that this new temporary endorsement for manufacturer sealed alcohol products to go would not apply to grocery stores since grocery stores were not included in HB 1480 as part of the list of licensees eligible for this endorsement. See section 2(2), chapter 48, Laws of 2021 (HB 1480). However, a grocery store is currently allowed to sell beer and wine through delivery or curbside service under WAC 314-02-100 and 314-03-400.</p>

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73	Pat Caffall	Same as above	<p><u>Chat comment received during the L&L Forum:</u> “So I guess just don't put to-go alcohol in a bag?”</p> <p><u>Verbal comment received during the L&L Forum:</u> “My question was, there was a lot of feedback on the stickering of the bags and all of that as it pertained to beer to go. I mean basically what it was implying that if you must put stickers on the bags that say this bag contains alcohol. It seems like the workaround, or the most obvious workaround, that a lot of places would do would be just not serve alcohol to go in a bag. I guess it was kind of an open-ended question. Does that make sense?”</p> <p><u>Follow up from LCB Policy & Rules Coordinator, Audrey Vasek:</u> “Yes, that makes sense to me Pat. And I think what you said could definitely work under the rules. There’s nothing that says you have to put your drink in a bag or a box.”</p> <p><u>Pat Caffall:</u> Right, so if we make a rule that is cumbersome for everyone to sticker the bags and all that, they’re just going to say, well here—here’s your to-go and use your own bag.”</p> <p><u>Audrey Vasek:</u> “Right, or leave the alcohol out of the bag, but have the food in the bag, or something like that.”</p> <p><u>Pat Caffall:</u> “Exactly, just wanted to put that out there.”</p> <p><u>Audrey Vasek:</u> “Well, we appreciate that comment and that feedback. I think you’re absolutely right,</p>	<p>Summary: Question about whether to-go alcohol has to be placed in a bag. Agency Response: We appreciate this feedback and participation in the rulemaking process. See verbal follow-up provided during the Listen and Learn session from LCB staff in column to the left.</p>
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			<p>the rules allow that flexibility. And if it is too burdensome to put the product in the bag, it's not a requirement that you do so. And that would make it clear to folks, this is alcohol—it wouldn't be hidden in the bag somewhere. That's addressing some of those other concerns we've heard from some of the public health folks on the line today."</p> <p><u>Pat Caffall:</u> "Right, thank you."</p>	
74	Annie McGrath, Washington Brewers Guild	WAC 314-03-500(3)(c): Manufacturer Sealed Alcohol Products To Go Endorsement, Delivery requirements	<p><u>Verbal comment received during the L&L Forum:</u> "Thank you, Again this is one area that we had marked up with a question mark because breweries that hold an internet sales endorsement may make deliveries of their product currently, and we are allowed to use private carriers in that instance, so this would be another area where we would wonder which endorsement took precedence over the other."</p>	<p>Summary: Suggestion to exempt breweries/non-retail/others with internet sales endorsement/privileges from this requirement due to the overlap and inconsistency between the two. Agency Response: We appreciate this feedback and participation in the rulemaking process. To address this concern, the rule proposal allows 3rd party delivery under the manufacturer sealed alcohol products endorsement. See also, agency response to Annie McGrath's comment #69 above.</p>
75	Ramona Leber	Same as above	<p><u>Chat comment received during the L&L Forum:</u> "Would this - having the ability to deliver product - be the time to require MAST training for the delivery people for these licensees?"</p>	<p>Summary: Question about requiring MAST training for delivery persons. Agency Response: We appreciate this participation in the rulemaking process. The MAST permit statute RCW 66.20.300 specifies the types of licensees whose employees are required to be MAST certified and receive MAST training. Without a statutory mandate, we would not be able to construct rules requiring the MAST training for delivery persons in general. See also agency response to Katie Doyle's Comment #43 and Megan Moore's Comment #46</p>

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				above. The manufacturer sealed alcohol products and growlers to-go endorsements have different requirements than the cocktails/wine by the glass to-go endorsement. For the cocktails/wine by the glass to-go endorsement (available only to SBW and BW restaurants), the conceptual draft rules do specify that delivery must be made by an employee of the licensed business who holds a class 12 MAST permit because SBW and BW restaurant employees are required by statute to have MAST permits.
76	Megan Moore, Kitsap Public Health District, Prevention Voices	Same as above and WAC 314-03-500(3)(d): Manufacturer Sealed Alcohol Products To Go Endorsement, Signage requirements	<u>Chat comment received during the L&L Forum:</u> “(3)(c) & (d) are same comments as section 314-03-505. Thanks.”	Summary: Providing the same feedback in support of the mandatory signage requirement and questions/feedback related to delivery requirements on this endorsement as for the cocktails to go endorsement. See Megan Moore’s Comments #46, 59, and 64 above. Agency Response: We appreciate this feedback and participation in the rulemaking process. See agency response to Megan Moore’s Comments #46, 59, and 64 above.
Topic: Temporary endorsement for sale of growlers through curbside, takeout, or delivery service.				
77	Ron Keller, Lakes Moose Lodge	WAC 314-03-510(2): Growlers To Go Endorsement, Eligible licensees	<u>Chat comment received during the L&L Forum:</u> “non profits should be allowed” “no” “we are a restant” “p To Vince Dre[stadt, You are required to attend a officers meeting before reentering the Lakes Moose Lodge 1865.	Summary: Request to allow nonprofits to have a growlers to-go endorsement. Agency Response: We appreciate this feedback and participation in the rulemaking process. Moose Lodges would generally be licensed as private clubs under RCW 66.24.450 and 66.24.452 . HB 1480 specifies that only

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			<p>You have been cussing executively and have been ask by the bartenders to stop but refuse to and cuss at them. This type of action can not and will not be tolerated in the Socisl Quarters, thenext officers meeting will be had 27 July 2012 we hope you attend because you are officially suspended from social quarters until you meet with the board.</p> <p>Ronald A, Keller Administrator s” “call me next weekat 3603042474”</p>	<p>licensees that could sell growlers before January 1, 2020, are eligible for the new temporary growlers to go endorsement. See section 2(5), chapter 48, Laws of 2021 (HB 1480). The list of eligible licensees for this endorsement does not include private clubs because private clubs were not eligible to sell growlers before January 1, 2020.</p>
78	Annie McGrath, Washington Brewers Guild	WAC 314-03-510(3)(b): Growlers to go endorsement, prefilled growlers	<p><u>Verbal comment received during the L&L Forum:</u> “Thank you. We just had one suggestion on this, and it’s just some clarity language for enforcement purposes. If there were a line that we could add in that micro and domestic breweries’ packaged products that meets TTB labelling requirements are not subject to the overnight storage prohibition. We think that might go a long way to clear up any confusion regarding whether it’s a growler or if it’s actually packaged product by the manufacturer. I know that those 64 ounce glass jugs are often thought of as growlers, but if we have the appropriate labelling on it that meets the COLA requirements and it’s sealed, it’s then treated as packaged product and taxed that way. So just a suggestion for enforcement purposes and clarity for the licensees.”</p>	<p>Summary: Suggestion to add language clarifying that micro and domestic breweries’ packaged products that meet TTB labelling requirements are not subject to the overnight storage prohibition. Agency Response: We appreciate this feedback and participation in the rulemaking process. To address this concern, the rule proposal clarifies that brewery and microbrewery products that meet federal alcohol and tobacco tax and trade bureau labelling requirements are not considered prefilled growlers and are not subject to the overnight storage prohibition.</p>
79	Megan Moore, Kitsap Public Health District, Prevention Voices	WAC 314-03-510(3)(d),(e): Growlers to go endorsement, delivery and signage requirements	<p><u>Chat comment received during the L&L Forum:</u> “Same comments as 314-03-500. Thank you, Audrey.”</p>	<p>Summary: Providing the same feedback in support of the mandatory signage requirement and questions/feedback related to delivery requirements on this endorsement as for the manufacturer sealed alcohol products endorsement. See Megan Moore’s Comments # 76 above.</p>

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				<p>Agency Response: We appreciate this feedback and participation in the rulemaking process. See agency response to Megan Moore’s Comments #76 above.</p>
80	Laurel Summer	Same as above	<p><u>Chat comment received during the L&L Forum:</u> “Delivery drivers are not required to have a MAST permit?”</p>	<p>Summary: Question about whether delivery drivers are required to have a MAST permit for the growlers to go endorsement.</p> <p>Agency Response: We appreciate this participation in the rulemaking process. The conceptual draft rules for the growlers to go endorsement do not require delivery drivers to have a MAST permit. The MAST permit statute RCW 66.20.300 specifies the types of licensees whose employees are required to be MAST certified and receive MAST training. Without a statutory mandate, we would not be able to construct rules requiring the MAST training for delivery persons in general. See also agency response to Katie Doyle’s Comment # 43, Megan Moore’s Comment #46 and Ramona Leber’s Comment #75 above.</p>
<p>Topic: General Feedback</p>				
81	Amanda Dugger, Community Outreach Coordinator for Greater Spokane Substance	General	<p><u>Chat comment received during the L&L Forum:</u> “Concern I have for curbside pickup is setting the norm for our youth about consuming alcohol at home and the easy access for our youth to consume alcohol. Also as one of the facilitators for DUI Victims Panel by giving adults more access to consuming alcohol can increase the likelihood of driving under the influence. Thank you for your</p>	<p>Summary: Sharing youth access and traffic safety concerns related to curbside pickup.</p> <p>Agency Response: We appreciate this feedback and participation in the rulemaking process.</p>

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	Abuse Council		time and willingness to hear community members input.”	
82	Annie McGrath, Washington Brewers Guild	General	<u>Chat comment received during the L&L Forum:</u> “Thank you for all of the work that went into this and for the opportunity to comment today!”	Agency Response: We appreciate this feedback and participation in the rulemaking process and thank everyone who participated in the Listen & Learn forum for their time and feedback.
83	Mary Segawa, Public Health and Prevention Consultant	General	<u>Chat comment received during the L&L Forum:</u> “I agree with Megan Moore's comments. Thank you, Audrey, for your time.”	Summary: In support of Megan Moore’s comments throughout. Agency response: We appreciate this feedback and participation in the rulemaking process and thank everyone who participated in the Listen & Learn forum for their time and feedback.
84	Jon Engelman, LCB Licensing Liquor Manager	General	<u>Chat comment received during the L&L Forum:</u> “Thanks to everyone for their time and their comments.”	N/A
85	Christine Steele, Health Care Authority, Division of Behavioral Health and Recovery	General	<u>Email received after the L&L Forum on 08/06/2021:</u> “Hi Audrey and Sara, I was unable to make the Public hearing on Thursday – was feeling a little under the weather – Please find attached written input from HCA/DBHR for the Draft Rules on 1480. Thank you for your consideration. Please let me know if you have any follow-up questions and/or concerns. Thanks for the engagement on LCB rule making. I look forward in seeing how these rules progress through the CR process. Sincerely,	Summary: Providing detailed feedback on all three of the new temporary endorsements via an email attachment consisting of a two-page word document. See column to the left for the complete text. Agency Response: We appreciate this feedback and participation in the rulemaking process. The agency response to the suggested edits/questions is provided below: For all three endorsements— <u>Labelling:</u>

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			<p>Christine</p> <p>Christine Steele Prevention Policy and Project Manager Substance Use Disorder Prevention and Mental Health Promotion Section HCA, Division of Behavioral Health and Recovery”</p> <p>Email Attachment:</p> <p>“HCA Feedback on the LCB Conceptual Draft Rules for E2SHB 1480 dated 7/09/2021</p> <p>New Section WAC 314-03-500 Temporary endorsement for sale of alcohol products through curbside, takeout, or delivery service.</p> <p>(3) In order to obtain and maintain the endorsement described in this section, licensees must meet the following requirements: (a) Alcohol products must be sold in closed, factory or manufacturer sealed packages or containers. (b) If an alcohol product is enclosed inside a bag, box, or other packaging before the alcohol product is provided to the customer through curbside, takeout, or delivery service, the exterior of the bag, box, or other packaging must be clearly marked or labeled with the words <u>“CONTAINS ALCOHOL, FOR PERSONS 21+”</u> in a size that is legible and readily visible.</p> <p>Further considerations regarding the labeling- Suggestions to enhance required labels a) “CONTAINS ALCOHOL, FOR PERSON 21+” (consumer reminder warning),</p>	<p><i>Include a retailer warning reminder to deliver only to persons 21+:</i> The agency considered the suggested revision, but this suggestion is not reflected in the rule proposal. The draft rules currently include a requirement that the products sold to-go need to be labelled as “CONTAINS ALCOHOL, FOR PERSONS 21+”. Including an additional retailer warning reminder to deliver only to persons 21+ is not necessary if the products and to-go bags are labelled as currently required by rule. The benefit that this requirement would provide would likely be outweighed by the additional cost that this would impose on licensees.</p> <p><i>Require the label to contain the liquor license #:</i> The agency considered the suggested revision, but this suggestion is not reflected in the rule proposal. This approach has been tried with respect to cannabis products but has not proved to be very useful for enforcement purposes. The benefit that this requirement would provide would likely be outweighed by the additional cost that this would impose on licensees.</p> <p><i>Require the label to be a specific standard, e.g. white label, black print, same font type and size downloadable from the LCB:</i> The agency considered the suggested revision, but this suggestion is not reflected in the rule</p>
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			<p>consider adding – “Deliver only to a person 21+” (retailer reminder warning)</p> <p>b) Require the label to contain the liquor license # (This will help law enforcement efforts and encourages mutual accountability-retailer and consumer)</p> <p style="padding-left: 40px;">With license #, law enforcement will be able to return to the point of sales to verify required signage on premises and verify signature of person 21+ was collected. Possible RCW violations might include:</p> <ul style="list-style-type: none"> I. Transportation of product II. Validating identification III. Consuming in public IV. Open container V. Delivery to intoxicated person VI. Delivery to a minor <p>c) “in a size that is legible and readily visible”. Require this label to be a specific standard – White Label – Black Print – Same Font type and Size. Can this be a downloadable from the LCB? Provides consistency and allows words to be seen <u>without any other graphics</u> added to distract from the label.</p> <p>d) Consider requiring the bag must be sealed. This will make it easier for law enforcement to know if the product has been accessed in transit.</p>	<p>proposal. This approach would provide uniformity to the labels which could be a best business practice. However, the draft rules already provide that that the label has to be legible and readily visible. This provides licensees with flexibility to meet this requirement in a number of ways, including handwriting. The benefit that this requirement would provide would likely be outweighed by the additional cost that this would impose on licensees.</p> <p><i>Require to-go bag containing alcohol products to be sealed:</i> The agency considered the suggested revision, but this suggestion is not reflected in the rule proposal. The draft rules already require that cocktails/wine by the glass to-go are packaged in containers that are sealed in a manner designed to prevent consumption without removal of a tamper-evident lid, cap, or seal. Law enforcement will be able to determine if a container has been opened by looking at the seal on the cocktail/wine by the glass container. Adding an additional requirement that the to-go bag be sealed is not necessary. To-go bags may contain food and other non-alcohol products that a customer may wish to consume separately from the cocktail/wine by the glass. The benefit that this requirement would provide would likely be outweighed by the</p>
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			<p>(c) If the alcohol products authorized for sale under this section are sold through delivery service:</p> <p>(iii) If no person age twenty-one or over is present to accept the alcohol product at the time of delivery, the alcohol product must be returned. An alcohol product may not be left unattended at a delivery location.</p> <p>Further considerations regarding the return</p> <p>a) Are they returning the food and alcohol? Is the retailer required to refund the purchase? What happens to the product? - restocked? Traceability and tracking of products to reduce youth access.</p> <p>b) Can there be a specific fine for this? This is critical to ensuring compliance to many RCWs. Unattended alcohol should be highly discouraged.</p> <p>(d)(i) In addition to the signs required by WAC 314-11-060, signs provided electronically by the board regarding public consumption and transportation of any alcohol products sold through curbside, takeout, or delivery service must be posted in plain view at:</p> <p>(ii) The signs will be designed to remind customers purchasing alcohol products through curbside, takeout, or delivery service that they must comply with applicable laws and rules including, but not limited to, restrictions on consuming alcohol in public in RCW 66.44.100 and restrictions on drinking or having an open container in a vehicle in RCW 46.61.519.</p> <p>Further consideration on signage –</p>	<p>additional cost that this would impose on licensees.</p> <p><u>Returned Products:</u> <i>Questions re whether food has to be returned along with the alcohol, whether the retailer has to refund the purchase, whether the product can be restocked, and how to ensure traceability and tracking of products to reduce youth access:</i> The draft rules do not address these issues. Outside of compliance checks, the agency does not trace or track these products or regulate when a refund has to be provided. These would be business decisions.</p> <p><i>Add a fine for leaving unattended alcohol products:</i> The agency considered the suggested revision, but this suggestion is not reflected in the rule proposal. Adding a new fine or penalty is unnecessary because under existing penalty schedules there are already options that an enforcement officer could use if a violation occurred.</p> <p><u>Signage:</u> <i>Add a consumer warning with the content of the mandatory signage to the packaging and labelling requirement for the alcohol containers or require verbal reminders on the hand-off of alcohol products:</i> The agency considered the suggested revision, but this suggestion is not reflected in the rule proposal. The content of the mandatory</p>
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		<p>a) Is it possible to add this as a consumer warning to the packaging/labeling or require verbal reminders on the hand-off of alcohol products (visual and auditory preferences of consumers)?</p> <p>New Section WAC 314-03-505 Temporary endorsement for sale of premixed cocktails, cocktail kits, wine by the glass, premixed wine and spirits cocktails, or premixed wine drinks through curbside, takeout, or delivery service.</p> <p>Require same label requirements as mentioned in WAC 314-03-500 (f) The alcohol products authorized for sale through curbside, takeout, or delivery service under this section must be placed in the trunk of the vehicle or beyond the immediate reach of the driver in compliance with open container requirements in RCW 46.61.519 before being transported off the licensee's premises.</p> <p>Further consideration regarding placement of product in the vehicle</p> <p>a) add “or beyond the immediate reach of the driver <u>or any passengers</u>” to deter public consumption or consumption in a vehicle of alcohol products sold through curbside, takeout, or delivery service</p> <p>b) Same question on the return of product- are these items that can be restocked as they are pre-mixed, there are no stipulations on what happens to these returned products – must dispose?</p> <p>New Section WAC 314-03-510</p>	<p>signage would be difficult to fit onto a product container and manufacturer sealed bottles and cans aren't currently required to be labelled with this type of content. Requiring a verbal reminder might be a best business practice but would not be possible for the agency to enforce. The benefit that this requirement would provide would likely be outweighed by the additional cost that this would impose on licensees.</p> <p>For cocktails to go— <u>Placement of product in vehicle:</u> <i>Edit the requirement that the product be placed “in the trunk of the vehicle or beyond the immediate reach of the driver” to include “or any passenger:”</i> The rule proposal incorporates this suggestion, which is consistent with the existing open container requirement statute in RCW 46.61.519.</p> <p><u>Returned Products:</u> <i>Q whether the premixed cocktails to go can be restocked if they are returned or if they must be disposed of:</i> The rule proposal does not address this issue. This would be a business decision. However, the draft rules do specify that these products must be prepared the same day they are sold.</p> <p>For growlers to go— <u>Returned Products:</u></p>
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			<p>Temporary endorsement for sale of growlers through curbside, takeout, or delivery service.</p> <ul style="list-style-type: none"> a) Same question on the return of product- these are items that can be restocked as they are pre-filled, there are no stipulations on what happens to these returned products – must dispose? b) There are no label requirements on the GROWLERS. For law enforcement traceability efforts, please consider adding a label. <p>Please let us know if you have any questions regarding these considerations on your draft conceptual rules for E2SHB 1480. Thank you</p>	<p><i>Q whether the growlers can be restocked if they are returned or if they must be disposed of:</i> The draft rules do not address this issue. This would be a business decision. However, HB 1480 and the draft rules do specify that prefilled growlers must be sold the same day they are prepared for sale and may not be stored overnight.</p> <p><u>Labelling:</u> <i>Suggestion to add a label requirement for growlers:</i> The agency considered the suggested revision, but this suggestion is not reflected in the rule proposal. Prior to HB 1480, growlers could be sold for takeout without any labelling requirement. Additionally, customers have the option to bring in their own growler container for the licensee to fill at the time of sale. (See definition of “growler” in HB 1480 section 2(10) and in the draft rules.) In order to keep the label requirement for growlers consistent with what was previously allowed, the draft rules do not include any new labelling requirements for growlers.</p>
86	Annie McGrath, Washington Brewers Guild	General	<p><u>Email received after the L&L Forum on 08/18/2021:</u></p> <p>“Thank you, Audrey!</p> <p>I can put together some suggested language- is there a deadline to get this to you? I really think the simplest way to approach it would be taking wineries and breweries out of the endorsements currently described in the conceptual draft and</p>	<p>Summary: Suggestion to take wineries and breweries out of the endorsements currently described in the conceptual draft and create another endorsement for these licensees that captures only what are new, temporary, privileges. Agency Response: We appreciate this feedback and participation in the rulemaking process. The rule proposal</p>

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			<p>creating another endorsement for these licensees that captures only what are new, temporary, privileges. It would be much easier to communicate what is needed/expected to licensees and easier to track and enforce.</p> <p>Thanks again for all of your great work on this and all of the outreach you are doing. We really appreciate it!"</p> <p><u>Reply email from LCB Policy & Rules Coordinator, Audrey Vasek, sent 08/18/2021:</u> "Hi Annie,</p> <p>If you could get the language to me by end of day next Tuesday (8/24), that would be helpful since I will be meeting with LCB staff internally the following day to review comments.</p> <p>The approach of creating another endorsement for wineries and breweries is unfortunately not possible due to the way the HB 1480 is structured and technical constraints. Since HB 1480 specified that the to-go endorsements were immediately effective and available to licensees beginning in April 2021, regardless of when the rules become effective, our IT team has been in the process of developing the software to create and track the three new endorsements outlined by HB 1480 since April when the bill went into effect. My understanding is that they are in the final stages now and the software is on track to be deployed by the end of September, so we really don't have any room to make major changes like create a new endorsement type.</p>	<p>includes changes intended to address some of these concerns. See agency response to Annie McGrath's Comment #69 above. See also, reply email from LCB staff included in the column to the left and agency response to Josh McDonald's Comment #87 below. Both Josh and Annie were included on this email thread.</p>
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			<p>However, we can certainly work to clarify in rule for each of the three endorsements created by HB 1480 (or in this case, just the manufacturer sealed alcohol products and growlers to go endorsements) what privileges are different for breweries and wineries versus other licensee types. Hope that makes sense, and appreciate your understanding on this.</p> <p>Best,</p> <p>Audrey Vasek”</p>	
87	Josh McDonald, Washington Wine Institute	General	<p><u>Email received after the L&L Forum on 08/18/2021:</u></p> <p>“Hi Audrey – Thank you for your email. As Annie spoke to at the Listen and Learn, and again sorry I could not be in attendance, we are both in agreement and asking for the same thing as two alcohol industries directly impacted by 1480 and this rule making. I plan to work with Annie and get you as much comments and suggested approach as possible by next Tuesday 8/24.</p> <p>Reading 1480 again, which I feel now I’ve done maybe too many times ☺, the bill does not call for three separate endorsements. Frankly, just one, but it makes very logical sense to break the endorsements into two; non-retail and retail. Easy to understand, easy to track, and makes sense for both the licensee and the LCB.</p> <p>I suppose I should pause and say I respectfully don’t understand why new endorsements without rules and industry feedback needed to happen immediately. I get the effective date of the bill, but</p>	<p>Summary: Suggestion to streamline/restructure the three alcohol to go endorsements into two endorsements, one for retail and non-retail.</p> <p>Agency Response: We appreciate this feedback and participation in the rulemaking process. The rule proposal includes changes intended to address some of these concerns. See agency response to Annie McGrath’s Comment #69 and 86 above. See also, reply email from LCB staff included in the column to the left. Both Josh and Annie were included on this email thread.</p>

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			<p>the bill also doesn't require the endorsements to be ready-to-go by a certain date. Just that they need to be created and licensees need to apply for the endorsement to obtain the new privileges.</p> <p>You know me by now, I am not one to be difficult, I am all about finding solutions that work as much as possible for those productively engaged in this work (humbly feel that Katie, Annie and I fit that description) and our LCB partners. Am I correct in that from your email waiting to streamline the endorsements and have fewer and ones that align with what the new privileges give us in 1480 (vs what we've been allowed to do for decades such as take out/to go sales) is no longer possible?</p> <p>I appreciate your time and willingness to listen to my ideas and concerns.</p> <p>Josh”</p> <p><u>Reply email from LCB Policy & Rules Coordinator , Audrey Vasek, sent 08/18/2021:</u></p> <p>“Hi Josh,</p> <p>I appreciate your openness and feedback on this. The portion of the bill that speaks to why we've chosen this approach for implementation is section 2(1) (below):</p> <p>“(1) The board must implement the provisions of this section as expeditiously as possible. Liquor licensees may conduct activities authorized under this section before completion by the board of actions the board</p>	
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			<p>plans to take in order to implement this act, such as adoption of rules or completion of information system changes necessary to allow licensees to apply for required endorsements. However, licensees must comply with board rules when they take effect.” (emphasis added)</p> <p>Section 2(1) speaks to endorsements, plural, and section 2 is organized in a manner that breaks apart each of the privileges into subsections that more or less line up with the three types of endorsements we’ve identified in the conceptual draft rules: cocktails/wine by the glass (section 2(3)-(4)), growlers (section 2(5)), and other alcohol products to go (section 2(2)). The bill does not break apart the privileges neatly into retail and non-retail, or by license type, unfortunately.</p> <p>Section 4 also mandates that a study of the impacts of the bill begin by January 1, 2022, so we need to get the IT system changes in place as soon as possible to begin tracking the endorsements for the purposes of the study.</p> <p>I will reach out to our Licensing and IT division staff regarding your question about streamlining the endorsements and see if they have more to add on this, but my understanding is that we have to work within the structure of the three endorsements identified above and in the conceptual draft rules.</p> <p>Best,</p> <p>Audrey Vasek”</p>	
88	Katie Doyle, Washington		<p><u>Email received after the L&L Forum on 08/19/2021:</u> “Hi Audrey,</p>	<p>Summary: Providing suggested edits on all three of the new temporary</p>

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<p>Hospitality Association</p>		<p>I have attached my comments. I don't think they differ much from what I shared during the listen and learn. I will send over my comments on the upcoming session before I leave next week.</p> <p>Grateful for your consideration and continued work on this huge project. Katie</p> <p>Katie Doyle State Government Affairs Manager Washington Hospitality Association”</p> <p><u>Email attachment:</u> “HB 1480 Conceptual Draft Rules – WA Hospitality Association Comments</p> <p>The Hospitality Association encourages and requests the Liquor and Cannabis Board to consider the following:</p> <p>WAC 314-03-500 Temporary endorsement for sale of alcohol products through curbside, takeout, or delivery service.</p> <p>*3 (b) Remove the additional labeling requirements. Clearly marked labeling creates an unnecessary extra step and administrative burden on operators and could deter them from continuing alcohol to go practices. Checks and balances are already in place to ensure proper identification of the customer.</p> <p>*3 (i) Remove “delivery may not be made by third-party service providers.” There are currently several sidebars in place to safely ensure third</p>	<p>endorsements via an email attachment consisting of a single page PDF document. See column to the left for the complete text and suggested changes.</p> <p>Agency Response: We appreciate this feedback and participation in the rulemaking process. The agency response to the suggested edits is provided below:</p> <p><u>Manufacturer Sealed Alcohol Products Remove “CONTAINS ALCOHOL, FOR PERSONS 21+” labelling requirements:</u> The agency considered the suggested revision, but this suggestion is not reflected in the rule proposal. See agency response to Kelsey Curran’s comment #28 above. A delivery person or an employee providing curbside service may not know to check ID unless the package is clearly marked as containing alcohol. Recent compliance checks on 3rd party delivery of manufacturer sealed products indicate that despite rule requirements, there are challenges with ensuring that ID is checked and that delivery packages are marked as containing alcohol. Additionally, in the case of 3rd party delivery, this requirement is consistent with the current consumer orders, internet sales, and delivery rules (e.g. in WAC 314-03-020 through 314-03-040) which require that the outermost surface of a beer and wine package delivered by</p>
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			<p>party delivery of alcohol. This business model is continually shifting and evolving, eliminating this option without considering the changing market fails to consider future growth of this allowance.</p> <p>WAC 314-03-505 Temporary endorsement for sale of premixed cocktails, cocktail kits, wine by the glass, premixed wine and spirits cocktails, or premixed wine drinks through curbside, takeout, or delivery service.</p> <p>3(a)(i) Change 3 ounces to up to at least 4 ounces. Sangria, for example, is likely to contain more than 3 ounces of alcohol and many operators are serving to go beverages that contain two beverages.</p> <p>3(c) We appreciate the flexibility of the types of containers/ packaging allowed for cocktails to go. * See comments regarding WAC 314-03-500</p> <p>WAC 314-03-510 Temporary endorsement for sale of growlers through curbside, takeout, or delivery service.</p> <p>(2) This endorsement is more restrictive than the allowances prior to the pandemic. We kindly request that all previous allowances in rule be considered before those allowable in HB 1480. * See comments regarding WAC 314-03-500</p> <p>Finally, we request that the endorsements are consolidated into two endorsements: retail and nonretail. Several of the privileges allowed under the new endorsements are more restrictive than pre-covid allowances especially in relation to growlers and bottles of wine.”</p>	<p>a 3rd party must contain language stating that the package contains liquor, the recipient must be 21+, and delivery to intoxicated persons is prohibited.</p> <p><i>Remove “delivery may not be made by third-party service providers”:</i> In response to this suggestion, the rule proposal allows 3rd party delivery under the manufacturer sealed alcohol products to-go endorsements provided that licensees comply with current consumer orders, internet sales, and delivery rules (e.g. in WAC 314-03-020 through 314-03-040).</p> <p><u>Cocktails/Wine by the Glass</u> <i>Change limit of spirits to 3oz per complete meal to 4oz per complete meal:</i> The agency considered the suggested revision, but this suggestion is not reflected in the rule proposal. See agency response to Katie Doyle’s comment #6 above.</p> <p><i>Remove “CONTAINS ALCOHOL, FOR PERSONS 21+” labelling requirements:</i> The agency considered the suggested revision, but this suggestion is not reflected in the rule proposal. See agency response to Kelsey Curran’s comment #28 above. A delivery person or an employee providing curbside service may not know to check ID unless the package is clearly marked as containing alcohol. Recent compliance</p>
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				<p>checks on 3rd party delivery of manufacturer sealed products indicate that despite rule requirements, there are challenges with ensuring that ID is checked and that delivery packages are marked as containing alcohol. The cocktails to-go endorsement is new, and the agency is still assessing the impacts of this endorsement on public health and safety, but the same challenges that exist with ensuring IDs are checked for manufacturer sealed products may also exist for cocktails to go.</p> <p><i>Remove “delivery may not be made by third-party service providers:</i> The agency considered the suggested revision, but this suggestion is not reflected in the rule proposal. See agency response to Katie Doyle’s Comment # 43 above.</p> <p><u>Growlers to Go</u> <i>Remove “CONTAINS ALCOHOL, FOR PERSONS 21+” labelling requirements:</i> See agency response to this comment in the section on manufacturer sealed alcohol products and cocktails/wine by the glass to-go above.</p> <p><i>Remove “delivery may not be made by third-party service providers:</i> The agency considered the suggested revision, but this suggestion is not reflected in the rule proposal. See agency response to Katie Doyle’s Comment # 43 above.</p>
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Topic: Conceptual Draft Rules for Implementation of HB 1480, To-Go Alcohol Endorsements

				<p><u>General</u> <i>Request that the endorsements are consolidated into two endorsements, retail and nonretail: See agency response to Annie McGrath’s comment #69 and Josh McDonald’s Comment #87 above. The agency considered the suggested revision, but this suggestion is not reflected in the rule proposal. The agency chose the approach of creating three endorsements (one for cocktails/wine by the glass, one for manufacturer sealed alcohol products, and one for growlers to-go) based on the structure of HB 1480. Additionally, the fiscal note for HB 1480 was prepared based on the cost of adding three new endorsements to the existing licensing information system. Consolidating the endorsements into two endorsements, one retail and one non-retail, is not feasible at this point in the process because IT/software development on creating three new endorsements is already nearly complete. Developing additional endorsements or consolidating the endorsements into a retail and non-retail endorsement would require additional resources that the budget allotment for HB 1480 does not provide.</i></p>
89	Josh McDonald, Washington Wine Institute	General	<p><u>Email received after the L&L Forum on 08/24/2021:</u> “Hi Audrey – Thank you for continuing to think creatively with us on how improve these rules for wineries and breweries. Annie and I spent some time yesterday with our legal counsel who is very</p>	<p>Summary: Providing a high level overview of feedback and suggested edits to all three of the new temporary endorsements. See column to the left for</p>

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			<p>smart on these topics, and we think we found a simple, clean way to handle the challenge of existing vs. new privileges and the three endorsement approach specifically for non-retail (wineries and breweries are the only ones we can speak for). Here is a very high level breakdown for your review and for your use with conversations happening tomorrow regarding comments to the current draft rules proposal. We of course are happy to deep deeper into what the actual rule language would read. For now, we felt a high level view as a start would be most beneficial.</p> <p>Problem:</p> <ul style="list-style-type: none"> - Many of the privileges created by HB 1480 and placed into the three endorsements in rulemaking are privileges wineries and breweries already have within their existing license. - The myriad of labeling and signage requirements proposed for those holding these new endorsements makes applying for any of them unappealing for most wineries/breweries. - Enforcement for our licensees under these endorsements is a huge challenge. The rules for wineries/breweries with the endorsements will be different for wineries/breweries without the endorsement, even though these are the same activities. <p>Solution:</p> <ul style="list-style-type: none"> - Most of these privileges are really for restaurants. We support this and it is a big reason why we supported 1480. - The new privileges for wineries and breweries within 1480 are curbside and the home 	<p>the complete email text and suggested changes.</p> <p>Agency Response: We appreciate this feedback and participation in the rulemaking process. The rule proposal includes changes intended to address some of the concerns about inconsistencies between existing privileges and the new privileges allowed by HB 1480 for non-retail licensees (i.e. breweries, wineries, and distilleries). See agency response to Annie McGrath’s Comment #69 above.</p> <p>Removing wineries and breweries from the three new endorsements and adding a new section that directs non-retail licensees to use an added activities form would present challenges for tracking the new privileges from an agency operational perspective, as well present challenges for measuring the impacts of the new privileges for purposes of the study mandated by HB 1480.</p>
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Topic: Conceptual Draft Rules for Implementation of HB 1480, To-Go Alcohol Endorsements

			<p>delivery. All other privileges within 1480 already exist for these licensees.</p> <ul style="list-style-type: none">- We can easily do this without a new endorsement and those who use the new privilege can still be tracked for survey purposes. <p>Suggested changes to 1480 proposed rules:</p> <ul style="list-style-type: none">- Remove wineries and breweries from the list of licensees included in the three endorsements- Add a new section that directs non retail licensees to access any new privilege granted to them under 1480 via the “Added Activities Form” on the LCB website currently for use. If the licensee does choose to add a new privilege curbside service and/or home delivery, they must abide by the labeling and signage rules within the rulemaking for the endorsements.”	
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Invitation to Aug. 5 Listen & Learn Session re: "To-Go" Alcohol Sales Draft Rules (HB 1480)

Washington State Liquor and Cannabis Board sent this bulletin at 07/21/2021 09:53 AM PDT

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July 21, 2021

The Liquor and Cannabis Board (LCB) is hosting an online or by phone Listen and Learn forum to gather feedback and comments on conceptual draft rules for the temporary alcohol to-go endorsements created by [HB 1480](#). For example, these endorsements (available until July 1, 2023) allow certain licensees to engage in curbside, takeout, or delivery sales of:

- Cocktails and Wine by the Glass
- Growlers
- Other Alcohol Products

Your feedback during the forum will help inform and shape the rules. Here is a link to [the agenda](#) along with the [conceptual draft rules](#). Please be prepared to offer feedback and suggestions for revisions to the draft. Please review [this guidance document](#) before the forum.

The WSLCB is currently in the CR-101 inquiry phase of the rulemaking process. A [Preproposal Statement of Inquiry \(CR-101\)](#) was filed on May 12, 2021. Please remember there are no proposed or final rules offered at this stage of the rulemaking process. A CR-102 rule proposal has not yet been filed.

When: Thursday, August 5, 2021, 1:00 – 4:00 p.m.

Where: Join on your computer or smart phone app using Microsoft (MS) Teams.

[Click here to join the meeting.](#)

If you have the MS Teams app on your device, select "Open Microsoft Teams" when prompted.

If you do not have the MS Teams app, click on "Continue on this browser" when prompted.

Please note: MS Teams does not have a pre-registration option. Please add the Listen and Learn Forum to your calendar and join using [this link](#) at the start time indicated above. The event may end earlier than scheduled depending on the amount of feedback offered by attendees during the forum.

To listen to the meeting on the phone (audio only):

Dial: +1 564-999-2000

Conference ID: 705 085 135#

Please note: the phone option is intended only for listening to the forum. In order to participate and contribute to the forum, please join online via MS Teams.

If you wish to join online here are a few reminders:

- Online participation will be structured to allow one speaker at a time through a hand-raising feature on MS Teams.
- If you have difficulty with audio or visual elements of MS Teams, please be patient.
- You can also provide feedback to us at the email below if you prefer.

Questions? Contact rules@lcb.wa.gov

LCB's Alcohol Policy and Rules Coordinator Audrey Vasek will be facilitating the forum.

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Attachment B

Sept. 2, 2021, Listen & Learn Forum Public Comment Table

Topic: Conceptual Draft Rules for Implementation of HB 1480, Outdoor Alcohol Service Areas and Food Service Menu Requirements

Background: A virtual Listen & Learn session on [conceptual draft rules](#) for the temporary alcohol to-go endorsements created by [HB 1480](#) was held on September 2, 2021 through Microsoft Teams. A public invitation was shared through [GovDelivery](#) on August 17, 2021, and a [reminder](#) was sent on September 1, 2021. At a peak, there were around 55 people in attendance online or by phone. The table below includes the comments received verbally or by chat message during the event, and comments received by email before, during, and after the event. The comments are organized by theme and are not necessarily listed in the order received.

	Name	Sec./Theme	Comment	Agency Response/ Notes
Topic: Outdoor Alcohol Service Areas				
1	Ken Rogers, Des Moines	WAC 314-03-205(2)(a), Privately Owned Spaces—Legal Authority to Use Outdoor area	<p><u>Verbal comment received during the L&L forum:</u> “When it references leasehold rights, my question is relative to if a property or licensee is leasing from a public entity. For example, leasing space from a city. Is that included in that language?”</p> <p><u>Verbal reply from LCB Policy & Rules Coordinator Audrey Vasek during the L&L forum:</u> “Thanks for that question Ken. I’d have to know more about that individual situation. Maybe that’s something licensing can assist with too. The public spaces section is intended to be for the sidewalk cafe situation.”</p> <p><u>Verbal reply from LCB Licensing Liquor Manager, Jon Engelman:</u> “Okay, yes, that is what this is addressing. Either leasehold rights or permission from the local municipality in the case of a public right of way.”</p> <p><u>Ken Rogers:</u> “So that’s not a change from the existing rule then?”</p> <p><u>Jon Engelman:</u> “No”</p> <p><u>Ken Rogers:</u> “Okay, thank you.”</p>	<p>Summary: Question about whether the reference to leasehold rights includes leasing from a public entity.</p> <p>Agency Response: We appreciate this feedback and participation in the rulemaking process. See the verbal responses provided by LCB Staff in the column to the left.</p>

Sept. 2, 2021, Listen & Learn Forum Public Comment Table

Topic: Conceptual Draft Rules for Implementation of HB 1480, Outdoor Alcohol Service Areas and Food Service Menu Requirements

2	Roger Rezabek, SW WA Winery	WAC 314-03-205(2)(b), Privately Owned Spaces—Indoor Dining Capacity	<p><u>Verbal comment received during the L&L forum:</u> “It appears this section is devoted to restaurants that have a liquor license. You’re talking about dining capacities. Does this section also apply to wineries with tasting rooms? Because that’s not clear.”</p> <p><u>Verbal reply from LCB Policy & Rules Coordinator Audrey Vasek during the L&L forum:</u> “Thanks for that question Roger. So this entire section is rules applicable to all on-premises licensees. So just as the current outdoor alcohol service area rules would apply to all licensees that are requesting that privilege of having the outdoor areas, this would similarly apply.”</p> <p><u>Roger Rezabek:</u> “I understand, I can see that statement. But when you refer to dining capacity, you’re referring to an eating establishment. Wineries do not necessarily have eating—they’re not eating establishments. They’re wine tasting areas. Perhaps you should add “indoor dining <u>or tasting</u> capacity.”</p> <p><u>Audrey Vasek:</u> “Thank you for that feedback. I’ll make a note of that. You’re right, that’s something we—this doesn’t currently say ‘or tasting.’”</p>	<p>Summary: Question about whether the section applies to wineries with tasting rooms and suggestion to edit language to add “indoor dining <u>or tasting</u>” capacity.</p> <p>Agency Response: We appreciate this feedback and participation in the rulemaking process. See the verbal responses provided by LCB Staff in the column to the left. The agency rule proposal revises the indoor dining capacity requirement to address this concern so that the language does not inadvertently prevent wineries and other producers from having outdoor areas.</p>
3	Josh McDonald, Washington Wine Institute	Same as Above	<p><u>Verbal comment received during the L&L forum:</u> “My question is—I don’t quite understand why there is a restriction here requiring indoor dining capacity to qualify for outdoor alcohol service. There’s creative business models out there, or there will be in the future, that may be able to utilize outdoor space completely and not actually functionally seat anyone indoors but still be a building and still do service out of that building. Could you help me understand where this came from and if there’s—we’d like to put you on record as wanting to further engage on any potential changes to this section.”</p>	<p>Summary: Suggestion to revise the indoor dining capacity requirement so as not to curtail any potential future or current business models that are out there for outdoor dining and alcohol service.</p> <p>Agency Response: We appreciate this feedback and participation in the rulemaking</p>

Sept. 2, 2021, Listen & Learn Forum Public Comment Table

Topic: Conceptual Draft Rules for Implementation of HB 1480, Outdoor Alcohol Service Areas and Food Service Menu Requirements

			<p><u>Verbal reply from LCB Policy & Rules Coordinator Audrey Vasek during the L&L forum:</u> “Thanks Josh for that feedback. This is supposed to line up with the existing rules and policies that have been in place for outdoor dining but wasn’t explicitly in the rules before. If you have suggestions for how to change this, we’d welcome that feedback. Suggestions for how to revise this—or maybe in this case, it sounds like you’d rather see it removed?”</p> <p><u>Josh McDonald:</u> “No, well I think that there’s—sorry I don’t know if you can still hear me so I’m just going talk—“</p> <p><u>Audrey Vasek:</u> “Yeah I can hear you.”</p> <p><u>Josh McDonald:</u> “I think there are definitely ways to work on this together. I would say, just want to be on record that we want to continue to engage with you on maybe ways to talk about how to achieve what you’re hoping to achieve here but also not stifle or unnecessarily curtail any potential future or current business models that are out there for outdoor dining and alcohol service.”</p> <p><u>Audrey Vasek:</u> “Thanks Josh, we appreciate that. So if you have suggestions for that, I can follow-up with you later, or feel free to put them in chat and we’ll consider any comments folks have on how to improve this.”</p> <p><u>Josh McDonald:</u> “Thanks Audrey”</p>	<p>process. See the verbal responses provided by LCB Staff in the column to the left. The agency rule proposal revises the indoor dining capacity requirement to address this concern so that the language does not inadvertently prevent wineries and other producers from having outdoor areas.</p>
4	Roger Rezabek, SW WA Winery	Same as above	<p><u>Verbal comment received during the L&L forum:</u> “I just have another brief comment to follow up on Josh’s comment. When our winery first started several years ago, we were in the development stages of our wine tasting room. We did not have an indoor facility. We were outside in a tent, obviously in reasonable weather. But that’s how we operated for a couple of years. This would seem to preclude that. So I would definitely be in favor of revising it</p>	<p>Summary: Suggestion to revise the rules so they do not preclude, for example, a winery from having an outdoor tasting room in a tent with no indoor service available.</p>

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Topic: Conceptual Draft Rules for Implementation of HB 1480, Outdoor Alcohol Service Areas and Food Service Menu Requirements

			<p>in a way, or if it's available to licensed premises, we had the premises approved by federal and state authorities, but we were not inside. We did not have indoor capacity at that point, simply because we were under development.”</p> <p><u>Verbal reply from LCB Policy & Rules Coordinator Audrey Vasek during the L&L forum:</u> “Thanks for sharing that background there Roger, that’s helpful.”</p>	<p>Agency Response: We appreciate this feedback and participation in the rulemaking process. The agency rule proposal revises the indoor dining capacity requirement to address this concern so that the language does not inadvertently prevent wineries and other producers from having outdoor areas.</p>
5	Thomas Carpenter, Colville WA	Same as above	<p><u>Verbal comment received during the L&L forum:</u> “I apologize I was a little bit late to the meeting—got wrapped up in another project. It sounds like we all have some similar examples of what had been tried to do, and then this particular portion of the rules stopped business activity, including mine. I have a downtown city lot that my intent was to build a bathroom, storage building, and an alcohol and food service shack-building—essentially it’s a shack but it is a four walled building enclosed with a serving window. And then the rest of the lot was intended to just simply be seating, corn hole, activity space, and then in the front of that lot have the ability to have food trucks rent that space and provide additional food services, which is kind of irrelevant to the alcohol license purpose but is part of the business model. And I wasn’t able to forward with acquiring an alcohol license because I had no indoor seating at all. And that kind of put the kibosh on me even building a building.”</p> <p><u>Verbal reply from LCB Policy & Rules Coordinator Audrey Vasek during the L&L forum:</u> “Thanks for that feedback Thomas. Are there any suggestions you have in this case for revising this?”</p>	<p>Summary: Suggestion to include hard minimum requirements in rule for what would qualify as indoor dining capacity, or alternatively loosen the requirements for what needs to exist for a beer garden, or loosen the requirements for a snack bar license.</p> <p>Agency Response: We appreciate this feedback and participation in the rulemaking process. Amending beer garden requirements or snack bar license requirements is outside the scope of this rulemaking. The agency considered the suggestion to include hard minimum requirements in rule for what would qualify as indoor dining capacity but this suggestion is not reflected in the rule</p>

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			<p><u>Thomas Carpenter:</u> “Well, what I would like to see is either hard requirements—because what I wasn’t able to garner from the Liquor Control Board is—you know I asked, how many seats do I have to have, or what is the minimum requirement. If I put in an extension on the service building and said, this is our indoor seating, how can I meet the letter of the law when during the pandemic I’m just trying to provide a service to people in an outside safe environment where creating a building is counter-productive towards that—or having the indoor seating even available is counter-productive towards that purpose. What I would like to see is essentially loosening the requirements for what needs to exist for a beer garden. Because essentially that’s all it was—with a long-standing environment instead of a pop-up environment. Does that make sense?”</p> <p><u>Audrey Vasek:</u> “Yes, that makes sense. You’d like to see some hard requirements it sounds like—some sort of minimums in there. If you have suggestions for what those might be specifically, feel free to either let us know now or email us or put it in the chat, and we’ll consider those.”</p> <p><u>Thomas Carpenter:</u> “During my application process, we had a fair amount of back and forth. I’d sent a proposal of what my intent was, and I’d be happy to re-send all of that. Because I think we met all of the safety requirements and security protocols as far as entrances and exits. It was just a matter of—I think—We qualified for everything to be a snack bar except for primary income couldn’t be alcohol service. Because I also own a bowling alley, and we operate under a snack bar license. And so I thought we were going to be able to operate as a snack bar and it came back that you need to have another primary revenue stream, and there just wasn’t one. So if we loosen up the guidelines for snack bar license, that would also meet the intents for me to operate my business plan.”</p>	proposal due to feasibility concerns.
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			<u>Audrey Vasek</u> : “Okay, well thank you for that feedback.”	
6	Annie McGrath, Washington Brewers Guild	Same as above	<p><u>Verbal comment received during the L&L forum:</u> “Thank you for hosting this today. I just want to echo Josh’s comments and some of the comments before me, and say that the Washington Brewers Guild, we would be really interested in working with you on language to refine this particular section, and that for breweries and other producers sometimes space is at a premium and because we are producing on site and that can really take up a lot of a smaller space, we’d like to see more flexibility here with regards to allowing outdoor dining when there isn’t that space availability inside, or even—as we’ve seen in the last year—the outdoor dining concept has become really popular, especially with a lot of our breweries, we found that consumers really like it. I think there will some interest in some new models where maybe we’re not seeing people sitting physically indoors, but we have these beautiful outdoor spaces that people have invested in the over the last year and half. So we’re happy to work with you guys on this, and just wanted to go on the record of our interest there. Thank you.”</p> <p><u>Verbal reply from LCB Policy & Rules Coordinator Audrey Vasek during the L&L forum:</u> “Thanks Annie.”</p>	<p>Summary: Suggestion to revise the indoor dining capacity requirement since indoor space for producers is at a premium and outdoor dining is popular.</p> <p>Agency Response: We appreciate this feedback and participation in the rulemaking process. The agency rule proposal revises the indoor dining capacity requirement to address this concern so that the language does not inadvertently prevent breweries and other producers from having outdoor areas.</p>
7	Jamie Hunt, Fast Penny Spirits	Same as above	<p><u>Chat comment received during the L&L forum [1:40PM]:</u> “I want to reiterate allowing for outdoor dining without indoor as we use our indoor space for production”</p>	<p>Summary: Suggestion to allow for outdoor dining without indoor dining capacity.</p> <p>Agency Response: We appreciate this feedback and participation in the rulemaking process. The agency rule proposal revises the indoor</p>

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				dining capacity requirement to address this concern so that the language does not inadvertently prevent distilleries and other producers from having outdoor areas.
8	Thomas Carpenter, Colville WA	WAC 314-03-205(2)(c), Privately Owned Spaces— Contiguous/ located on the same property or parcel of land as the licensed business	<p><u>Verbal comment received during the L&L forum:</u> “Hi there, if this subsection was modified I would be able to operate my off-site project under the bowling alley license. So its kind of just a different way to skin that same cat. So if we were to amend it to state that it does not have to be contiguous to the licensed business or that we allow separate property parcels, I would be happy.”</p> <p><u>Verbal reply from LCB Policy & Rules Coordinator Audrey Vasek during the L&L forum:</u> “Okay, thanks for that feedback Thomas...so the (2)(c)(iii) “located on the same property or parcel” you’d like to see those both changed? Because right now it’s an “or” it can either be “contiguous” OR it can be “located on the same property or parcel.”</p> <p><u>Thomas Carpenter:</u> “Correct, and I’m separated by several blocks.”</p> <p><u>Audrey Vasek:</u> “Okay, got it”</p> <p><u>Thomas Carpenter:</u> “So it’s not same parcel or connected.”</p> <p><u>Audrey Vasek:</u> “Okay, well thanks for that feedback then. I’ll make a note of that”</p>	<p>Summary: Suggestion to revise this language to allow an outdoor alcohol service area that is neither contiguous nor located on the same property or parcel as the licensed premises—e.g. to potentially allow an outdoor alcohol service area to be separated from the licensed premises by several blocks.</p> <p>Agency Response: We appreciate this feedback and participation in the rulemaking process. The agency considered the suggested revision, but this suggestion is not reflected in the rule proposal due to public health and safety concerns that arise when an outdoor alcohol service area is separated by several blocks from the main alcohol service area</p>
9	Shawn Walker	WAC 314-03-205(2)(d) & (e), Privately Owned Spaces—	<p><u>Verbal comment received during the L&L forum:</u> “Just a quick question. If that outdoor adjacent area is literally adjacent and visible from the main area, does it need a separate—let’s say its fifteen feet away from the</p>	<p>Summary: Question about whether the outdoor alcohol service area needs a separate attendant if it’s fully visible from the main service area.</p>

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		<p>Dedicated Attendant Required, Interior Access Not Required</p>	<p>main service area—does it need a separate attendant if it’s fully visible.”</p> <p><u>Verbal reply from LCB Policy & Rules Coordinator Audrey Vasek during the L&L forum:</u> “Thanks for that question Shawn, my understanding is that this is something that was in the existing rules as well, so not a change. Attendant, wait staff, or server dedicated to the area. Is this something Licensing you would have input on at all?”</p> <p><u>Verbal reply from LCB Licensing Liquor Manager, Jon Engelman:</u> “I don’t have the rules open right in front of me right now, but one way or another this has always been standard practice. And obviously the idea is that you don’t have an area that is completely out of sight and disconnected from the premises with no observation going on. In your case that you describe, I probably need a diagram, which is usually how we work these things out.”</p> <p><u>Shawn Walker:</u> “Thank you.”</p> <p><u>Audrey Vasek:</u> “Thanks for that question Shawn, and Jon for your input there. And the next section is sort of similar Shawn. So maybe this is where your question was coming from. Sub(e)...[Audrey Vasek read out loud the content of draft WAC 314-03-205(2)(e)]. That’s a connected requirement. I see we do have another hand up, but I wanted to so if you had—does this kind of get to your question at all Shawn?”</p> <p><u>Shawn Walker:</u> “Yeah, it does. That’s what we’ve been going under—they have to have full sight. Anywhere that’s out of sight has to be staffed. Thank you.”</p>	<p>Agency Response: We appreciate this feedback and participation in the rulemaking process. See verbal responses provided by LCB Staff in the column to the left.</p>
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Topic: Conceptual Draft Rules for Implementation of HB 1480, Outdoor Alcohol Service Areas and Food Service Menu Requirements

10	Russ Heaton	Same as above	<p><u>Verbal comment received during the L&L forum:</u> “Would a video camera be a supportive agent, or do I have to have a person actually out there 100% of the time. Meaning that if they run in to bus tables, or if they run in a drink order, or to pick up a drink order or pick up food— does there have to be somebody there 100% of the time or will a video camera in the space allow for a substitute?”</p> <p><u>Verbal reply from LCB Policy & Rules Coordinator Audrey Vasek during the L&L forum:</u> “If we’re talking about subsection (d), this was the requirement that the area have an attendant, wait staff, or server dedicated to the area when patrons are present— someone has to be dedicated to that area when patrons are there, doesn’t mean they have to be there 100% of the time. But in terms of this next subsection (e)—if you don’t have that interior access, the rule is giving options here. So it would depend again on your situation—do you have interior access or not—“</p> <p><u>Russ Heaton:</u> “I have interior access but there’s not a direct line of sight. So we’ve put a security camera in the tent, so that when we leave the space, there’s eyes on that space from bartenders behind the bar. There’s a monitor behind the bar. When people are transitioning between space, in terms of running drinks, busing tables, and food.”</p> <p><u>Audrey Vasek:</u> “So the rules don’t speak to security cameras or no security cameras, so I think that would be a business decision for folks.”</p> <p><u>Russ Heaton:</u> “Okay. That takes care of it. Thank you.”</p> <p><u>Audrey Vasek:</u> “Okay, thanks for that question.”</p>	<p>Summary: Question regarding whether a video camera could be a substitute for having an attendant, wait staff, or server dedicated to the outdoor service area.</p> <p>Agency Response: We appreciate this feedback and participation in the rulemaking process. See verbal responses provided by LCB Staff in the column to the left.</p>
11	Ken Rogers, Des Moines	Same as above	<p><u>Chat comment received during the L&L forum [2:03PM]:</u></p>	<p>Summary: Suggestion to allow observation requirements on</p>

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			<p>“Would like to offer support for the previous commenter on the ability to meet observation requirements on outdoor service area to be met using video surveillance”</p>	<p>outdoor alcohol service areas to be met through video surveillance.</p> <p>Agency Response: We appreciate this feedback and participation in the rulemaking process. See verbal responses provided by LCB Staff to Russ Heaton’s Comment #10 above.</p>
12	Jenny, Boundary Bay Brewery	Same as above	<p><u>Chat comment received during the L&L forum [1:50PM]:</u> “Wanting to confirm, this does not apply to temporary 'one-time event requests' when we expand our service area for special events, as well as our beer garden?”</p> <p><u>Verbal reply from LCB Policy & Rules Coordinator Audrey Vasek during the L&L forum:</u> “Yes, correct, these rules here are for ongoing service, not the one-time events. I hope that answers the question.”</p> <p><u>Jenny (via chat):</u> “Perfect, thanks!”</p>	<p>Summary: Question about whether the rules apply to one-time event requests.</p> <p>Agency Response: We appreciate this feedback and participation in the rulemaking process. See verbal response provided by LCB Staff in the column to the left.</p>
13	Roger Rezabek, SW WA Winery	WAC 314-03-205(2)(g), Privately Owned Spaces—42” barriers	<p><u>Verbal comment received during the L&L forum:</u> “I can understand where this might apply to an urban restaurant service area that is between buildings, has a sidewalk out in front, and you would need at 42 inch barrier to demarcate your particular property and service area. However, at a winery, you do not have barriers like that. You simply have an outdoor seating area that is open to the air and vineyard and whatever else is around it. A 42 inch barrier doesn’t make any sense at a winery.”</p> <p><u>Verbal reply from LCB Policy & Rules Coordinator Audrey Vasek during the L&L forum:</u> “Okay, thanks for that feedback Roger. Is there a suggestion you have for</p>	<p>Summary: Suggestion to change the 42inch high barrier requirement to apply to urban settings—e.g. to exempt wineries in rural areas.</p> <p>Agency Response: We appreciate this feedback and participation in the rulemaking process. The agency considered the suggested revision but this suggestion is not reflected in the rule proposal. The 42” barrier</p>

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			<p>changing it? It does say the Board may grant limited exceptions if the licensee has permanent boundaries.”</p> <p><u>Roger Rezabek:</u> “Right, we have a ten acre property so, we do have permanent boundaries, so sure. But this seems to apply to an urban setting, not a winery in the country, in the hinterland.”</p> <p><u>Audrey Vasek:</u> “So maybe you’d like to see something different for different settings. Urban versus—”</p> <p><u>Roger Rezabek:</u> “Perhaps it would make more sense if you just specifically said “For urban settings” a moveable barrier a minimum of 42 inches in height would be appropriate.”</p> <p><u>Audrey Vasek:</u> “Okay, thanks for that feedback. Anything else you want to add?”</p> <p><u>Roger Rezabek:</u> “No, that’s it.”</p> <p><u>Audrey Vasek:</u> “Okay, thanks Roger.”</p>	<p>requirement mirrors existing rule in WAC 314-03-200 and allows for exceptions that could apply in the case described in the comment.</p>
14	Russ Heaton	Same as above	<p><u>Verbal comment received during the L&L forum:</u> “Yes, I know there are municipalities who are experimenting with demarcations on the ground to open streetscapes so it’s not so hodge-podgey with the 42 inch barriers. I think the McMenamins in Tacoma currently has sticker demarcations on the ground that allow egress between their building to the public and to the alcohol service across the sidewalk and down some public stairs. I think the Liquor Control Board should be looking at making that the rule as opposed to the exception in terms of the 42 inch barrier for outdoor seating specifically. Indoor seating I’m not so concerned about. But for outdoor in terms of the streetscape and the ability for people with wheelchairs, people with visually impaired, the ability to navigate a</p>	<p>Summary: Suggestion to allow sticker demarcations on the ground for outdoor alcohol service areas located on both public or private spaces.</p> <p>Agency Response: We appreciate this feedback and participation in the rulemaking process. See verbal response provided by LCB Staff in the column to the left. The agency considered the suggested revision but this suggestion is</p>

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			<p>sidewalk that is cut up and chopped up with 42 inch barriers makes it very difficult and unsightly. So I think the idea of demarcation stickers—I believe both Spokane and Seattle, and I believe Tacoma has exploratory procedures in place to allow them, then I think that should be something the state should look at going as a whole.”</p> <p><u>Verbal reply from LCB Policy & Rules Coordinator Audrey Vasek during the L&L forum:</u> “Thank you Russ. I think we can revisit your comment when we go to the section on public spaces. We’re still on the private spaces one. Does your comment also apply to like a restaurant that’s doing it on a private space or any other kind of licensee that—</p> <p>“Yeah, it’s ostensibly could be a public or private space outdoors in terms of the 42 inch barrier does not somehow magically prevent anything from occurring. I know they had to come up with something. But much like Roger and his winery. To stretch a 42 inch high barrier across a parking lot as opposed to denoting it with a stripe does not make much difference. You’re still going to be controlling your space.”</p> <p><u>Audrey Vasek:</u> Okay thanks for that Russ. Making a note of that. Is there anything else you want to add?</p> <p><u>Russ Heaton:</u> “Nope, I will take my hand down.”</p>	<p>not reflected in the rule proposal. Permanent demarcations on the ground are allowed for outdoor alcohol service areas located in public spaces under both existing and the draft rule. For outdoor alcohol service areas located in private spaces, the 42” barrier requirement mirrors existing rule in WAC 314-03-200 and does allow for limited exceptions.</p>
15	Josh McDonald, WA Wine Institute	Same as above	<p><u>Verbal comment received during the L&L forum:</u> “So on this section I just want to comment for the WWI, this is going to be very popular. You write granted limited exceptions, but for your team, and for everybody, this is a really big part of this rulemaking for us. We’re moving into more setting where we want to utilize our outdoor spaces and be able to use these demarcations in ways that are more modern or less obstructive or less obtuse or ways to</p>	<p>Summary: Comment that requests for exceptions to the 42 inch high barriers will likely be very popular among licensees and suggestion to revise accordingly.</p>

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			<p>make sure we demarcate where out outdoor alcohol space is, but a lot of times—I know where this originally came from was ADA issues. Using public sidewalks and making sure we can give restaurants the ability to do that, at the time many years ago when it was created, while also being able to, like downtown Seattle, still be able to comply with ADA requirements with other things. Now that we’re going more modern with this, I just want to be clear that this is going to be very popular and I would agree with what Russ said and others that we should—your team maybe be asked quite a bit to work with a licensee on something other than the 42 inch barriers—some sort of demarcations as we see in many cities now. If we need to rework this section to make that more clear—that’s going to be more likely how licensees interact with you for their outdoor seating than asking how we do physical barriers of 42 inches. I highly recommend that. Happy to work with you Audrey and your team on what that language might look like. I know from many of my wineries that I talk to over the past year and during the pandemic is they want to keep their outdoor spaces and they want to demarcate them in a way that is really easy to do and cost effective and still make sure that enforcement can know where our outdoor licensed space is located.</p> <p>I’ll just mention also—I think it’s important, I think Roger mentioned about his larger space. There are allowances in current rule for wineries to have picnic areas next to their wineries. And I’m happy to talk about that in detail off line here but for this space right now I just wanted to make that comment and be clear that I think you’re going to have a lot of interest on the exception to a permanent barrier.”</p> <p><u>Verbal reply from LCB Policy & Rules Coordinator Audrey Vasek during the L&L forum:</u> “Thanks for that feedback Josh.”</p>	<p>Agency Response: We appreciate this feedback and participation in the rulemaking process. The agency considered the suggested revision but this suggestion is not reflected in the rule proposal. The 42” barrier requirement mirrors existing rule in WAC 314-03-200 and allows for exceptions. The agency anticipates that the current language will meet the needs of licensees as described in this comment.</p>
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16	Jamie Hunt, Fast Penny Spirits	Same as above	<u>Chat comment received during the L&L forum [1:57PM]:</u> “Stanchions are typically 32" or 40", not 42", so if people need to use those, I suggest being more lenient and lower the height required.”	Summary: Suggestion to lower the height required on the barriers from 42 inches to 40 inches or 30 inches. Agency Response: We appreciate this feedback and participation in the rulemaking process. The barrier rules were recently revised in February 2020 by WSR 20-03-180 and the agency is not considering changing barrier height as part of this rulemaking.
17	Ken Rogers, Des Moines	WAC 314-03-205(2)(h), Privately Owned Spaces—10ft openings	<u>Chat comment received during the L&L forum [2:06PM]:</u> “It would be useful to restate the requirement to include clarification on total perimeter openings apply. Not clear that the requirement applies PER side.”	Summary: Suggestion to clarify that the ten foot max opening requirement applies per side. Agency Response: We appreciate this feedback and participation in the rulemaking process. The conceptual draft rule language stated: “If there is more than one opening along one side , the total combined opening may not exceed ten feet.” Since the draft already stated that the requirement applied per side, this suggestion is not reflected in the rule proposal.
18	Ken Rogers, Des Moines	WAC 314-03-205(3)(c), Public	<u>Chat comment received during the L&L forum [2:11PM]:</u> “must those 6" diameter be connected in some way or may space between?”	Summary: Question regarding whether permanent demarcations need to be

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		<p>Spaces—42” barrier, or permanent demarcation option</p>	<p>“Sorry unmuting is not an option.”</p> <p><u>Verbal reply from LCB Policy & Rules Coordinator Audrey Vasek during the L&L forum:</u> “If I’m understanding right, I think your question Ken, might be answered by this sentence here [on the screen, Audrey Vasek highlighted the second sentence in WAC 314-03-205(3)(c)(ii)] where it says they must be placed no more than ten feet apart, so that would be the maximum spacing between them.</p> <p>If I’m misunderstanding that question or you have something else you want to add, put that in the chat too. Or let me know if that answers it or not. Okay—Jon are you about to jump in?”</p> <p><u>Verbal reply from LCB Licensing Liquor Manager, Jon Engelman:</u> “Yeah, Audrey I was just going to say I think that what this is referencing and something that is often confused, even sometimes internally, is the use of the word ‘demarcation’ which we have universally come to mean something on the ground. So 6 inch diameter dots or turtles or something like that. So the answer to Mr. Rogers question would be no—they’re not connected.”</p> <p><u>Audrey Vasek:</u> “Okay, thanks for that Jon. Hopefully that covers your question Ken. And if you have other specific questions—Was there something else that came in the chat? I saw something pop up briefly. Jeff, do you mind reading that?” [Jeff Kildahl, LCB Policy and Rules Coordinator, read out loud the following chat comment:]</p> <p><u>Chat comment from Ken Rogers received during the L&L forum [2:13PM]:</u> “Do individual posts meet the requirement or do the posts need a fence –“</p>	<p>connected or can have space between and suggestion to clarify the requirements between posts.</p> <p>Agency Response: We appreciate this feedback and participation in the rulemaking process. See verbal response provided by LCB Staff in the column to the left. The agency considered the suggested revision but this suggestion is not reflected in the rule proposal. The rule proposal provides flexibility for licensees without being overly prescriptive as to the requirements between posts.</p>
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			<p><u>Audrey Vasek</u>: “So under these rules it doesn’t get into the specificity to answer your question. So that might be more of a question for licensing, again, on a case by case situation where they work with folks. I don’t know if you have something you want to add Jon, or if we need to clarify something in the rule too to make this clearer, we can certainly consider that.”</p> <p><u>Jon Engelman</u>: “Yeah I’m assuming that here, if you mean that there’s a stanchion or a post of some kind that you’re using to create a boundary, then yes, you would connect it with a rope or something to connect the two posts together. If this was a situation where demarcations were approved and they were on the ground, then no there wouldn’t be a connection. But yeah, rope, chains, wood, sometimes people do build fences or even use planters.”</p> <p><u>Audrey Vasek</u>: “So it sounds like those would all be options depending on what the situation was here, what you were approved for. But in this case the rule about the permanent demarcations for the public spaces is about, Jon was saying, those markings on the ground. [on the screen, Audrey Vasek highlighted all of WAC 314-03-205(3)(c)(ii)] I think we got a recommendation in the chat, to recommend language to clarify requirements between posts.”</p> <p><u>Chat comment received during the L&L forum [2:15PM]</u>: “recommend language to clarify the requirements between posts. thank you.”</p> <p><u>Audrey Vasek</u>: “Okay, thanks Ken for that feedback.”</p>	
19	Ken Rogers, Des Moines	WAC 314-03-205(3)(d), Public	<p><u>Chat comment received during the L&L forum [2:17PM]</u>: “encourage language to allow for video surveillance to meet the requirement”</p>	<p>Summary: Suggestion to allow video surveillance to meet the requirement that an attendant,</p>

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		<p>Spaces— Dedicated Attendant</p>	<p><u>Verbal reply from LCB Policy & Rules Coordinator Audrey Vasek during the L&L forum:</u> “Okay, I think that’s referring to the attendant, wait staff, or server dedicated to the area section. If that’s not right Ken, let me know, but I think you’re referring to that one.”</p> <p><u>Chat comment from Ken Rogers received during the L&L forum [2:17PM]:</u> “thats correct thanks”</p> <p><u>Audrey Vasek:</u> “Okay, so Ken says that correct, so that feedback is in connection with subsection (d).”</p>	<p>wait staff, or server be dedicated to the outdoor alcohol service area when patrons are present.</p> <p>Agency Response: We appreciate this feedback and participation in the rulemaking process. The agency considered the suggested revision but this suggestion is not reflected in the rule proposal. From a public health and safety perspective, video surveillance in an outdoor alcohol service area is not a substitute for having a person dedicated to the area.</p>
20	Emily Gant, Foster Garvey	<p>WAC 314-03-205(3)(f), Public Spaces— comply with other applicable laws and rules</p>	<p><u>Chat comment received during the L&L forum [2:18PM]:</u> “The LCB has not historically required things like certificates of occupancy, or health-related permits. Would this remain true, under the new language on building codes, etc.?”</p> <p><u>Verbal reply from LCB Policy & Rules Coordinator Audrey Vasek during the L&L forum:</u> “It’s not saying in the rule that you have to submit that stuff necessarily with the licensing application. Although I’m not familiar with what’s all currently in the applications and that might be something licensing can jump in on again, but the rule is not imposing a new requirement here. Just reminding folks that there are other rules out there from the local authority or other departments that might apply.”</p> <p><u>Verbal reply from LCB Licensing Liquor Manager, Jon Engelman:</u> “We added this in here just because we are</p>	<p>Summary: Question regarding whether the LCB will require certificates of occupancy, health-related permits, etc as part of the licensing application.</p> <p>Agency Response: We appreciate this feedback and participation in the rulemaking process. See verbal response provided by LCB Staff in the column to the left.</p>

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			<p>very aware of the desire to have extensive outside areas. However some of the proposals that we’ve seen and even some of the construction that we’ve seen may not exactly look sturdy, if that’s one way to put it. So we were simply tossing around how we could assure that people were in the case of outside areas, building structures that were safe.”</p> <p><u>Chat reply from Licensing Customer Service Manager Beth Lehman during the L&L forum [2:19PM]:</u> “no Emily” “we would not change what we are doing now”</p> <p><u>Chat reply from Emily Gant during the L&L forum [2:20PM]:</u> “Thank you, that’s helpful info.”</p> <p><u>Audrey Vasek:</u> “Well thank you for that question Emily, and Jon for jumping in there, and all of our licensing team responding to folks. Appreciate that.”</p>	
21	Brandon Staff, Heritage Distilling Company	WAC 314-03-205(4) Shared Outdoor Spaces	<p><u>Chat comment received during the L&L forum [2:22PM]:</u> “Is there a limit to how many shared spaces can be combined?”</p> <p><u>Verbal reply from LCB Policy & Rules Coordinator Audrey Vasek during the L&L forum:</u> “Thanks for that question Brandon. So the rules, the limit here is that they’re physically connected. That the property parcels or buildings are connected or touching each other along a boundary or at a point. So other than that there’s not a limit. But we’ll get into more of the requirements below for what else has to be met. But in terms of how many—that’s limited by the physical connections here.”</p> <p><u>Chat reply from Brandon Staff during the L&L forum [2:23PM]:</u> “Thank you, that’s helpful info.”</p>	<p>Summary: Question regarding whether there is limit to how many shared spaces can be combined.</p> <p>Agency Response: We appreciate this feedback and participation in the rulemaking process. See verbal response provided by LCB Staff in the column to the left.</p>

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22	Roger Rezabek, SW WA Winery	Same as above	<p><u>Verbal comment received during the L&L forum:</u> “Okay this is kind of a hypothetical. I kind of know some instances in Oregon where this would exist. Let’s say you have multiple tasting rooms that are located in one building—Let’s say that there are four wineries that have distinct spaces in a building, but then outside of that building they have an area, maybe 30 by 30 or 25 by 25 or whatever, and a person can take their glass of wine or bottle or something and sit on this deck or something. Does this really cover a situation or allow for a situation like that? And I’m looking at where you talk about an operating plan for the outdoor seating area. Would it be okay to have a shared seating area for the four different tasting rooms?”</p> <p><u>Verbal reply from LCB Policy & Rules Coordinator Audrey Vasek during the L&L forum:</u> “Thanks for the question Roger. I think, if I’m understanding, it’s an outdoor area right? So these rules would apply. If we’re talking about indoor shared areas that’s covered under different existing rules for tasting rooms. But yeah in this case for the outdoor portions.”</p> <p><u>Roger Rezabek:</u> “And I suppose this is really a question for licensing but I’m not sure how it applies with your language. Would it be possible for these four tasting rooms to have one shared outdoor tasting area?”</p> <p><u>Audrey Vasek:</u> “I think to answer that, it would just depend on—do they meet all the requirements we just kind of went over. I guess—are they contiguous, connected, etc. Hopefully that helps. If you think there’s something in that scenario that wouldn’t fit in there that you want to see changed, let us know what that component is. If there’s a suggestion for changing one of these.”</p>	<p>Summary: Question regarding whether it would be possible to have four wineries share an outdoor area.</p> <p>Agency Response: We appreciate this feedback and participation in the rulemaking process. See verbal response provided by LCB Staff in the column to the left.</p>
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			<p><u>Roger Rezabek</u>: “I think the language is appropriate but in a situation where they would not have distinct outdoor areas but would have a shared outdoor space, would that be approved?”</p> <p><u>Verbal reply from LCB Licensing Liquor Manager, Jon Engelman</u>: “It sounds like it would. Again, you know, always difficult to do without looking at something. So this wording was largely borrowed from what came out in the distiller’s bill a couple years ago that opened the door for shared outdoor areas. And I noticed that somebody asked about the staffing question. I believe that those rules, and I’ll have to look, do required shared staffing, so that essentially one entity wasn’t doing all the staffing but that it was truly a collaboration.”</p> <p><u>Roger Rezabek</u>: “Again, this is kind of a hypothetical thing but I could see this coming up in the future, if it isn’t already somewhere.”</p> <p><u>Jon Engelman</u>: “Well and feel free to always email licensing with any of those theoreticals and we’d be happy to entertain them.”</p> <p><u>Roger Rezabek</u>: “Okay, okay, thanks.”</p>	
23	Megan Moore, Kitsap Public Health District, Prevention Voices	WAC 314-03-205(4)(e), Shared Outdoor Spaces— Operating Plan Required	<p><u>Chat comment received during the L&L forum [2:29PM]</u>: “Does each licensee need to maintain a staff member at all times? My hope is that the licensees each have a dedicated staff member in the shared area.”</p> <p><u>Verbal reply from LCB Policy & Rules Coordinator Audrey Vasek during the L&L forum</u>: “Let me scroll through here because I think there is something in here about—[on the screen, scrolled to WAC 314-03-205(4)(e) and highlighted the second sentence] Right, the operating plan would have to include how they’re sharing that responsibility. So under</p>	<p>Summary: Question regarding whether each licensee needs to have dedicated staff members in the shared area at all times.</p> <p>Agency Response: We appreciate this feedback and participation in the rulemaking process. See verbal response provided by LCB Staff in the column to the left.</p>

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			<p>the current draft at least the idea is the operating plan would demonstrate how they're sharing that staffing. That would be up to the businesses that are operating that shared space. Does that answer the question Megan? Or if you think there needs to be something additional added, let us know. And at this point it would be business decision based on what they put in the operating plan, which is subject to approval by the licensing division."</p>	
24	<p>Stacey Okland, Okanogan County Community Coalition</p>	<p>WAC 314-03-205(4) Shared Outdoor Spaces, Generally</p>	<p><u>Chat comment received during the L&L forum [2:34PM]:</u> "I'd like to suggest requiring video cameras in the shared areas."</p> <p><u>Verbal reply from LCB Policy & Rules Coordinator Audrey Vasek during the L&L forum:</u> "Okay, thanks for that feedback Stacey, and if you want to speak more to that or the reasons behind that suggestion please go ahead and raise your hand and we can try to unmute you. Or if you mute/unmute isn't working, we'll read out whatever additional info you put in there [in the chat]."</p> <p><u>Chat comment received during the L&L forum [2:36PM]:</u> "It could help Licensees know if there's an issue and they can handle it quickly and WLCB could use video too if there's a reported issue "</p>	<p>Summary: Suggestion to require video cameras in shared spaces.</p> <p>Agency Response: We appreciate this feedback and participation in the rulemaking process. The agency considered the suggested revision but this suggestion is not reflected in the rule proposal. Requiring cameras in shared areas could be cost-prohibitive for some licensees, and wait staff, attendants, and servers are already required to be dedicated to outdoor alcohol service areas, so is not clear whether the public health or safety benefits would outweigh the costs. Licensees can always choose to install cameras as a business decision.</p>

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Topic: Food Service Menu Requirements				
25	Ken Rogers, Des Moines	WAC 314-02-010, Definition of "Complete Meal"	<p><u>Chat comment received during the L&L forum [2:46PM]:</u> "does the distinction between spirits/beer/wine restaurant and just beer/wine restaurant licensee (no spirits) remain in the proposed changes? If so, are there any proposed changes to the food requirement for beer/wine/ licensee?"</p> <p><u>Verbal reply from LCB Policy & Rules Coordinator Audrey Vasek during the L&L forum:</u> "Thanks for that question Ken. We'll get to the definition of 'minimum food service' next, which is what applies to beer/wine restaurants. 'Complete meal' is something that's for the spirits, beer, wine restaurants and certain other licensees that were previously grouped under the complete meal requirement. The beer/wine [licensee] is the minimum food service requirement, so that's separate."</p> <p><u>Chat comment received during the L&L forum [2:47PM]:</u> "ok thanks should have waited on the question"</p>	<p>Summary: Question regarding whether there is a distinction between food requirements for spirits, beer, and wine restaurant licensees and beer/wine restaurant licensees and whether there are proposed changes to the food requirements for beer/wine restaurant licensees.</p> <p>Agency Response: We appreciate this feedback and participation in the rulemaking process. See verbal response provided by LCB Staff in the column to the left.</p>
26	Megan Moore, Kitsap Public Health District, Prevention Voices	WAC 314-02-010, Definitions, general	<p><u>Chat comment received during the L&L forum [2:47PM]:</u> "Clarifying question: does this definition section also apply to the cocktails-to-go/delivery draft rules?"</p> <p><u>Verbal reply from LCB Policy & Rules Coordinator Audrey Vasek during the L&L forum:</u> "Thanks for that question Megan. Yes, these are part of the same rule set as the cocktails to-go/ delivery alcohol endorsement, the other alcohol to-go endorsement rules, and these definitions were cross-referenced in the cocktail to-go section, so the answer to your question is yes on that."</p> <p><u>Chat comment received during the L&L forum [2:48PM]:</u> "Thank you!"</p>	<p>Summary: Question regarding whether the definition section WAC 314-02-010 applies to the alcohol "to-go" endorsement rules.</p> <p>Agency Response: We appreciate this feedback and participation in the rulemaking process. See verbal response provided by LCB Staff in the column to the left.</p>

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27	Ken Rogers, Des Moines	Same as above	<p><u>Chat comment received during the L&L forum [2:51PM]:</u> “if re-heated frozen food meets the requirement, then suggest modification to allow reheated frozen food”</p> <p><u>Verbal reply from LCB Policy & Rules Coordinator Audrey Vasek during the L&L forum:</u> “Thanks for that suggestion Ken—I’m just trying to read your comment now to see if I understand it. If you’re able to speak on that a little more, I’m not sure I’m fully getting which requirement you’re referencing for the first part. Because it does specifically say in the rule that reheated frozen food is not included in that, so are you able to unmute yourself and speak a little bit to that Ken so I can kind of understand.”</p> <p><u>Chat comment received during the L&L forum [2:53PM]:</u> “sorry its tough to keep up with the conversation using the chat. it was under the prior section”</p> <p><u>Chat comment received during the L&L forum [2:53PM]:</u> “unmuting isnt an option sorry”</p> <p><u>Audrey Vasek:</u> “Okay, I apologize, I forgot you didn’t have unmuting as an option, so looks like Ken says it’s under the prior section. Right. Okay so maybe the suggestion is here, Ken, you want to change that requirement that says the reheated frozen foods aren’t allowed. That was back up in the definition for both ‘minimum food service’ and ‘complete meal’ and that was something we took from the section below that we’ll get to, an existing requirement. Okay, I hear that. I’ll make a note of that.”</p>	<p>Summary: Suggestion to allow reheated frozen food to qualify as a complete meal/ minimum food service.</p> <p>Agency Response: We appreciate this feedback and participation in the rulemaking process. The agency rule proposal incorporates this feedback by revising the definitions of “complete meal” and “minimum food service” to clarify that the restriction on menu items that consist solely of precooked frozen food applies to <i>meals</i> rather than <i>food</i> that is precooked and frozen. (i.e. “Menu items that consist solely of the following types of food do not qualify as [complete meals/minimum food service]: Precooked frozen food <u>meals</u> that is are reheated, carry-out items obtained from another business, or snack food.”) The revision is intended to clarify that while a precooked frozen meal that is simply reheated by the business does not qualify as a “complete meal” or “minimum food service” item, ingredients or components might be precooked and frozen, and then</p>
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				later used by the food service establishment to prepare a menu item that qualifies as a complete meal/ minimum food service item.
28	Ken Rogers, Des Moines	Same as above	<p><u>Chat comment received during the L&L forum [2:57PM]:</u> “sorry to re-ask, but I haven't seen it so far, are there distinctions between food service requirements between spirits/beer/wine and just beer/wine licensees?”</p> <p><u>Verbal reply from LCB Policy & Rules Coordinator Audrey Vasek during the L&L forum:</u> “Yeah, not a problem to ask again Ken. So, the way the WAC here is set up, or the rules are set up, is that it has—the food requirements are embedded in each of these different license types, which is why we are going in and going through. We started with sprits, beer, wine restaurant, then we went to hotel, and now we’re on snack bar, so the beer/wine restaurant license I actually don’t think we had to amend it in here because it still references minimum food service requirements so we didn’t have to make a change to it for that change to apply, but when we looked at that definition change, that would apply to those folks. So maybe someone from licensing could put in the chat what that WAC number is. I don’t know on the top of my head, but for the beer/ wine restaurant licensees where it says they have to have minimum food service, that might help explain—we aren’t going to look at that today, but it already says it in there basically Ken, so I hope that helps answer your question”</p> <p><u>Chat comment received during the L&L forum [2:59PM]:</u> “ok so no change in the proposal from existing?”</p> <p><u>Audrey Vasek:</u> “Well, so the change is that—what we already covered with the definition of minimum food</p>	<p>Summary: Question regarding whether there are distinctions between food service requirements for spirits, beer, and wine restaurants versus beer and wine restaurants.</p> <p>Agency Response: We appreciate this feedback and participation in the rulemaking process. See verbal response provided by LCB Staff in the column to the left.</p>

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			<p>service. So the change is adding in those new—here, I’ll pause and go back up and look at the minimum food service definition—so this applies to the beer/wine restaurant licensees. So now we’ve added things in like savory pies, tacos, and dumplings. So that’s the change.” <u>Chat reply from Licensing Liquor Manager Jon Engelman during the L&L forum [3:00PM]:</u> https://apps.leg.wa.gov/wac/default.aspx?cite=314-02-045</p> <p><u>Chat reply from Licensing Customer Service Manager Beth Lehman during the L&L forum [3:00PM]:</u> WAC 314-02-045:</p> <p><u>Chat follow-up from Ken Rogers received during the L&L forum [3:00PM]:</u> “(ok seems like the requirement is less restrictive if I understand. Thanks)”</p> <p><u>Chat reply from Liquor Licensing Manager Jon Engelman during the L&L forum [3:01PM]:</u> “Ken you are correct”</p> <p><u>Chat follow-up from Ken Rogers received during the L&L forum [3:01PM]:</u> “tanks” “thanks”</p>	
29	Stacey Okland, Okanogan County Community Coalition	WAC 314-02-035, Food service requirements for a SBW Restaurant	<p><u>Chat comment received during the L&L forum [3:00PM]:</u> “Previous section..I saw 8 a.m. - 10 p.m. for food service which leads me to ask is there a time when alcohol can be served. Can alcohol be served from 8 a.m. - 10 p.m. also?”</p> <p><u>Verbal reply from LCB Policy & Rules Coordinator Audrey Vasek during the L&L forum:</u> “Thanks for that question Stacey. We aren’t changing whatever the existing requirement is in rule, and I don’t know what that existing</p>	<p>Summary: Question regarding the hours that alcohol can be served by a spirits, beer, and wine restaurant.</p> <p>Agency Response: We appreciate this feedback and participation in the rulemaking process. See verbal response</p>

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		<p>requirement is on the top of my head. So if we do have enforcement staff or licensing staff on the line that can help answer what the existing hour requirements are, that would be helpful, but just know that we aren't changing them in the rule here. We're just focused on the food service requirements."</p> <p><u>Chat reply from Liquor Licensing Manager Jon Engelman during the L&L forum [3:01PM]:</u> "Correct Audrey same as current."</p> <p><u>Chat reply from Licensing Customer Service Manager Beth Lehman during the L&L forum [3:01PM]:</u> "Yes, you can serve alcohol as long as you have some sort of food service."</p> <p><u>Chat reply from Stacey Okland during the L&L forum [3:02PM]:</u> "Thank you"</p> <p><u>Verbal reply from LCB Licensing Customer Service Manager Beth Lehman during the L&L forum:</u> "Thank you Audrey, I actually already answered. I forgot to take my hand down—I already answered in chat. But yeah, you can serve alcohol—alcohol service in Washington is from 6am from 2am. If you have a restaurant and you're serving alcohol, we require that you serve your full menu at least five hours a day. The rest of the time you have to serve at least minimum food if you want to continue serving alcohol. I hope that helped."</p> <p><u>Audrey Vasek:</u> "Thank you very much Beth. And Stacey, if you have additional thoughts—if you're able to—I see Stacey put 'and thank you'."</p> <p><u>Chat reply from Stacey Okland during the L&L forum [3:03PM]:</u> "Yes, thank you"</p>	<p>provided by LCB Staff in the column to the left.</p>
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			<p><u>Beth Lehman</u>: “And sorry, Beth Lehman, Customer Service Manager, Licensing.”</p>	
30	<p>Jessica Martin, Food Safety Program Technical Advisor for Spokane Regional Health District.</p>	<p>WAC 314-02-112, Caterer’s License</p>	<p><u>Chat comments from Jessica Martin received during the L&L forum [3:05-3:07PM]:</u> “what does must have the ability mean?” “in the caterer section” “it suggests that food may not be required...”</p> <p><u>Verbal reply from LCB Policy & Rules Coordinator Audrey Vasek during the L&L forum:</u> “Thank you Jessica for that question. Let me see if I can find where what you might be talking about here. I think that was in—was that in one of the definitions? Let me just search that—[on the screen, searched for the phrase “must have the ability” and scrolled to WAC 314-02-112(5) Caterer’s license] So this might be what you’re referring to. The language about the spirits, beer, wine caterer license. It [the phrase “must have the ability”] appears in multiple times throughout the rules, so this is not—we are not changing that. They have to be able to serve four complete meals. If you want to unmute yourself, we can—let me unmute you so you can explain a little more.”</p> <p><u>Jessica Martin (verbally):</u> “Hello. I work in the food safety program for Spokane Regional Health District and we have a lot of applicants coming in that tell me, they’re applying for a food permit but they give us kind of wishy-washy food preparation steps because they say they don’t actually have to have the food, they just have to have the ability to make the food. So there’s been a lot of confusion this year surrounding that. And so do they need to have the food or not have the food is the question.”</p>	<p>Summary: Question regarding food requirements for caterers.</p> <p>Agency Response: We appreciate this feedback and participation in the rulemaking process. See verbal response provided by LCB Staff in the column to the left.</p>

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			<p><u>Chat reply from Licensing Customer Service Manager Beth Lehman during the L&L forum [3:07-3:13PM]:</u> “You have to have a commercial kitchen and be able to make those meals.” “Food is still required” “Correct Audrey”</p> <p><u>Verbal reply from LCB Licensing Customer Service Manager Beth Lehman during the L&L forum:</u> “So with the caterer’s license you have to have food. You have to be able to make food. It’s a requirement of the license. The ability part comes in because you don’t always have to serve food if you get hired for a catering event. So if they just want you to do the alcohol, that’s fine. But with that license you have to show us that you do have a menu and if someone were to ask you to do the food, that you could do that.”</p> <p><u>Jessica Martin:</u> “Okay, so we’ve had a few this summer that have had a lot of confusion around that word ‘ability’ so I just wanted to let you know that.”</p> <p><u>Beth Lehman:</u> “Jon—you want to speak now?”</p> <p><u>Verbal reply from Liquor Licensing Manager Jon Engelman during the L&L forum:</u> “Well, I’d just like to state that we’re very aware of this misinterpretation and the proliferation of caterers who feel like they can just provide alcohol and not provide food.”</p> <p><u>Jessica Martin:</u> “Okay, thank you so much. That is what’s happening.”</p> <p><u>Audrey Vasek:</u> “Well, thanks for that question Jessica, and Jon and Beth. You can always feel free to connect with the Licensing Team or myself, the Rules Team, outside of this</p>	
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			two if you have additional questions specific to what’s going on in your situation. But yeah, it’s something we’re not changing in this rule set, since the focus was to provide more flexibility for the 1480 purposes. But certainly good context to have, so appreciate that.”	
31	Roger Rezabek, SW WA Winery	Food Service Requirements in General	<p><u>Verbal comment received during the L&L forum:</u> “Okay, so I understand all the food service requirements for the various food type establishments and how they’re defined. Are there any food requirements for wineries that just have a winery, or brewery or distillery license?”</p> <p><u>Verbal reply from LCB Policy & Rules Coordinator Audrey Vasek during the L&L forum:</u> “Yeah, no there aren’t— Thanks for that question Roger. That’s not—as far as I’m aware they’re not subject to the changes that we’ve brought in here. There’s separate stuff for wineries. I don’t know if licensing wants to jump in on that—Oh sorry go ahead”</p> <p><u>Roger Rezabek:</u> “At one point, when COVID hit, we were starting to go to outdoor stuff and different rules were coming in, I think there was a period when they said that wineries had to provide some kind of food—In fact, we had to have a menu, and we had to have that posted, and then we had to list, if we didn’t have something, we had to list other restaurants in the area and it was, I guess—maybe a little bit—too many requirements. But apparently that’s been waived or dropped.”</p> <p><u>Verbal reply from LCB Licensing Customer Service Manager Beth Lehman during the L&L forum:</u> “Yeah, that was already dropped. This Beth again. That was already dropped, and we’re not changing any and imposing and food requirements for wineries at this time, no.”</p> <p><u>Roger Rezabek:</u> “Okay, that’s good. Good choice.”</p>	<p>Summary: Question regarding food requirements for wineries, breweries, or distilleries.</p> <p>Agency Response: We appreciate this feedback and participation in the rulemaking process. See verbal response provided by LCB Staff in the column to the left.</p>

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			<p><u>Audrey Vasek</u>: “Thanks for that question Roger, and Beth for hopping in. It looks like we do have—Jeanne, if you want to introduce yourself, go ahead.”</p> <p><u>Verbal reply from LCB Licensing Deputy Director, Jeanne McShane during the L&L forum</u>: “Good afternoon, I’m Jeanne McShane, the Deputy Director of Licensing. I just wanted to follow up with what Beth had to say. Those requirements for food for wineries and breweries, when we enacted those it was so that they could continue to operate under the emergency guidelines of the Governor. And since those have since gone away, then those requirements are no longer necessary. Thank you.”</p> <p><u>Audrey Vasek</u>: “Thank you very much Jeanne, and thanks again for that question Roger.”</p>	
Topic: General Feedback				
32	Mhairi Voelsgen, Washington Distillers Guild	General	<p><u>Email received on 08/18/2021 before the L&L Forum</u>:</p> <p>“I spent some time reading the entirety of the proposed rules. I personally don’t see any issues with the shared outdoor consumption space rules. They seem reasonable and fair and adhere to what we passed as part of the distillery changes.</p> <p>On the restaurant meal service changes I have a few comments:</p> <ol style="list-style-type: none"> 1. I like the change to include small plates. I think this will be more inclusionary for different cultural groups. 2. I like the change from 8 complete meals to 4. This will help restaurants coming out of COVID. Less inventory. 	<p>Summary: Detailed feedback and suggested revisions to the food service menu requirement rules. See complete text of email in column to the left.</p> <p>Agency Response: We appreciate this feedback and participation in the rulemaking process. The agency rule proposal incorporates this feedback by revising the definitions of “complete meal” and “minimum food service” to clarify that the restriction on menu items that consist solely of precooked frozen food</p>

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			<p>3. <u>I do not like the language around not re-heating prepared frozen foods. I also do not like the language around carry out items from another business. I have a number of concerns around this. I think both of these limitations need to be struck from the rules.</u></p> <ul style="list-style-type: none"> a. It reads to me as an <u>enforcement reaction</u> to the relatively few outlets who have put Swanson Hungry Man dinners on the menu to meet their obligation without understanding the broader industry impact of the rule. b. Most chain restaurants have prepared food shipped to their franchisees and that food is then reheated when ordered. Examples would be Applebees, Chilis, and Olive Garden. This is their business model. <u>Will LCB be shutting down chain restaurants in the state?</u> c. Many local small groups use a commissary kitchen system to make items that are in multiple outlets, then frozen and shipped to each individual restaurant. d. While a small local restaurant group may look like it has one ownership structure and one head chef who oversees all of it, most of the time there are independent LLCs that operate as separate businesses. So, Tom Douglas could not sell his coconut cream pie if it were an entrée at any other location and have it count. This seems ridiculous. e. Many smaller outlets may prepare food offsite in a commissary kitchen for economic reasons or code reasons. 	<p>applies to <i>meals</i> rather than <i>food</i> that is precooked and frozen. (i.e. “Menu items that consist solely of the following types of food do not qualify as [complete meals/minimum food service]: Precooked frozen food <u>meals</u> that is are reheated, carry-out items obtained from another business, or snack food.”) The revision is intended to clarify that while a precooked frozen meal that is simply reheated by the business does not qualify as a “complete meal” or “minimum food service” item, ingredients or components might be precooked and frozen, and then later used by the business to prepare a menu item that qualifies as a complete meal/ minimum food service item.</p> <p>By law, for the purpose of a spirits, beer, and wine restaurant license, a restaurant must be an establishment that “is maintained in a substantial manner as a place for preparing, cooking and serving of complete meals. Requirements for complete meals shall be determined by the board in rules adopted pursuant to chapter 34.05</p>
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			<p>They may not be allowed to put a hood in the space and may be reheating items versus cooking them real time. There are real economic reasons for offsite cooking and reheating on site. It is one of the few ways restaurateurs can save money by consolidating equipment and staff. Why take that away from a group struggling to come back from an industry killing crisis.</p> <ul style="list-style-type: none"> f. Specific restaurant types may deal with a lot more frozen entrees than others- seafood and dumplings come to immediate mind. g. Will this lead to uneven enforcement actions where small local restaurants are held to standards that are not enforced for large chains like Applebees because of their legal teams? h. I worry about uneven enforcement overall where an individual officer decides what constitutes prepared on site and what does not. <p>It seems to me there are going to be a lot of 'exceptions' which usually means the writing is not tight enough. Again, I think both obligations need to be struck.</p> <p>All of this leads me to ask a few broader questions.</p> <ul style="list-style-type: none"> o Why does the LCB care where the food is prepared? What is the main concern around food service preparation? o Why does the LCB care if the food is frozen and re-heated? What difference does it make? Is the reheating of the food enough to qualify as preparation? 	<p>RCW." RCW 66.24.410. The restriction on menu items that consist solely of precooked frozen food has been a longstanding requirement in the current rules (see current WAC 314-02-035(1)(b)). With this requirement in place, franchises and chain restaurants have been able to operate in the state. This is not a new requirement and the agency does not anticipate that the modifications to this requirement will impose any new costs on licensees. The changes made by the proposed rules are intended to provide flexibility for licensees, reduce costs, and increase the cultural diversity of the food examples provided.</p>
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			<ul style="list-style-type: none">○ Why does the LCB care if food is brought in from another business and offered as the food service at a business? It's still food, and as long as it meets the definition of a complete meal it shouldn't matter where it is prepared.○ How is the restriction to have everything prepared on site the purview of the LCB? Isn't the LCB in charge of beverage alcohol service? Isn't where and how food is prepared the purview of county public health departments? <p><u>My biggest concern is an equity concern.</u> When you put onsite preparation requirements in place, initiate a re-heating ban and limit transfers between businesses, these typically have pretty significant financial obligations. Like a hood fan, which can cost upwards of \$50,000 to over \$250,000. This is significant money. Minorities and women starting out in the restaurant business usually start in a commissary kitchen, and may build their business through selling individually prepared items to other businesses who reheat and serve them. The best example I have for this is Potpie Factory. Chef Logan Niles is a female person of color. Her potpies are being sold at multiple restaurants in the area. These would now not qualify, which could lead to some restaurants cutting them. Here is their website: https://www.potpiefactory.co/about</p> <p>This is an area where the LCB could recognize the equity issues inherent in the restaurant business and not close an avenue for BIPOC and female entrepreneurs. The regulatory environment has a role to play in ensuring that the playing field is accessible to everyone, instead of restricting access.</p>	
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			<p>Lastly, I share an anecdote from dinner last night. I was working late, and my husband threw some frozen, premade dumplings he bought at Costco in the microwave and reheated them, served with a salad. He made himself an Old Fashioned, which he began to drink during dinner. I told him his meal preparation would not qualify under LCB rules for food preparation. I also think that pickles are not garnishes; I've seen some pretty substantial pickle plates.</p> <p>Thanks Audrey.</p> <p>All my best, Mhairi"</p>	
33	Michelle Anderson	General	<p><u>Email received on 08/24/2021 before the L&L Forum:</u> "Concept draft rules. The only thing I can think of xis that I believe you should be able to serve ANYWHERE on your own property!! As long as you are in compliance, you should be able to serve ANYWHERE on your own property! Thank you! You guys are doing a great job!!"</p>	<p>Summary: Feedback that the rules should allow alcohol service anywhere on a business's own property.</p> <p>Agency Response: We appreciate this feedback and participation in the rulemaking process.</p>
34	Christine Steele, Health Care Authority, Division of Behavioral Health and Recovery	General	<p><u>Email received on 08/30/2021 before the L&L Forum:</u> "Good Morning Audrey and Sara,</p> <p>Please find attached comments the WA Health Care Authority would like to formally submit on the conceptual draft rules addressing alcohol sales and service in outdoor areas as well as food service requirements. Thank you for your collaborative efforts and opportunity to submit written comments on these ongoing conceptual draft rules.</p> <p>Sincerely, Christine</p>	<p>Summary: Providing detailed feedback on the outdoor alcohol service areas and food service menu requirements conceptual draft rules via an email attachment consisting of a four page word document. See column to the left for the complete text.</p> <p>Agency Response: The agency response to the</p>

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			<p>Christine Steele Prevention Policy and Project Manager Substance Use Disorder Prevention and Mental Health Promotion Section HCA, Division of Behavioral Health and Recovery”</p> <p><u>Email Attachment:</u> LCB Conceptual Draft Language.</p> <p>1) WAC 314-03-200 Outside or extended alcohol service.</p> <p>Conceptual Draft Rules of Concern:</p> <p>(1) The area must be enclosed with a permanent or movable barrier a minimum of forty-two inches in height.</p> <p>(2) There must be an interior access to the licensed premises. If the interior access is from a minor restricted area of the premises, minors are prohibited in the outside or extended alcohol service area.</p> <p>(3) There must be an attendant, wait staff, or server dedicated to the outside service area when patrons are present.</p> <p>Reason for Concerns:</p> <p>a) Youth Access – Allowing a penetrable barrier with this limited height restriction might allow a beverage to be easily passed over the barrier. An interior access point may prove irrelevant if a minor can easily step over or be passed a beverage over a minimum forty-two-inch height barrier.</p> <p>b) Youth Perceptions – With new rules comes the normalization of a now pseudo public space for public consumption of alcohol leading to an increase community norm and decreases in perceptions of harm.</p> <p>c) Interior access - Would the outside service areas allowable also include porches, open</p>	<p>suggested edits/questions is provided below:</p> <p><i>WAC 314-03-200</i> We appreciate this feedback and participation in the rulemaking process. With respect to the comments regarding the outside or extended alcohol service rules in WAC 314-03-200, the agency considered the suggested revisions but these suggestions are not reflected in the rule proposal. The only change made by the conceptual draft rules to this section is to add a cross-reference to the new temporary rules for outdoor alcohol service in WAC 314-03-205. The rest of the section is current rule language and is not being considered for revision at this time. The temporary rules will expire July 1, 2023, unless extended by law, and the agency intends to re-evaluate the permanent rules at that time.</p> <p><i>WAC 314-03-205</i> We appreciate this feedback and participation in the rulemaking process. With respect to the comments</p>
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			<p>porches, rooftops and balconies which may have “interior access” and allow for service and consumption of alcohol? Are there any rules for these allowable areas?</p> <p>d) The age of server monitoring area</p> <p>New proposed language and/or requirements:</p> <p>a) Youth Access - Physical barriers: Raise height of barrier to seventy-two (72) inches and/or require the area be constructed with materials that prevents beverages from being passed through to patrons outside the controlled space Staff requirements: require staff (not runner staff) to be present at all times in service area to fully monitor area hence ensuring no persons under twenty-one (21) years of age are consuming or being passed alcohol.</p> <p>b) Youth Perceptions - With open views, consider adding “barrier must be tarp material or must it be solid to prevent passage of alcohol to minors.</p> <p>c) Interior Access- For outdoor services on patios, open porches, rooftops and balconies, patrons must exit only through the licensed establishment which is attached but they shall also follow local code and exit requirements.</p> <p>d) Server staff of at least 18 years and over to be inclusive of the sidewalk cafes as well.</p> <p>2) WAC 314-03-205 Temporary rules for outdoor alcohol service by on-premises licensees. Conceptual Draft Rules of Concern: (e) Interior access to the licensed premises from the outdoor alcohol service area is not required. However,</p>	<p>regarding the conceptual draft temporary rules for outdoor alcohol service by on-premises licensees, the agency considered the suggested revisions but these suggestions are not reflected in the rule proposal.</p> <p>The purpose of this portion of the rules is to implement section 2(8) of E2SHB 1480, which directs the WSLCB to “adopt or revise current rules to allow for outdoor service of alcohol by on-premises licensees” in response to the COVID-19 pandemic, not create new restrictions. The suggestion to require that service and consumption of food be the primary business of the license holder is not feasible since these outdoor areas are already available to not only restaurants but also producers such as breweries, wineries, and distilleries whose primary business is not food.</p> <p>The suggestion to raise the height of the barrier to 72 inches from 42 inches would make the rules more restrictive for licensees and increase costs. Additionally, the barrier</p>
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			<p>unless there is (i) interior access to the licensed premises from the outdoor alcohol service area, or (ii) an unobstructed direct line of sight from inside the licensed premises to the outdoor alcohol service area, an employee with a mandatory alcohol server training (MAST) permit under chapter 314-17 WAC must be present in the outdoor alcohol service area at all times that patrons are present, in order to monitor alcohol consumption.</p> <p>(i) Licensees must comply with local building codes, local health jurisdiction requirements, department of labor and industries requirements, and any other applicable laws and rules.</p> <p>(b)(i) If the shared outdoor alcohol service area is located on public space, the licensees sharing the space must meet all of the requirements in subsection (3) of this section and shared use of the outdoor service area must be authorized by the licensees' local jurisdiction permits;</p> <p>(d) The licensees must use distinctly marked glassware or serving containers in the shared outdoor alcohol service area to identify the source of any alcohol product being consumed. The distinctive markings may be either permanent or temporary. Any temporary markings must remain on the glassware or serving containers through the duration of use by the customer</p> <p>(f) Signage prohibiting the removal of alcohol in an open container must be visible to patrons in the shared outdoor alcohol service area.</p> <p>(g) The outdoor alcohol service area must be enclosed with a permanent or movable barrier a minimum of forty-two inches in height.</p> <p>Reason for Concerns:</p> <p>a. Will this area become another pseudo bar (aka beer gardens) as opposed to an extension of the dining area? Does this new area include Max Occupancy rates and/or square footage in Outdoor service? Who determines this? There is nothing in the rules.</p>	<p>rules were recently revised in February 2020 by WSR 20-03-180 and the agency is not considering changing barrier height as part of this rulemaking.</p> <p>Limiting the square footage of outside alcohol service areas to the existing building structure and/or establishing a minimum distance requirement from the outdoor alcohol service area to a residential zone would create new restrictions on licensees that do not exist in the current rules. These requirements would also be difficult for the agency to implement and enforce since licensing staff would need to have the ability to measure and verify the building square footage and distance from residential zones as part of the application process, which is beyond current capacity. As an alternate way to address the concern about the potential for the creation of large outdoor spaces that do not have adequate monitoring or service by the licensee, the rules do require that the same food service offered inside the licensed premises must also be</p>
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			<ul style="list-style-type: none"> b. Applicable laws is vague – do you mean local applicable laws – zoning ordinances – city fire codes. Should there be a more specific reference to “rules”? c. Youth Perceptions: Option of shared space if adjacent: possible noise to surrounding residential zoned neighborhoods may adversely affecting the use and enjoyment of any immediately adjacent residential property while contributing to the normalization of alcohol consumption and youth’s perception of risk/harm. d. Consider more clarification on the term “distinctive glassware”. Does this mean “Distinctive Vendor Markings on the glass/cup or actual distinctive glassware? Temporary markings can be wiped off and alcohol can potentially be carried out. e. Vague and unclear interpretation “Visible” f. Youth Access – Low Physical barriers- Multiple exits and entries allowable on one side. <p>New proposed language and/or requirements:</p> <ul style="list-style-type: none"> a. The service and consumption of food shall be the primary and dominant business of the license holder at the location for which the license is issued. Limit seating capacity to align with the number of dining seats. If you are in this area, you are sitting at a table, with food requirements. No standing or extra seating areas. Provide at least one table for every five seats. Limit the square footage of the proposed outside service area to not exceed the square footage of the existing building structure. b. Consider changing to applicable local ordinances and local rules 	<p>offered in the outdoor alcohol service area and that the outdoor area have an attendant, wait staff, or server dedicated to the area when patrons are present.</p> <p>The reference to applicable laws and rules is intended to be a general reminder to licensees that they have the responsibility to research and ensure their compliance with any relevant legal requirements beyond those required by the LCB.</p> <p>For shared outdoor alcohol service areas, the requirement to use distinctly marked glassware or serving containers, and the requirement that signage prohibiting the removal of alcohol in an open container must be visible to patrons in the shared space, are both borrowed from the existing rules applicable to shared consumption areas for breweries, wineries, and distilleries. See WAC 314-28-320. Requiring permanent markings would be cost prohibitive for some licensees. The type of distinctive marking would be a business decision for the licensee. The rules</p>
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Topic: Conceptual Draft Rules for Implementation of HB 1480, Outdoor Alcohol Service Areas and Food Service Menu Requirements

			<p>c. Establish a required minimum distance requirement (700 feet) from the outside service area to residential Zone.</p> <p>d. Remove the temporary language as this can easily be wiped off and potential be carried out. Consider standardizing markings to "Contains alcohol" instead of "distinctive glassware" since this is a shared space and share joint responsibility for violations etc.</p> <p>e. Consider standardizing to "must be posted on partitions near entry ways and exits" from outdoor service area." Ensure sign is in multiple languages.</p> <p>f. Raise height of barrier to seventy-two (72) inches and/or require the area be constructed with materials that prevents beverages from being passed through to patrons outside the controlled space. If more than one entry/exit on a side, ensure staff monitors both openings.</p> <p>3) WAC 314-02-010 Definitions.</p> <p>Conceptual Draft Rules of Concern:</p> <p>(4) "Dedicated dining area." In order for an area to qualify as a dedicated dining area, it must be a distinct portion inside of a restaurant that is used primarily for the sale, service, and consumption of food, and have accommodations for eating, e.g., tables, chairs, booths, etc. See WAC 314-02-025 for more information.</p> <p>(16) "Service bar" means a fixed or portable table, counter, cart, or similar workstation primarily used to prepare, mix, serve, and sell alcohol that is picked up by employees or customers. Customers may not be seated or allowed to consume food or alcohol at a service bar.</p>	<p>require any temporary markings to remain on the glassware or serving containers through the duration of use by the customer, so choosing to use markings that are easily wiped off would be a risk/liability for the licensee. Similarly, public consumption laws already prohibit customers from carrying alcohol out of a service area in an open container and the signage requirement is intended to remind customers of this requirement.</p> <p><i>WAC 314-02-010</i> We appreciate this feedback and participation in the rulemaking process. With respect to the comments regarding the definitions section, the agency considered the suggested revisions but these suggestions are not reflected in the rule proposal. The purpose of the revisions to the food service menu requirement rules is to implement section 3 of E2SHB 1480 (codified as RCW 66.08.071), which directs the WSLCB to "consider revising current rules in order to provide greater flexibility regarding food service menu requirements."</p>
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Sept. 2, 2021, Listen & Learn Forum Public Comment Table

Topic: Conceptual Draft Rules for Implementation of HB 1480, Outdoor Alcohol Service Areas and Food Service Menu Requirements

			<p>Reason for Concerns:</p> <ul style="list-style-type: none"> a. The vague definition and use of “primary” in this rule b. Is there language specifying where a “service bar” can be located? Does it have to be inside the licensee location or inside the new designated outdoor area? Concerns over Youth access and monitoring. Do they require having a MAST holder employee for oversight and monitoring of alcoholic beverages where minors may have access.? <p>New proposed language and/or requirements:</p> <ul style="list-style-type: none"> a. Primary - More than 50% dedicated to dining area, following the established language in license type requirements and fees. b. Service bar must remain within the registered licensee leased area and is not allowed to be service rolled around the parking area if that happens to the approved outdoor service area. <p>4) WAC 314-02-035 ((What are the)) Food service requirements for a spirits, beer, and wine restaurant license No Concerns or Language proposals recommended.</p> <p>5) WAC 314-02-0411 ((What are the)) Food service requirements for a hotel license No Concerns or Language proposals recommended.</p> <p>6) WAC 314-02-065 ((What is a)) Snack bar license No Concerns or Language proposals recommended.</p> <p>7) WAC 314-02-087 ((What is a)) Spirits, beer, and wine theater license((?)).</p>	<p>Amending the definition of “dedicated dining area” and “service bar” are not being considered as part of this rulemaking since those terms are not used in connection with the food service menu requirements—i.e. the definitions of “complete meal” and “minimum food service”—and edits to these definitions would likely fall outside of the scope of this HB 1480 implementation. The language in these definitions is part of the existing rule and is not new.</p> <p><i>WAC 314-02-087</i> We appreciate this feedback and participation in the rulemaking process. With respect to the comments regarding the spirits, beer, and wine theater license section, the agency considered the suggested revisions but these suggestions are not reflected in the rule proposal. The purpose of the revisions to the food service menu requirement rules is to implement section 3 of E2SHB 1480 (codified as RCW 66.08.071), which directs the WSLCB to “consider revising current rules in order to provide</p>
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Sept. 2, 2021, Listen & Learn Forum Public Comment Table

Topic: Conceptual Draft Rules for Implementation of HB 1480, Outdoor Alcohol Service Areas and Food Service Menu Requirements

			<p>Conceptual Draft Rules of Concern: (d) If staff observes a patron who is in the possession of or who is consuming an alcoholic beverage, who appears to be of questionable age, staff will request identification from that patron. If the patron is unable to produce an acceptable form of identification verifying their age, the alcohol will be confiscated.</p> <p>Reason for Concerns: a. If any staff can approach a patronage, shouldn't the staff be a MAST holder as they have been trained on verification of identification? Concerns about minors (ages 16-17) being responsible for approaching and confronting patrons who may be violating the law and confiscating alcohol.</p> <p>New proposed language and/or requirements: a. Only staff with a MAST may approach a person who is possession of alcohol and verify their ID, as they have been properly trained to recognize a Valid ID.</p> <p>8) WAC 314-02-112 ((What is a)) Caterer's license No Concerns or Language proposals recommended.</p> <p>9) WAC 314-02-114 ((What is a)) Senior center license</p> <p>Conceptual Draft Rules of Concern: 2) The senior center license permits the sale of spirits by the individual glass, including mixed drinks and cocktails mixed on the premises only, beer and wine, at retail for consumption on the licensed premises.</p> <p>Reason for Concerns:</p>	<p>greater flexibility regarding food service menu requirements.” Amending the MAST requirements for SBW Theater license staff is not being considered as part of this rulemaking. This type of change would likely fall outside of the scope of this HB 1480 implementation since it is not related to implementing HB 1480.</p> <p><i>WAC 314-02-114</i> We appreciate this feedback and participation in the rulemaking process. With respect to the comments regarding the senior center license section, the agency considered the suggested revisions but these suggestions are not reflected in the rule proposal. The purpose of the revisions to the food service menu requirement rules is to implement section 3 of E2SHB 1480 (codified as RCW 66.08.071), which directs the WSLCB to “consider revising current rules in order to provide greater flexibility regarding food service menu requirements.” Requiring a new sign warning of the health dangers of mixing alcohol with medicines is not</p>
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Sept. 2, 2021, Listen & Learn Forum Public Comment Table

Topic: Conceptual Draft Rules for Implementation of HB 1480, Outdoor Alcohol Service Areas and Food Service Menu Requirements

			<p>a) Alcohol and Medicines - Many prescriptions and over the counter medicines can be dangerous or even deadly when mixed with alcohol. Many older people take medications every day, making this a special concern as this may also increase the risk of falls (fractures) and car crashes.</p> <p>New proposed language and/or requirements:</p> <p>a) Provide signage at location of alcohol service warning the health dangers of mixing alcohol with medicines.</p> <p>Final Concern: Will the Axe throwing licensee be included in these rules? Not specifically mentioned. Outdoor venues allowed?"</p>	<p>being considered as part of this rulemaking. This type of change would likely fall outside of the scope of this HB 1480 implementation since it is not related to implementing HB 1480.</p> <p>With respect to the final concern related to axe throwing, the rulemaking related to implementation of HB 1480 does not address axe throwing, which would be outside of the scope of this project. A separate rulemaking project related to axe throwing is on the horizon but has not yet been formally initiated. The rulemaking process begins once a CR 101 is approved by the Board and filed with the Code Reviser's Office. For updates on rulemaking projects, any interested person can add their name to the LCB rulemaking email distribution list, and we will send you notices about rulemaking activity, meetings, and other information about our work. (https://public.govdelivery.com/accounts/WALCB/subscriber/new)</p>
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Sept. 2, 2021, Listen & Learn Forum Public Comment Table

Topic: Conceptual Draft Rules for Implementation of HB 1480, Outdoor Alcohol Service Areas and Food Service Menu Requirements

35	Ken Rogers	General	<p><u>Email received on 09/02/2021 after the L&L Forum:</u> “Audrey, Thank you for moderating the call. Very difficult to manage that kind of project remotely. Nicely done.</p> <p>Wanted you to know for future use if you like, that I initially called in on an iPhone then subsequently switched to a computer lacking audio input. I was able to participate over voice on the iPhone but needed to be unmuted on the host end somehow. It worked once but was not working on the subsequent try with the iPhone (?)</p> <p>On the question topic, I read the document in advance and my primary question was about beer/wine licensees because it seemed that all of the other types of licensees were covered except for the beer/wine (no spirits) - sorry to be dull on that issue but needed clarification which I think happened in the end.</p> <p>My experience with the LCB has been uniformly positive since I applied for my license before and after and during all of the COVID disruption. Please pass along my appreciation to the staff for their pragmatic approach to the past year and a half.</p> <p>Ken Rogers Des Moines”</p> <p><u>Follow-up email from LCB Policy & Rules Coordinator Audrey Vasek:</u> “Hi Ken,</p> <p>Thank you, I appreciate this feedback and your participation at the Listen and Learn Forum today. I apologize for the unmuted issues with Microsoft Teams</p>	<p>Summary: Question about requirements for beer/wine licensees versus spirits, beer, and wine licensees.</p> <p>Agency Response: See email reply from LCB Staff in column to the left.</p>
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Sept. 2, 2021, Listen & Learn Forum Public Comment Table

Topic: Conceptual Draft Rules for Implementation of HB 1480, Outdoor Alcohol Service Areas and Food Service Menu Requirements

			<p>and am glad you were able to participate via chat! I will share your message with other LCB staff.</p> <p>To address the question about the types of food service changes for beer/wine restaurant licensees—you're correct that the conceptual draft rules didn't make large changes to the beer/wine restaurant licensee requirements—also known as "minimum food service" requirements. (See WAC 314-02-045(2)(a)). The conceptual draft rules expand the list of types of food included as possible menu items under minimum food service and clarify the types of menu items that do not qualify as minimum food service:</p> <p style="text-align: center;">(((14))) <u>(13)(a)</u> "Minimum food service" means <u>that</u></p> <p><u>menu</u> items such as sandwiches, salad, soup, pizza, hamburgers, ((and fry orders)) <u>fries, savory pies, tacos, dumplings, fried rice, and other similar items are available to order.</u></p> <p style="text-align: center;"><u>(b) Menu items that consist solely of the following</u></p> <p><u>types of food do not qualify as minimum food service:</u></p> <p><u>Precooked frozen food that is reheated, carry-out items obtained from another business, or snack food.</u></p>	
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Sept. 2, 2021, Listen & Learn Forum Public Comment Table

Topic: Conceptual Draft Rules for Implementation of HB 1480, Outdoor Alcohol Service Areas and Food Service Menu Requirements

			<p>The “complete meal” requirements for spirits, beer, and wine restaurants are currently more restrictive than the “minimum food service requirements” for beer/wine restaurants and this continues to be the case in the conceptual draft rules. I hope this helps. Please let me know if you have additional questions.</p> <p>Best,</p> <p>Audrey Vasek Policy and Rules Coordinator Washington State Liquor and Cannabis Board (360) 664-1758 Desk (360) 480-1238 Mobile audrey.vasek@lcb.wa.gov”</p>	
36	Josh McDonald, Washington Wine Institute	General	<p><u>Email received on 09/03/2021 after the L&L Forum:</u></p> <p>“Hi Audrey – Sending a big THANK YOU your way for your team’s work on the first draft of rulemaking on modernizing our outdoor seating allowances. There are a few sections we identified that we hope to engage with your team and work to improve, but overall I want to make sure you know that we are very pleased with the direction and how thoughtful the first draft is towards licensees who are currently utilizing outdoor service or would like to in the near future. Please pass along my/our industry’s thanks to your team as is appropriate. More work to be done but great start!</p> <p>Have a wonderful holiday weekend.</p> <p>Josh McDonald Executive Director WA Wine Institute”</p>	<p>Summary: Feedback re the outdoor alcohol service areas conceptual draft rules.</p> <p>Agency Response: We appreciate this feedback and participation in the rulemaking process.</p>

Sept. 2, 2021, Listen & Learn Forum Public Comment Table

Topic: Conceptual Draft Rules for Implementation of HB 1480, Outdoor Alcohol Service Areas and Food Service Menu Requirements

37	Katie Doyle, Washington Hospitality Association	General	<p><u>Email received on 09/08/2021 after the L&L Forum:</u></p> <p>“Hi Audrey,</p> <p>Unfortunately, I am still out of town, now for business meetings instead of vacation, but I don’t foresee being able to listen to the session before Friday.</p> <p>I did read through the draft rules before vacation and didn’t see any glaring issues to address. I feel like the draft is thoughtful and gives several options for extended outdoor service and always does a good job addressing meal requirements.</p> <p>Katie Doyle State Government Affairs Manager Washington Hospitality Association”</p>	<p>Summary: Feedback re the outdoor alcohol service areas and food service menu requirements conceptual draft rules.</p> <p>Agency Response: We appreciate this feedback and participation in the rulemaking process.</p>
38	Josh McDonald, Washington Wine Institute (Language included is also supported by the Washington Brewers Guild, Annie McGrath)	General	<p><u>Email received on 09/13/2021 after the L&L Forum:</u></p> <p>“Hi Audrey – Please see below for our comments on two sections of the outdoor seating rulemaking draft rules. I’d be happy to discuss these further with you at any time and look forward to this continued work towards a set of rules that support licensees and the WSLCB.</p> <p>New Section WAC 314-03-205 2 (b) and 3 (b)</p> <p>Current language: The licensee must have a building with indoor dining capacity in order to qualify for an outdoor alcohol service area. "Building" is defined in WAC 314-07-010. A building must have floor to ceiling walls and a roof, and must comply with state and local building codes.”</p> <p>Suggested language:</p>	<p>Summary: Suggestion to revise the indoor dining capacity requirement to include production, and to remove language requiring a MAST trained employee to be in the outdoor alcohol service area at all times patrons are present in cases where the outdoor alcohol service area does not have interior access to the licensed premises or a direct line of sight.</p> <p>Agency Response: We appreciate this feedback and participation in the rulemaking process. The rule proposal</p>

Sept. 2, 2021, Listen & Learn Forum Public Comment Table

Topic: Conceptual Draft Rules for Implementation of HB 1480, Outdoor Alcohol Service Areas and Food Service Menu Requirements

			<p>“The licensee must have a building that provides indoor dining, sales, service or production in order to qualify for an outdoor alcohol service area</p> <p>What this does: Allows for outdoor alcohol service if at least one of the following activities are taking place within the building occupied by a liquor licensee; dining, sales, service or production. The licensee has to meaningfully exercise the rights associated with a liquor license indoors, i.e. sales, service, production, storage, etc. This approach creates accountability without unnecessarily restricting this business model.</p> <p>New Section WAC 314-03-205 2 (e)</p> <p>Current language: ...”an employee with a mandatory alcohol server training (MAST) permit under chapter 314-17 WAC must be present in the outdoor alcohol service area at all times that patrons are present, in order to monitor alcohol consumption.”</p> <p>Suggested approach: We suggest striking this language from the rules.</p> <p>What this does: Requiring an employee to physically be present at all times is a big commitment, especially during this critical labor shortage is not feasible. A MAST-permitted employee who leaves the outdoor area to use the restroom, grab an order, etc., would be in violation of this rule since as currently written this would technically be the expectation of this employee. Just like now, the licensee is and remains responsible for any over-service or service to minors, even in the outdoor spaces.</p>	<p>incorporates this feedback by revising the indoor dining capacity requirement such that the language does not inadvertently prevent wineries and other producers from having outdoor areas. (i.e. “The licensee must have a building that provides indoor dining <u>or production</u> in order to qualify for an outdoor alcohol service area.”)</p> <p>With respect to the feedback on the conceptual draft rule language in WAC 314-03-205(2)(e), the agency considered the suggested revision but this suggestion is not reflected in the rule proposal. This requirement would only apply if there was no interior access and there was no direct line of sight from the licensed premises to the outdoor alcohol service area. So, for example, an outdoor alcohol service area that is located behind or around the side of the licensed premises such that there’s no interior access or direct line of sight. There are public safety concerns connected with being able to monitor these types of detached outdoor alcohol</p>
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Sept. 2, 2021, Listen & Learn Forum Public Comment Table

Topic: Conceptual Draft Rules for Implementation of HB 1480, Outdoor Alcohol Service Areas and Food Service Menu Requirements

			Josh McDonald Executive Director WA Wine Institute”	service areas spaces without a MAST trained employee present in these areas at the times that patrons are present.
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Forum on Alcohol Sales/Service in Outdoor Areas on Sept. 2, 1:00-4:00

Washington State Liquor and Cannabis Board sent this bulletin at 08/17/2021 01:58 PM PDT

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August 17, 2021

Invitation: Forum on Alcohol Sales/Service in Outdoor Areas, Food Requirements HB 1480 Feedback Sought on Draft Rules

The Washington State Liquor and Cannabis Board (LCB) is hosting an online forum to gather feedback and comments on conceptual draft rules related to outdoor alcohol service areas and food service menu requirements. To implement [HB 1480](#) and provide greater flexibility for licensees the LCB is considering:

- Temporary changes to outdoor alcohol service area requirements for all on-premises licensees; and
- Changes to food service menu requirements, including the definitions of “complete meal” and “minimum food service,” as well as the number of required complete meals for certain license types.

Feedback gathered during the forum will help shape the rules. Please review the [agenda](#) along with the [conceptual draft rules](#) before the forum and be ready to offer feedback. Information on the “Listen and Learn” style forum is provided via [this guidance document](#).

The LCB is currently in the CR-101 inquiry phase of the [rulemaking process](#). A [Preproposal Statement of Inquiry \(CR-101\)](#) was filed on May 12, 2021. There are no proposed or final rules at this stage of the rulemaking process. A CR-102 rule proposal has not yet been filed.

When: Thursday, September 02, 2021, 1:00 – 4:00 p.m.

Where: Join on your computer or smart phone app through Microsoft (MS) Teams.

[Click here to join the meeting.](#)

If you have the MS Teams app on your device, select “Open Microsoft Teams” when prompted.

If you do not have the MS Teams app, select “Continue on this browser” when prompted.

Please note that MS Teams does not have a pre-registration option. Please add the forum to your calendar and join using [this link](#) at the start time indicated above. The event may end earlier than scheduled depending on the amount of feedback offered during the forum.

To listen to the meeting on the phone (audio only):

Dial: +1 564-999-2000 Conference ID: 801 484 281#

The phone call-in option can only be used for listening to the forum. To provide feedback during the forum, please join using online via MS Teams.

If you join online here are a few reminders:

- Online participation will be structured to allow one speaker at a time through a hand-raising feature on MS Teams.
- If you have difficulty with audio or visual elements of MS Teams, please continue to try.

You can also provide feedback to us at the email below. There is still opportunity to let us know your thoughts via email.

Questions? Contact Policy and Rules Coordinator Audrey Vasek at rules@lcb.wa.gov

For more information, please visit <https://lcb.wa.gov/laws/alcohol-rulemaking-activity>.

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LCB is Looking for Licensees Impacted by To-Go Alcohol Sales Endorsements to be Interview Participants

Washington State Liquor and Cannabis Board sent this bulletin at 09/03/2021 12:04 PM PDT

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3September 3, 2021

Are you a liquor licensee? Do you want to share your perspectives about the rules to implement the temporary alcohol to-go endorsements created by HB 1480? Would you like to participate in an interview?

If you answered "yes," let us know!

The LCB has been working on developing rules to implement [HB 1480](#), which extended certain privileges granted to liquor licensees to mitigate the impact of the COVID-19 pandemic. Your feedback will help us estimate the costs of compliance associated with rules to implement HB 1480.

About the Interviews

Interviews will be conducted by LCB staff and will last approximately 1 hour. Interviews will be scheduled between September 15 and September 21, 2021.

We want to make sure that interview responses represent the rich diversity of our communities and license types. Can you help?

If you would like to participate, please send the following information to rules@lcb.wa.gov, attention Audrey Vasek **by September 10, 2021**.

1. Your name
2. Your contact information (email and phone number)
3. Where you are located (city and county)
4. Your license type (brewery, winery, distillery, tavern, SBW restaurant, BW restaurant, snack bar, caterer, hotel, BW specialty shop, combination SBW license, other-please specify)
5. The type of temporary HB 1480 alcohol to-go endorsements that you plan to obtain (cocktails/wine by the glass, growlers, manufacturer sealed alcohol products)
6. The size of your business as measured by approximate number of employees (e.g. 1-4, 5-9, 10-19, 20-49, 50-99, 100-249, 250-499, 500-999, 1000+)

Don't miss out on this opportunity to offer your perspectives on an important topic – send your information to rules@lcb.wa.gov today!

For more information about HB 1480 rulemaking, please visit <https://lcb.wa.gov/laws/alcohol-rulemaking-activity>.

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Attachment D

CR 101 Public Feedback Table—HB 1480 Implementation

Public feedback received May 12 through July 2, 2021 on the rule project to implement E2SHB 1480 ([CR-101 Filed as WSR 21-11-035 on May 12, 2021](#)). As published in the Notice to Stakeholders, the CR 101 public comment period closed on July 2, 2021. This table also includes comments received after the CR 101 public comment period closed but before the CR 102 was filed. Comments received related to the Listen & Learn Sessions held on August 5, 2021 and September 2, 2021 are contained in separate comment tables.

Order Received	Name	Date Received	Feedback
1	Josh McDonald, Washington Wine Institute	5/13/2021	<p><u>Email received May 13, 2021—Direct quotation included below:</u></p> <p>“Hi Audrey – After reading the CR 101 and Memorandum filed yesterday, I am seeing one omission important to my industry as well as the restaurant industry. I have cc’d Katie Doyle from WHA because this also impacts her members. We worked to amend section 2 of HB 1480 to include wine by the glass and wine-based premixed cocktails by the glass to go via curbside, takeout or delivery for S/B/W and B/W restaurants. In the statements, it only speaks to cocktails to go.</p> <p>I’m not concerned about needing to file a whole noter 101 unless that’s legally necessary. I just want to flag this and make sure this allowance is included in rulemaking as we move forward. If you have any questions, please ask!</p> <p>Josh”</p>
2	Pam Pannkuk, Washington Traffic Safety Commission	6/29/2021	<p><u>Email received June 29, 2021—Direct quotation included below:</u></p> <p>“Hi Sara,</p> <p>Thank you for the opportunity to participate in the discussion this afternoon.</p> <p>As the you and the rest of the LCB team continue to work on the rule making, on behalf of Shelly and our team here, I just wanted to re-iterate the following ask for consideration from our end.</p> <p>Make the rule making clear that:</p> <ul style="list-style-type: none"> • Restaurants, servers, and customers know that open containers of alcohol may not be carried in the passenger area of a vehicle. • For an alcohol beverage to be carried in the passenger area of a vehicle, the container must be fully sealed with no contents removed

			<p>and sealed in a way that will not allow a driver or passenger in a vehicle to open it and remove some contents without damaging the seal.</p> <ul style="list-style-type: none"> • Containers such as mason jars or flip top bottles without a noticeable secure seal would be considered open containers and must be carried in the trunk or other non-passenger area, such as behind the last passenger seat in a van. <p>Aside from clarifying these in the rule making, the draft image/signage Justin shared is a great start.</p> <p>Thank you again for including us in these conversations and your work on this.</p> <p>Pam Pannkuk Deputy Director”</p>
3	Stacey Okland, Okanogan County Community Coalition	6/30/2021	<p><u>Email received June 30, 2021—Direct quotation included below:</u></p> <p>“Hi Sara</p> <p>Here's the comments from Ramona I mentioned on the call yesterday.</p> <p>Take Care and stay cool! Stacey</p> <p>I was hoping to add a couple of items into the mix:</p> <ul style="list-style-type: none"> • When it comes to “open container” concerns, perhaps LCB could require a label that says “Breaking this seal will result in an open container.” • Regarding “public consumption” concerns, perhaps LCB could require a label that says “NOT FOR PUBLIC CONSUMPTION.” <p>Stacey Okland Executive Director Okanogan County Community Coalition”</p>

Comments below were received after the CR 101 public comment period closed on July 2, 2021:

4	Tyler Szabo	9/03/2021	<p><u>Email received September 3, 2021—Direct quotation included below:</u></p> <p>“Hi LCB,</p> <p>I'm pleased with the impact so far of permitting sale of takeout alcohol sale; particularly premixed takeout cocktails. The ability to have both dinner and a cocktail at home when dining in isn't an option, COVID-19 notwithstanding, such as when it's close to closing time or during a busy day has been a bright spot in otherwise tedious days.</p> <p>So far the impact of takeout alcohol has been an entirely positive experience for me. It's enabled the following activities that weren't possible before:</p> <ul style="list-style-type: none">- Enjoying a specialty cocktail at home (without collecting all of the ingredients, learning the recipe, and cleaning up)- Having a paired wine/beer with a takeout or delivery dinner- When in a group being able to get drinks from different places and meet up at a home rather than all commit to a single bar <p>So far it seems to be without downside: we haven't descended into drunken degeneracy (which, as I understand it, was the primary concern with permitting takeout alcohol prior to our forced 2020 experiment).</p> <p>It's my wish for the LCB to make the licensing process as simple as possible (ideally permitting to-go by default for all current licensees), avoid extravagant requirements, and provide clear guidance and best practices.</p> <p>Best, -Tyler Szabo”</p>
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