



Washington State  
**Liquor and Cannabis Board**

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**Date:** December 8, 2021

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

**From:** Audrey Vasek & Robert DeSpain, Policy and Rules Coordinators

**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:** **Request for approval of final rules (CR 103) regarding implementation of 2021 legislation – E2SHB 1480 (COVID-19 alcohol allowances).**

The Policy and Rules Coordinator requests that the Board adopt final rules and approve the CR 103 for the rulemaking project related to implementation of 2021 legislation – E2SHB 1480 (COVID-19 alcohol allowances).

The Board has been briefed on the rule development background and public comment received for this rulemaking project. A CR 103 memorandum, draft CR 103 form, and rule text are attached.

If approved, the Policy and Rules Coordinator will file the rules with the Office of the Code Reviser and send the concise explanatory statement concerning this rulemaking to all persons who provided comments. The effective date of the rules will be 31 days after filing, or January 8, 2022.

\_\_\_\_\_ Approve      \_\_\_\_\_ Disapprove      \_\_\_\_\_  
David Postman, Chair      Date

\_\_\_\_\_ Approve      \_\_\_\_\_ Disapprove      \_\_\_\_\_  
Ollie Garrett, Board Member      Date

\_\_\_\_\_ Approve

\_\_\_\_\_ Disapprove

\_\_\_\_\_  
Russ Hauge, Board Member

\_\_\_\_\_  
Date

Attachments: CR 103 Memorandum  
Concise Explanatory Statement



## CR 103 Memorandum

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

Date: December 8, 2021  
Prepared by: Robert DeSpain, Policy and Rules Coordinator  
in collaboration with Audrey Vasek, Policy and Rules Coordinator

Presented by: Robert DeSpain, Policy and Rules Coordinator

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### 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 preproposal statement of inquiry (CR 101) as WSR 21-11-035 on May 12, 2021. During the initial CR 101 public comment period from May 12 through July 2, 2021, three public comments were received. 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, Communications Unit, Policy and Rules Unit, 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. The feedback received during Listen and Learn Sessions is provided in Attachments A and B to the CR 102 Memorandum.

Before filing the rule proposal (CR 102), the WSLCB incorporated feedback received at the Listen and Learn sessions into the proposed rule language by making a number of changes described in the CR 102 memorandum. The CR 102 was filed as WSR 21-20-066 on September 29, 2021. Information about the rule proposal and how to provide comment was shared publicly through a GovDelivery message and posted on the WSLCB webpage.

The public hearing on the proposed rules was held on November 10, 2021. Two people testified at the public hearing. One written comment was received. The public testimony and comment received and the WSLCB response are contained in the Concise Explanatory Statement attached to this memorandum.

## **Description of Rule Changes & Rule Necessity**

The final rules are needed to implement E2SHB 1480 and have 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).<sup>1</sup> The final rules create three new temporary rule sections (set to expire July 1, 2023) that describe the requirements for licensees to obtain these endorsements.

### *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 changes are set to expire July 1, 2023. See E2SHB 1480, section 2(8) and (11). The final rules create 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

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<sup>1</sup> 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.

provide in conjunction with alcohol sales. These food service menu requirement changes are permanent. See RCW 66.08.071 (E2SHB 1480, section 3). The final rules amend a number of sections in chapter 314-02 WAC related to food service menu requirements, including the definitions of “complete meal” and “minimum food service.”

The table below describes the final rule changes and reasons for these changes in more detail.

Rule section	Description of final rule changes	Rule necessity
<i>Category: Food Service Menu Requirements</i>		
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.”
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.	To improve clarity of the rules by streamlining and making technical corrections to language and numbering, without changing its effect.
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.	
<i>Category: Outdoor Alcohol Service Areas</i>		
WAC 314-03-200 “Outside or extended alcohol service.” (AMENDED)	A cross-reference to the 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.”
WAC 314-03-205 “Temporary rules for outdoor alcohol service by on-premises licensees.” (NEW)	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.	To improve clarity of the rules by

	<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"> <li>• Licensees' property parcels/buildings must be located in direct physical proximity to one another;</li> <li>• Licensees must maintain separate storage of products and separate financial records for the shared outdoor alcohol service area;</li> <li>• 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</li> <li>• Licensees must complete an operating plan for the shared outdoor alcohol service area.</li> </ul>	<p>streamlining and making technical corrections to language and numbering, without changing its effect.</p>
<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"> <li>• Alcohol products must be manufacturer-sealed or factory-sealed.</li> <li>• 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.</li> <li>• 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.</li> <li>• 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.</li> </ul>	<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"> <li>• 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.</li> <li>• Container requirements: The "to-go" cocktails, wine, etc, must be packaged in containers that are sealed in a manner designed to prevent</li> </ul>	<p>To implement E2SHB 1480, section 2(3), (4), (6), and (9).</p>

	<p>consumption without removal of a tamper-evident lid, cap, or seal. A non-comprehensive list of examples is provided.</p> <ul style="list-style-type: none"> <li>• 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+”</li> <li>• 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.</li> <li>• 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.</li> <li>• 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.</li> <li>• 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.</li> </ul> <p>The following terms used in E2SHB 1480 are defined: “premixed cocktail,” “premixed wine and spirits cocktail,” and “premixed wine drink.”</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"> <li>• As specified in E2SHB 1480, sales of growlers must meet federal TTB requirements.</li> <li>• 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.</li> <li>• 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.</li> <li>• 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.</li> </ul>	<p>To implement E2SHB 1480, section 2(5)-(7), and (9).</p>

## Changes from the Proposed Rules (CR 102) to the Final Rules:

There were no changes from the proposed rules to the final rules.

## Rule Implementation

### Informing and Educating Persons Impacted by the Rule

To help inform and educate persons impacted by the rule, the WSLCB will:

- Email notice with the adoption materials and application instructions to persons who commented on the rules and to all GovDelivery subscribers;
- Notify on-premises retailers with existing off-premises endorsements of new temporary endorsements.
- Post rule adoption materials, including final rule language, response to comments, final analysis (Concise Explanatory Statement), and any other relevant documents on the rulemaking webpage for public access.
- Provide application instructions on public website.
- Provide information and training on request.

### **Promoting and Assisting Voluntary Compliance**

The WSLCB will promote and assist voluntary compliance through technical assistance.

- WSLCB staff are available to respond to phone and email inquiries about the rules.
- The WSLCB Licensing Division and Enforcement and Education Division have participated in the rule revision process and are familiar with the final product. Internal and external education efforts to share knowledge and assure consistent application of rule will be supported.
- Rule and guidance documents will be available on the WSLCB website.
- The WSLCB will use available and customary resources to disseminate materials and information to all persons impacted by the rules.

These actions are designed to inform and educate all persons impacted by the rules to support and promote voluntary compliance.

### **Training and Informing WSLCB Staff**

Several WSLCB staff responsible for implementing these rules work directly with impacted parties and are already familiar with the nuances of the rule changes. Additional internal guidance documents may be prepared as necessary. The WSLCB will also consider:

- Provision of internal and external training and education, as needed, potentially including webinars, training, and videos if appropriate;
- Coordinating and centrally locating decisions to assure consistency between agency, staff, and industry.

### **Rule Effectiveness Evaluation**

The WSLCB will evaluate the effectiveness of these rules in the following ways, including but not limited to:



- Monitoring questions received after the effective date of these rules, and adjusting training and guidance accordingly;
- Monitoring enforcement actions, including type, resolution, and final outcome;
- Monitoring requests for rule language revisions or changes;
- Monitoring requests for rule interpretation.



# RULE-MAKING ORDER

## PERMANENT RULE ONLY

### CR-103P (December 2017) (Implements RCW 34.05.360)

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

**Effective date of rule:**

**Permanent Rules**

- 31 days after filing.  
 Other (specify) (If less than 31 days after filing, a specific finding under RCW 34.05.380(3) is required and should be stated below)

**Any other findings required by other provisions of law as precondition to adoption or effectiveness of rule?**

- Yes  No If Yes, explain:

**Purpose:** The Washington State Liquor and Cannabis Board (WSLCB) has adopted new rule sections and amendments to existing rule sections in chapters 314-02 and 314-03 WAC to implement Engrossed Second Substitute House Bill (E2SHB) 1480 (chapter 48, Laws of 2021), which extended certain temporary privileges granted to liquor licensees to mitigate the impact of the coronavirus (COVID-19) pandemic.

The adopted rules implement E2SHB 1480 by: (1) creating new rule sections for the temporary "to-go" alcohol endorsements for cocktails/wine by the glass, growlers, and manufacturer sealed alcohol products; (2) creating a new rule section for the temporary outdoor alcohol service area requirements; and (3) permanently revising food service menu requirement rules to provide licensees with greater flexibility.

**Citation of rules affected by this order:**

New: WAC 314-03-205, 314-03-500, 314-03-505, and 314-03-510.

Repealed:

Amended: WAC 314-02-010, 314-02-035, 314-02-0411, 314-02-065, 314-02-087, 314-02-112, 314-02-114, and 314-03-200.

Suspended:

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

**Other authority:** E2SHB 1480 (chapter 48, Laws of 2021) now codified in RCW 66.08.071, 66.24.630.

**PERMANENT RULE (Including Expedited Rule Making)**

Adopted under notice filed as WSR 21-20-066 on September 29, 2021 (date).

Describe any changes other than editing from proposed to adopted version: There were no changes from the proposed rules to the adopted rules.

If a preliminary cost-benefit analysis was prepared under RCW 34.05.328, a final cost-benefit analysis is available by contacting:

Name: Robert DeSpain

Address: 1025 Union Avenue SE, Olympia WA 98501

Phone: 360-664-1758

Fax: 360-704-5027

TTY:

Email: rules@lcb.wa.gov

Web site: www.lcb.wa.gov

Other:

**Note: If any category is left blank, it will be calculated as zero.  
No descriptive text.**

**Count by whole WAC sections only, from the WAC number through the history note.  
A section may be counted in more than one category.**

**The number of sections adopted in order to comply with:**

Federal statute:	New	___	Amended	___	Repealed	___
Federal rules or standards:	New	___	Amended	___	Repealed	___
Recently enacted state statutes:	New	4	Amended	8	Repealed	___

**The number of sections adopted at the request of a nongovernmental entity:**

New	___	Amended	___	Repealed	___
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**The number of sections adopted on the agency's own initiative:**

New	___	Amended	___	Repealed	___
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**The number of sections adopted in order to clarify, streamline, or reform agency procedures:**

New	___	Amended	___	Repealed	___
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**The number of sections adopted using:**

Negotiated rule making:	New	___	Amended	___	Repealed	___
Pilot rule making:	New	___	Amended	___	Repealed	___
Other alternative rule making:	New	4	Amended	8	Repealed	___

**Date Adopted:** December 8, 2021

**Name:** David Postman

**Title:** Chair

**Signature:**

Place signature here

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.

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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.

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AMENDATORY SECTION (Amending WSR 20-03-180, filed 1/22/20, effective 2/22/20)

**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.

[Statutory Authority: RCW 66.08.030 and 66.44.310. WSR 20-03-180, § 314-03-200, filed 1/22/20, effective 2/22/20. Statutory Authority: RCW 66.08.030. WSR 17-12-030, § 314-03-200, filed 5/31/17, effective 7/1/17.]

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 described 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 designated 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.

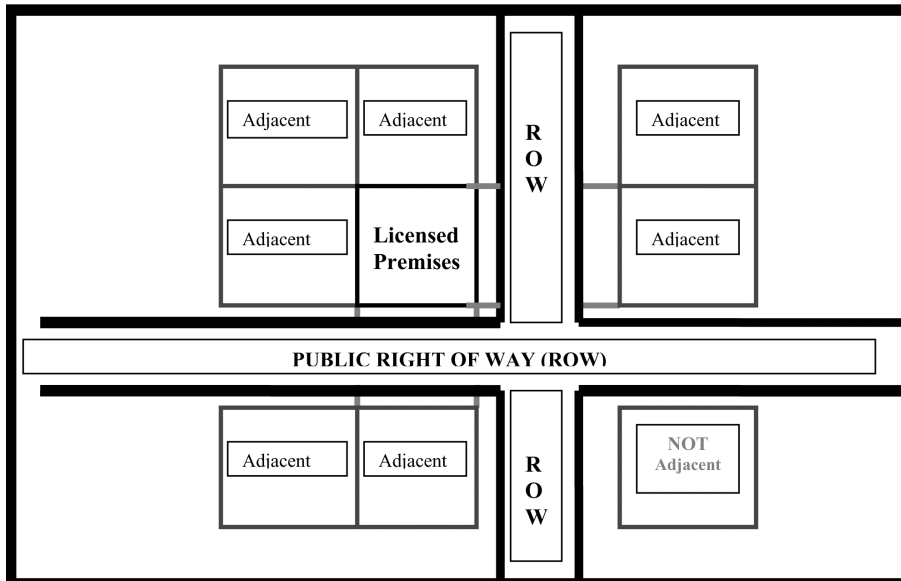
(7) This section expires July 1, 2023, pursuant to section 2(11), chapter 48, Laws of 2021, unless extended by law.

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

**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))~~ "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))~~ (12) "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))~~ (13) (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.

[Statutory Authority: RCW 66.08.030. WSR 17-12-030, § 314-02-010, filed 5/31/17, effective 7/1/17. Statutory Authority: RCW 66.08.030 and 66.24.363. WSR 11-01-133, § 314-02-010, filed 12/21/10, effective 1/21/11. Statutory Authority: RCW 66.08.030 and 66.24.600. WSR 10-01-091, § 314-02-010, filed 12/16/09, effective 1/16/10. Statutory Authority: RCW 66.08.030 and 66.24.590. WSR 08-17-067, § 314-02-010, filed 8/19/08, effective 9/19/08. Statutory Authority: RCW 66.04.010, 66.08.030, 66.24.410, 66.44.310, and 66.44.420. WSR 05-22-022, § 314-02-010, filed 10/24/05, effective 11/24/05. Statutory Authority: RCW 66.08.030, 66.24.010, 66.24.120. WSR 00-07-091, § 314-02-010, filed 3/15/00, effective 4/15/00.]

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 minimum 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.

[Statutory Authority: RCW 66.24.410. WSR 18-13-063, § 314-02-035, filed 6/14/18, effective 7/15/18. Statutory Authority: RCW 66.08.030. WSR 17-12-030, § 314-02-035, filed 5/31/17, effective 7/1/17. Statutory Authority: RCW 66.08.030 and 66.24.363. WSR 11-01-133, § 314-02-035, filed 12/21/10, effective 1/21/11. Statutory Authority: RCW 66.08.030 and 66.24.600. WSR 10-01-091, § 314-02-035, filed 12/16/09, effective 1/16/10. Statutory Authority: RCW 66.04.010, 66.08.030, 66.24.410, 66.44.310, and 66.44.420. WSR 05-22-022, § 314-02-035, filed 10/24/05, effective 11/24/05. Statutory Authority: RCW 66.08.030, 66.24.010, 66.24.120. WSR 00-07-091, § 314-02-035, filed 3/15/00, effective 4/15/00.]

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.

[Statutory Authority: RCW 66.08.030 and chapter 66.24 RCW. WSR 11-23-045, § 314-02-0411, filed 11/9/11, effective 12/10/11. Statutory Authority: RCW 66.08.030 and 66.24.363. WSR 11-01-133, § 314-02-0411, filed 12/21/10, effective 1/21/11. Statutory Authority: RCW 66.08.030 and 66.24.590. WSR 08-17-067, § 314-02-0411, filed 8/19/08, effective 9/19/08.]

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.

[Statutory Authority: RCW 66.08.030 and chapter 66.24 RCW. WSR 11-23-045, § 314-02-065, filed 11/9/11, effective 12/10/11. Statutory Authority: RCW 66.08.030 and 66.24.600. WSR 10-01-091, § 314-02-065, filed 12/16/09, effective 1/16/10. Statutory Authority: RCW 66.08.030, 66.24.010, 66.24.120. WSR 00-07-091, § 314-02-065, filed 3/15/00, effective 4/15/00.]

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.

[Statutory Authority: RCW 66.08.030. WSR 17-12-030, § 314-02-087, filed 5/31/17, effective 7/1/17. Statutory Authority: RCW 66.24.650 and 66.24.655. WSR 14-03-077, § 314-02-087, filed 1/15/14, effective 2/15/14.]

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

**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, seafood 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

~~((e))~~ (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.

[Statutory Authority: RCW 66.08.030. WSR 17-12-030, § 314-02-112, filed 5/31/17, effective 7/1/17. Statutory Authority: RCW 66.24.690. WSR 14-24-128, § 314-02-112, filed 12/3/14, effective 1/3/15.]

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.

[Statutory Authority: RCW 66.24.680. WSR 14-20-048, § 314-02-114, filed 9/24/14, effective 10/25/14.]



## Notice of Permanent Rules

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

**This concise explanatory statement concerns the Washington State Liquor and Cannabis Board’s (WSLCB) adoption of new rules and amendments to existing rules to implement Engrossed Second Substitute House Bill (E2SHB) 1480 (chapter 48, Laws of 2021), which extended certain temporary privileges granted to liquor licensees to mitigate the impact of the coronavirus (COVID-19) pandemic.**

The Administrative Procedure Act (RCW 34.05.325(6)) requires agencies to prepare a concise explanatory statement before filing adopted rules with the Office of the Code Reviser. The concise explanatory statement must be provided to any person upon request, or from whom the WSLCB received comment.

The WSLCB appreciates and encourages your involvement in the rulemaking process. If you have questions, please contact Audrey Vasek or Robert DeSpain, Policy and Rules Coordinators, at (360) 664-1758 or by e-mail at [rules@lcb.wa.gov](mailto:rules@lcb.wa.gov).

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### Background and reasons for adopting these rules.

In March of 2020, as the 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 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. E2SHB 1480 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 preproposal statement of inquiry (CR 101) as WSR 21-11-035 on May 12, 2021. During the initial CR 101 public comment period from May 12 through July 2, 2021, three public comments were received. 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,



Communications Unit, Policy and Rules Unit, 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. The feedback received during Listen and Learn Sessions is provided in Attachments A and B to the CR 102 Memorandum.

Before filing the rule proposal (CR 102), the WSLCB incorporated feedback received at the Listen and Learn sessions into the proposed rule language by making a number of changes described in the CR 102 memorandum. The CR 102 was filed as WSR 21-20-066 on September 29, 2021. Information about the proposed rules and how to provide public comment was shared through a GovDelivery message and posted on the WSLCB webpage.

The public hearing on the proposed rules was held on November 10, 2021. Two people testified at the public hearing. One written comment was received. The public testimony and comment received and the WSLCB response are contained in the Concise Explanatory Statement attached to this memorandum.

The final rules adopted are needed to implement E2SHB 1480 and have 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).<sup>1</sup> The final rules create three new temporary rule sections (set to expire July 1, 2023) that describe the requirements for licensees to obtain these endorsements.

#### *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 changes are set to

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<sup>1</sup> 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.

expire July 1, 2023. See E2SHB 1480, section 2(8) and (11). The final rules create 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 final rules amend a number of sections in chapter 314-02 WAC related to food service menu requirements, including the definitions of “complete meal” and “minimum food service.”

The final rule changes and reasons for these changes are described in more detail in the table included in the CR 103 Memo.

#### **Rulemaking history for this adopted rule:**

**CR 101** – filed May 12, 2021 as WSR 21-11-035.

**CR 102** – filed September 29, 2021 as WSR 21-20-066.

**Public hearing** held November 10, 2021. Two people testified at the public hearing. One written comment was received.

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### **Public comments received on the rule proposal**

The following comments were received as indicated below. A response to the comment is provided, along with an indication regarding whether the comment is reflected in the adopted rule.

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#### **1. Email received November 10, 2021—Direct quotation included below:**

From Annie McGrath, Washington Brewers Guild:

“Members of the Liquor & Cannabis Board:

Please accept these comments on behalf of the Washington Brewers Guild regarding rulemaking on E2SHB 1480 (COVID-19 alcohol allowances). We truly appreciate the collaborative approach to your work on these rules and the opportunities you have provided to offer input.

We are largely supportive of the draft before you for consideration. During the listen and learn sessions, the WA Brewers Guild provided input on to-go labeling and signage, pre-filled growlers, third-party delivery, and outdoor service areas.

We appreciate staff's thoughtful response and resolution of several key issues for WA breweries.

We are especially appreciative of the following:

- Increased flexibility in outdoor service areas
- Enforcement clarity regarding packaged product vs growlers at a brewery premise
- Clarity and consistency regarding the third-party delivery of beer from brewery licensees
- Clarity that brewery allowances prior to the passage of HB 1480 are not subject to new labeling and other requirements more restrictive than current allowances for brewery licensees

Again, we appreciate the work on these rules, which will provide continued and needed flexibility for breweries and other hospitality businesses impacted by the pandemic.

We stand ready to work with LCB staff so that, when adopted, these rules and communications regarding the rules are clear, easy to understand and enforce, and do not add to or conflict with current compliance requirements for breweries.

Please do not hesitate to contact us with any questions.

Thank you,  
Annie McGrath

Executive Director  
Washington Brewers Guild"

**Board response:** The Board appreciates these comments and the demonstration of interest in collaborative participation in the rulemaking process.

**Was the comment reflected in the adopted rule?** This comment is not reflected in the final rule.

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2. **Oral testimony provided during the public hearing held November 10, 2021, as transcribed directly from the meeting recording:**

From Katie Doyle, Washington Hospitality Association:

“Good morning, Chair Postman and members of the board. I had a feeling I'd be first today and I'm excited about it. Katie Doyle, representing the Washington Hospitality Association and thousands of licensees across the state. We are

extremely grateful for the thoughtful and collaborative approach to the rule making on House Bill 1480.

It was an amazingly well run process and we had lots of opportunity to provide input and we're really grateful for that. Our members are generally supportive of the proposed rules and only have one significant request; but, naturally, I have to start with highlighting all of the things that we are thankful for, which include the lessened meal requirements flexibility and outdoor service areas, (inaudible) minors have no access to our alcohol products. We appreciate the clear guidelines for allowable containers for alcohol to go and the ability for third-party delivery services to deliver beer and wine, specifically.

The one change we are requesting is to see an increase in the number of ounces of spirits allowed per complete meal.

As you may know, several other states have also passed legislation in regard to alcohol to go. For example, in Oregon, they've passed this legislation to become permanent so they can have cocktails beer and wine to go into eternity. For them, you're allowed to do two cocktails per complete meal, each at three ounces, so totaling six ounces versus the three ounces we're allowed here in Washington. California has extended these allowances through 2026. They also allow two cocktails per complete meal at four and a half ounces each, so totaling nine ounces per complete meal and other states don't have limitations on the ounces at all.

So we are requesting an increase in the ounces per meal today. We'd love to see a reflection of at least six ounces per complete meal and that's the only change we want out of this beautiful rules package, so we thank you for your time today and look forward to continuing to work with the Liquor and Cannabis Board."

**Board response:** The Board appreciates these comments and the demonstration of interest in collaborative participation in the rulemaking process. The agency considered this suggested revision, but this suggestion is not reflected in the adopted rule. 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. The limit of 3 ounces of spirits is per complete meal. For example, if 2 complete meals are ordered, then up to 6 total ounces of spirits would be allowed, and if 3 complete meals are ordered, then up to 9 total ounces of spirits would be allowed.

**Was the comment reflected in the adopted rule?** This comment is not reflected in the final rule.

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3. **Oral testimony provided during the public hearing held November 10, 2021, as transcribed directly from the meeting recording:**

From Josh McDonald, Washington Wine Institute:

“Good morning, Chair Postman, Board Members Garrett and Hauge, my name is Josh McDonald. I am the executive director of the Washington Wine Institute. We are the trade association for the Washington State wine industry. We represent hundreds of wineries across the state.

The Washington Wine Institute is grateful for the thoughtful and collaborative approach to the rulemaking in House Bill 1480. As you mentioned, Chairman, we were part of the Listen and Learn among with many others and grateful for that opportunity to talk through, actually there were two Listen and Learns and I thought that the rules team did a great job taking in input from both the to-go side and the outdoor seating side as both are very important to licensees and to for us for wineries.

We are generally supportive of the draft rules. We do have a few questions remaining on them that may need a little more work but overall we want you to know how much we're grateful for the hard work and willingness to listen to us; and some of our concerns have already been addressed in these rules. So specifically, we're grateful for the recognition that to-go privileges for wineries have existed for years.

And so, we are, we are exempted from the specifically takeout exceptions because our privileges and that the requirements there within because we already have those. We've had them for many years and they've served wineries well for many years, selling wine to go out of our wineries and tasting rooms.

We are, the outdoor seating was as big if not bigger for us, the modernization of that, than the to-go sales. For that, we're extremely grateful for your team. They did a wonderful job of putting rules in place that modernizes outdoor seating, recognizes the current types of outdoor seating we have now, that we had to put in place because of the pandemic. For most of 2020, we were only allowed to serve outside which made sense but we had to make that work. We have a lot of creative approaches to how we serve our customers outside. Our customers still ask to be outside when the weather is allowing, allows for it to be; and so we want to continue those because you stay creative with them but also safe and responsible at the same time.

And finally, on that part, I really want to say how grateful we are for the recognition and the extension of the cafe, what's known as sidewalk cafe seating, or demarcation approach, to outdoor seating for licensees, especially wineries. Prior to this rule making, it was really only for a few licensees, restaurant licensees. Now it's being expanded so that we can all, as we go into more urban spaces as wineries, we can utilize the demarcations and make our spaces work better for us and not have to worry so much about the 42-inch physical barriers that are often very challenging to set up those spaces.

Two questions we have remaining for the rules that I'd like to work with your team on. One is just better understanding the requirements and who they are specifically impacting on the delivery service and consumer orders, internet sales, and delivery. Those rules, those rules - we were working on those rules with the Liquor and Cannabis Board for wineries back in 2016 to 18. We did not finish that work and I know we're going to continue up working on in the future, but for now, we'd like to make sure we understand that what we do now with our common carriers as we are distributors of our own wine continues to be recognized as its own thing and we continue that without interruption. I don't believe 1480 meant to impact how wineries utilize common carriers to ship wine, direct to consumer across the state which is really the lifeblood of our industry. And then finally - yes, yes sir. Am I done?"

[Chair Postman: "Sorry, 30 seconds, Josh."]

"30 seconds, great.

One final question then I'll let you go. We were grateful for the recognition when we would talk about how to, if there needed to be, what needed to happen for a space to be able to utilize outdoor seating and the current rules talk about needing to have indoor dining and other related things. We were, you know, there are opportunities where we can utilize an outdoor space and not specifically need to have indoor service at all.

And so we did notice that the new rules have production. So if you have production like a winery does, you can utilize your outdoor space. That I'm not sure helps us with our satellite tasting rooms. So specifically for wineries - restaurants may have their own perspective and others - but for wineries, we have retail spaces outside of our winery space that we have satellite locations on.

We're not sure that that would help those spaces if we want to utilize our 100% of our outdoor space for seating for service and do it in a smart responsible way. So that may need a little more tweaking depending on how your team, how the Liquor Board looks at domestic wineries and our satellite taste room uses for this specific rulemaking.

With that, I will say, just again, thank you for your time. Thank you for this hard work. Thank you to your team. They've done a wonderful job and I look forward to continue to work with them."

**Board response:** The Board appreciates these comments and the demonstration of interest in collaborative participation in the rulemaking process. The questions posed during this oral testimony have been addressed under separate cover.

**Was the comment reflected in the adopted rule?** This comment is not reflected in the final rule.

## **Changes from the Proposed Rules (CR 102) to the Final Rules as Adopted**

There were no changes from the proposed rules to the final rules as adopted.