



## Washington State Liquor and Cannabis Board

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**Date:** September 14, 2022

**To:** David Postman, Board Chair  
Ollie Garrett, Board Member  
Jim Vollendroff, Board Member

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

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

**Subject:** Request for adoption of final rules (CR 103) regarding the contract packaging services endorsement for breweries, wineries and distilleries (Implementing 2022 legislation, SB 5940)

The Policy and Rules Coordinator requests that the Board adopt the final rules and approve the CR 103 to implement Senate Bill (SB) 5940 (chapter 64, Laws of 2022; codified as RCW 66.24.248). SB 5940 created a new packaging services endorsement allowing breweries, wineries, and distilleries to contract with each other, and with other non-liquor licensed businesses if the contract does not include alcohol products. The endorsement covers certain packaging services, such as canning, bottling, bagging, mixing, and repacking.

The Board has been briefed on the rule development background and public comments received for this rulemaking project. A CR 103 memorandum, CR 103P form, Concise Explanatory Statement, 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 persons who provided comments. The effective date of the rules will be 31 days after filing, or October 15, 2022.

_____ Approve	_____ Disapprove	_____	_____
		David Postman, Chair	Date

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

_____ Approve	_____ Disapprove	_____	_____
		Jim Vollendroff, Board Member	Date

Attachments: CR 103 Memorandum  
CR 103P Form  
Rule Text  
Concise Explanatory Statement



## CR 103 Memorandum

### Regarding the Contract Packaging Services Endorsement for Breweries, Wineries, and Distilleries (Implementing 2022 legislation, SB 5940).

Date: September 14, 2022  
Presented by: Audrey Vasek, Policy and Rules Coordinator

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#### Background

On April 27, 2022, the Board filed a CR 101 preproposal statement of inquiry (WSR# 22-10-035) to consider creating new rule sections and amending or repealing existing rule sections as necessary to implement Senate Bill (SB) 5940 (chapter 64, Laws of 2022; codified as RCW 66.24.248).<sup>1</sup> SB 5940 created a new packaging services endorsement allowing breweries, wineries, and distilleries to contract with each other, and with other non-liquor licensed businesses if the contract does not include alcohol products. The endorsement covers certain packaging services, such as canning, bottling, bagging, mixing, and repacking.

To develop the CR 102 rule proposal, the agency engaged in a collaborative rule development process. Conceptual draft rule language was developed through a series of internal project team meetings including WSLCB staff from the Licensing Division, Enforcement and Education Division, and Finance Division. The conceptual draft rules were shared publicly through GovDelivery with feedback requested between June 9 and June 24, 2022. The five public comments received in response (included as Attachment B to the CR 102 memo) were taken into consideration as the rule proposal was developed.

On July 20, 2022, the Board filed a CR 102 rule proposal (WSR# 22-15-121) based on the conceptual draft rules. The public hearing was held on August 31, 2022. No oral testimony was provided at the public hearing. During the CR 102 public comment period from July 20, 2022, to August 31, 2022, no public comments were received.

#### Rule Necessity

The final rules are needed to implement SB 5940, align agency rules with the law, and inform licensees about the availability of the endorsement and its requirements.

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<sup>1</sup> SB 5940 was passed by the Legislature during the 2022 regular session and approved by the Governor on March 11, 2022, with an effective date of June 9, 2022.

## Description of Rule Changes

**New Section WAC 314-20-350.** Contract packaging services endorsement for domestic breweries and microbreweries. The new rule section describes the contract packaging services endorsement and how to submit an application for an endorsement. The term “good standing” is defined as currently licensed, not suspended, and having the proper federal alcohol and tobacco tax and trade bureau permits.

**New Section WAC 314-24-350.** Contract packaging services endorsement for domestic wineries. The new rule section describes the contract packaging services endorsement and how to submit an application for an endorsement. The term “good standing” is defined as currently licensed, not suspended, and having the proper federal alcohol and tobacco tax and trade bureau permits.

**New Section WAC 314-28-350.** Contract packaging services endorsement for domestic distilleries and craft distilleries. The new rule section describes the contract packaging services endorsement and how to submit an application for an endorsement. The term “good standing” is defined as currently licensed, not suspended, and having the proper federal alcohol and tobacco tax and trade bureau permits.

**Amended WAC 314-11-065.** Types of liquor allowed on a licensed premises. The amendments to this section allow licensees with a contract packaging services endorsement to keep other types of liquor on the premises as needed to provide contract packaging services. Additionally, a non-substantive change is made to the caption, changing it from a question format (“What type of liquor is allowed on a licensed premises?”) to a statement format (“Types of liquor allowed on a licensed premises.”).

### Variance between proposed rule (CR102) and final rule:

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

## 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 to the rule making and licensee distribution lists, and the general WSLCB GovDelivery list;
- Post rule adoption materials, including final rule language, final analysis (Concise Explanatory Statement), and any other relevant documents on the rulemaking webpage for public access.

- Provide the application form on the public website.
- Provide information and training on request.

### Promoting and Assisting Voluntary Compliance

WSLCB will promote and assist voluntary compliance through technical assistance.

- WSLCB staff are available to respond to phone and email inquiries about the rule.
- Agency leadership and staff have actively participated in rule development 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.

### 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. 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, pictures, 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)**

CODE REVISER USE ONLY

**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 has adopted new rule sections WAC 314-20-350, 314-24-350, and 314-28-350—Contract Packaging Services Endorsement for Breweries, Wineries, and Distilleries, and amendments to existing rule section WAC 314-11-065—Types of liquor allowed on a licensed premises, in order to implement SB 5940 (chapter 64, Laws of 2022; codified as RCW 66.24.248). SB 5940 created a new packaging services endorsement allowing breweries, wineries, and distilleries to contract with each other, and with other non-liquor licensed businesses if the contract does not include alcohol products. The endorsement covers certain packaging services, such as canning, bottling, bagging, mixing, and repacking. The adopted rules implement SB 5940, inform licensees about the availability of the endorsement and its requirements, and align existing agency rules with the law.

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

New: WAC 314-20-350, 314-24-350, and 314-28-350  
Repealed: None  
Amended: WAC 314-11-065  
Suspended: None

**Statutory authority for adoption:** RCW 66.08.030

**Other authority:** RCW 66.24.248

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

Adopted under notice filed as WSR 22-15-121 on July 20, 2022 (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:  
Address:  
Phone:  
Fax:  
TTY:  
Email:  
Web site:  
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	<u>3</u>	Amended	<u>1</u>	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	<u>3</u>	Amended	<u>1</u>	Repealed	_____

**Date Adopted:** September 14, 2022

**Name:** David Postman

**Title:** Chair

**Signature:**

Place signature here

NEW SECTION

**WAC 314-20-350 Contract packaging services endorsement for domestic breweries and microbreweries.** Consistent with RCW 66.24.248:

(1) There is an endorsement available to domestic breweries, microbreweries, wineries, distilleries, and craft distilleries to provide contract packaging services to other domestic breweries, microbreweries, wineries, distilleries, craft distilleries, and nonliquor licensed businesses.

(2) Contract packaging services allowed under the endorsement include:

(a) Canning, bottling, and bagging;

(b) Mixing products before packaging;

(c) Repacking of finished products into mixed consumer packs or multipacks; and

(d) Receiving and returning products to the originating liquor licensed businesses as part of a contract in which the contracting liquor licensed party for which the services are being provided retains title and ownership of the products at all times.

(3) An application for an endorsement under this section must be submitted to the board's licensing division. If a licensee is in good standing at the time of the application request, the endorsement will be issued without further requirement for additional licensing or administrative review. "Good standing" means currently licensed, not suspended, and having the proper federal alcohol and tobacco tax and trade bureau permits. The applicant must submit a copy of the proper federal permits with the application. If at any time after the endorsement is issued a licensee begins contract packaging a product for which new federal permits are required, the licensee must submit a copy of the proper federal permits to the board's licensing division.

(4) Consistent with RCW 66.08.130, endorsement holders must make a copy of any contracts and federal permits available to representatives of the board upon request.

(5) The annual fee for this endorsement is \$100.



NEW SECTION

**WAC 314-24-350 Contract packaging services endorsement for domestic wineries.** Consistent with RCW 66.24.248:

(1) There is an endorsement available to domestic breweries, microbreweries, wineries, distilleries, and craft distilleries to provide contract packaging services to other domestic breweries, microbreweries, wineries, distilleries, craft distilleries, and nonliquor licensed businesses.

(2) Contract packaging services allowed under the endorsement include:

(a) Canning, bottling, and bagging;

(b) Mixing products before packaging;

(c) Repacking of finished products into mixed consumer packs or multipacks; and

(d) Receiving and returning products to the originating liquor licensed businesses as part of a contract in which the contracting liquor licensed party for which the services are being provided retains title and ownership of the products at all times.

(3) An application for an endorsement under this section must be submitted to the board's licensing division. If a licensee is in good standing at the time of the application request, the endorsement will be issued without further requirement for additional licensing or administrative review. "Good standing" means currently licensed, not suspended, and having the proper federal alcohol and tobacco tax and trade bureau permits. The applicant must submit a copy of the proper federal permits with the application. If at any time after the endorsement is issued a licensee begins contract packaging a product for which new federal permits are required, the licensee must submit a copy of the proper federal permits to the board's licensing division.

(4) Consistent with RCW 66.08.130, endorsement holders must make a copy of any contracts and federal permits available to representatives of the board upon request.

(5) The annual fee for this endorsement is \$100.

NEW SECTION

**WAC 314-28-350 Contract packaging services endorsement for domestic distilleries and craft distilleries.** Consistent with RCW 66.24.248:

(1) There is an endorsement available to domestic breweries, microbreweries, wineries, distilleries, and craft distilleries to provide contract packaging services to other domestic breweries, microbreweries, wineries, distilleries, craft distilleries, and nonliquor licensed businesses.

(2) Contract packaging services allowed under the endorsement include:

(a) Canning, bottling, and bagging;

(b) Mixing products before packaging;

(c) Repacking of finished products into mixed consumer packs or multipacks; and

(d) Receiving and returning products to the originating liquor licensed businesses as part of a contract in which the contracting liquor licensed party for which the services are being provided retains title and ownership of the products at all times.

(3) An application for an endorsement under this section must be submitted to the board's licensing division. If a licensee is in good standing at the time of the application request, the endorsement will be issued without further requirement for additional licensing or administrative review. "Good standing" means currently licensed, not suspended, and having the proper federal alcohol and tobacco tax and trade bureau permits. The applicant must submit a copy of the proper federal permits with the application. If at any time after the endorsement is issued a licensee begins contract packaging a product for which new federal permits are required, the licensee must submit a copy of the proper federal permits to the board's licensing division.

(4) Consistent with RCW 66.08.130, endorsement holders must make a copy of any contracts and federal permits available to representatives of the board upon request.

(5) The annual fee for this endorsement is \$100.

**WAC 314-11-065 ((What)) Types of liquor ((is)) allowed on a licensed premises((?)).** (1) Licensees may only possess and allow persons to consume or possess the type of liquor permitted by the type of liquor license held on the premises; except:

(a) Under authority of a banquet permit (see chapter 314-18 WAC);  
(b) Restaurant licensees may allow patrons to bring wine into the premises for consumption with a meal;

(c) Beer and/or wine restaurant or tavern licensees may keep spirituous liquor on the premises for use in the manufacture of food products, provided that:

(i) All food products manufactured contain one percent or less of alcohol by weight (per RCW 66.12.160);

(ii) Customers are made aware that the food products contain liquor; and

(iii) The beer and/or wine restaurant or tavern licensee notifies the local liquor control board enforcement office in writing before they bring spirituous liquor on the premises((-));

(d) Under the authority of a special occasion license; and

(e) Licensees with an endorsement under WAC 314-20-350, 314-24-350, or 314-28-350 may keep other types of liquor on the premises to provide contract packaging services consistent with RCW 66.24.248.

(2) For on-premises liquor licenses, the licensee or employees may not permit the removal of liquor in an open container from the licensed premises, except:

(a) Liquor brought on a licensed premises under authority of a banquet permit may be resealed in its original container and removed at the end of the banquet permit function;

(b) Per RCW 66.24.320 and 66.24.400, wine that is sold with a meal may be recorked or resealed and removed from the premises;

(c) Liquor purchased by registered guests for consumption inside a hotel or motel room may be resealed in its original container and removed from the hotel or motel premises by the guest; and

(d) Liquor removed from a licensed premises that holds a caterer's endorsement, for the purpose of catering an approved event.



## Notice of Permanent Rules

### Regarding the Contract Packaging Services Endorsement for Breweries, Wineries, and Distilleries (Implementing SB 5940).

**This concise explanatory statement concerns the Washington State Liquor and Cannabis Board's adoption of new rule sections WAC 314-20-350, 314-24-350, and 314-28-350—Contract Packaging Services Endorsement for Breweries, Wineries, and Distilleries, and amendments to existing rule section WAC 314-11-065—Types of liquor allowed on a licensed premises.**

The Administrative Procedure Act (RCW 34.05.325(6)) requires agencies to complete 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 Board received comment.

The Board appreciates and encourages your involvement in the rule making process. If you have questions, please contact Audrey Vasek, Policy and Rules Coordinator, at (360) 664-1758 or by email at [rules@lcb.wa.gov](mailto:rules@lcb.wa.gov).

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### Background and reasons for adopting these rules:

On April 27, 2022, the Board filed a CR 101 preproposal statement of inquiry (WSR# 22-10-035) to consider creating new rule sections and amending or repealing existing rule sections as necessary to implement Senate Bill (SB) 5940 (chapter 64, Laws of 2022; codified as RCW 66.24.248).<sup>1</sup> SB 5940 created a new packaging services endorsement allowing breweries, wineries, and distilleries to contract with each other, and with other non-liquor licensed businesses if the contract does not include alcohol products. The endorsement covers certain packaging services, such as canning, bottling, bagging, mixing, and repacking.

To develop the CR 102 rule proposal, the agency engaged in a collaborative rule development process. Conceptual draft rule language was developed through a series of internal project team meetings including WSLCB staff from the Licensing Division, Enforcement and Education Division, and Finance Division. The conceptual draft rules were shared publicly through GovDelivery with feedback requested between June 9 and June 24, 2022. The five public comments received in response (included as Attachment

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<sup>1</sup> SB 5940 was passed by the Legislature during the 2022 regular session and approved by the Governor on March 11, 2022, with an effective date of June 9, 2022.

B to the CR 102 memo) were taken into consideration as the rule proposal was developed.

On July 20, 2022, the Board filed a CR 102 rule proposal (WSR# 22-15-121) based on the conceptual draft rules. The public hearing was held on August 31, 2022. No oral testimony was provided at the public hearing. During the CR 102 public comment period from July 20, 2022, to August 31, 2022, no public comments were received.

The final rules are needed to implement SB 5940, align agency rules with the law, and inform licensees about the availability of the endorsement and its requirements.

**Rulemaking history for this adopted rule:**

**CR 101** – filed as WSR # 22-10-035 on April 27, 2022.

**CR 102** – filed as WSR # 22-15-121 on July 20, 2022.

**Public hearing** held August 31, 2022. No oral testimony was provided during the public hearing.

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

No comments were received during the CR 102 public comment period from July 20, 2022, to August 31, 2022. No oral testimony was provided during the public hearing on August 31, 2022.

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**Changes from Proposed Rules (CR102) to the Final Rules as Adopted:**

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