



Washington State
Liquor and Cannabis Board

Date: May 24, 2023

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

From: Dr. Kathy Hoffman, Research Manager

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

Subject: **Approval to file a preproposal statement of inquiry (CR 101) regarding trade areas.**

The Washington State Liquor and Cannabis Board (Board) is considering amending, adding new sections, or repealing existing rule related to trade area exceptions.

Process

The Research Manager requests approval to file the preproposal statement of inquiry (CR 101) for the rule making described in the CR 101 Memorandum attached to this order and presented at the Board meeting on May 24, 2023.

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

May 24, 2023	Board is asked to approve filing preproposal statement of inquiry (CR 101). CR 101 is filed with the Office of the Code Reviser. Webpage is updated and notice circulated by GovDelivery distribution list. Informal comment period begins.
June 7, 2023	Notice is published in the Washington State Register under WSR 23-11.
July 7, 2023	Informal comment period ends.
August 30, 2023	Board is asked to approve filing proposed rules (CR 102). CR 102 is filed with the Office of the Code Reviser. Webpage is updated and notice circulated by the rules distribution list. Formal comment period begins.

September 6, 2023	Notice is published in the Washington State Register under WSR 23-17.
September 27, 2023	Public hearing is held and formal comment period ends.
October 11, 2023	Board is asked to adopt rules if no substantive changes are made (CR 103). Concise Explanatory Statement is provided to individuals offering written or oral comment at the public hearing or during the formal comment period, consistent with RCW 34.05.325. CR 103 and adopted rules are filed with the Office of the Code Reviser. Webpage is updated and notice circulated by GovDelivery distribution list.
November 11, 2023	Rules are effective 31 days after filing unless otherwise specified. See RCW 34.05.380(2).

_____ Approve	_____ Disapprove	_____	_____
		David Postman, Chair	Date

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

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

Attachment: CR 101 Memorandum.



CR 101 Memorandum

Regarding WAC 314-02-1071 — What is “trade area”?

Date: May 24, 2023
Presented by: Dr. Kathy Hoffman, Research Manager

Background

In November 2011, Initiative Measure No. 1183 created a statutory framework privatizing liquor sales in the state of Washington. This framework included the creation of several new statutes, including RCW 66.24.630 establishing a spirits retail license allowing spirits sales in original containers for off-premise consumption under specific conditions and to specific entities. The statute also provided that a spirits retail license could be issued for premises comprising at least ten thousand square feet of fully enclosed retail space within a single structure, unless there was no spirits retail license holder in the trade area that the applicant proposed to serve. The term “trade area” was not defined in statute and this specific section of statute has remained unchanged since enactment.

In 2013, the Board adopted WAC 314-02-1071 that among other things, defined the term “trade area” as “an area where there is no spirits retail license within a twenty-mile travel distance at the time of license application.” The rule provided an exception for a spirits retail license applicant seeking licensure for a location where the significant mode of travel is other than by automobile. This exception contemplated premises located in Washington island communities that may only be accessible by boat.

Reasons Why Rules May Be Needed

WAC 314-02-1071 has not been revised since its original promulgation in 2013. The Board seeks to explore whether rule revision is needed in response to statewide demographic shifts and current socioeconomic factors.

Process

The rulemaking process begins by announcing the Board’s intent to consider changes to existing rules, adding new rule sections, or both, by filing a preproposal statement of inquiry (CR 101) form with the Office of the Code Reviser. This allows staff, stakeholders, industry partners, and all members of the authorizing environment to begin discussing proposed rule changes.

At this stage of the rulemaking process, no proposed language is offered. Any interested party may comment on the subject of this possible rulemaking during the designated comment period. Notice will be sent to all who have indicated that they want to receive notice of rule activity related to this preproposal statement of inquiry. The notice will identify the public comment period and where comments can be sent.

PREPROPOSAL STATEMENT OF INQUIRY



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

Agency: Washington State Liquor and Cannabis Board

Subject of possible rule making: WAC 314-02-1071 – What is “trade area”? The Washington State Liquor and Cannabis Board (Board) is considering amending, adding new sections, or repealing existing rule related to trade area exceptions.

Statutes authorizing the agency to adopt rules on this subject: RCW 66.08.030; RCW 66.24.630.

Reasons why rules on this subject may be needed and what they might accomplish: In November 2011, Initiative Measure No. 1183 created a statutory framework privatizing liquor sales in the state of Washington. This framework included the creation of several new statutes, including RCW 66.24.630 establishing a spirits retail license allowing spirits sales in original containers for off-premise consumption under specific conditions and to specific entities. The statute also provided that a spirits retail license could be issued for premises comprising at least ten thousand square feet of fully enclosed retail space within a single structure, unless there was no spirits retail license holder in the trade area that the applicant proposes to serve. The term “trade” area was not defined in statute and this specific section of statute has remained unchanged since enactment.

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

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

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

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

Name: Dr. Katherine Hoffman, Research Manager
Address: PO Box 43080, Olympia, WA 98504
Phone: 360-664-1622
Fax: 360-704-5027
TTY:

(If necessary)

Name:
Address:
Phone:
Fax:
TTY:

Email: rules@lcb.wa.gov

Web site: lcb.wa.gov

Other:

Email:

Web site:

Other:

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

Date: May 24, 2023	Signature:
Name: David Postman	
Title: Chair	