



## Washington State Liquor and Cannabis Board

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**Topic:** Petition for Adoption, Amendment, or Repeal of a State Administrative Rule – (WAC 314-01-005; WAC 314-11-020; WAC 314-11-025; WAC 314-17-025; WAC 314-17-110.)

**Date:** July 5, 2023

**Presented by:** Daniel Jacobs, Policy and Rules Coordinator

### Background

On May 17, 2023, Claire Mitchell of Stoel Rives LLP, submitted a petition for adoption, amendment, or repeal of a state administrative rule to the Washington State Liquor & Cannabis Board (Board). The petition requests that the agency amend five (5) different WAC sections, two of which to amend references to a phrase that is currently defined with a repealed statute, two of which to remove references to the same repealed statute and replace it with a valid provision of Title 314 WAC, and the last to make substantive changes to add a “biometric age verification system” (BAVS) as an additional valid form of identification for purposes of eligibility for alcohol purchase and consumption.

In the rule petition, Claire Mitchell referred to a detailed addendum that identified five (5) provisions of Title 314 WAC to be amended. Rather than presenting the petition text here as has been the practice of the Director’s office, it will be presented piecemeal throughout this petition response to address each of the five requests in turn.

### Issues:

- (1) Whether the Board should initiate the rulemaking process to consider amending WAC 314-01-005(2) to delete the definition of the term “card of identification”?
- (2) Whether the Board should initiate the rulemaking process to consider amending WAC 314-11-020(3) to remove references to “card of identification”?
- (3) Whether the Board should initiate the rulemaking process to consider amending WAC 314-11-025 to add the Petitioner’s proposed definition of a “biometric age verification system” as a valid form of identification?
- (4) Whether the Board should initiate the rulemaking process to consider amending WAC 314-17-025(1)(b) to replace references to repealed RCW 66.16.040 with WAC 314-11-025?
- (5) Whether the Board should initiate the rulemaking process to consider amending WAC 314-17-110(2)(b) to replace references to repealed RCW 66.16.040 with WAC 314-11-025?

### Authority

[Initiative 1183](#) (2012) privatized the sale of liquor in the state of Washington.

### Laws

[RCW 19.375.010\(1\)](#) defines a “biometric identifier” as data generated by automatic measurements of an individual's biological characteristics, such as a fingerprint, voiceprint, eye retinas, irises, or other unique biological patterns or characteristics that is used to identify a specific individual. “Biometric identifier” does not include a physical or digital photograph, video or audio recording or data generated therefrom, or information collected, used, or stored for health care treatment, payment, or operations under the federal health insurance portability and accountability act of 1996.

[RCW 66.08.030](#) identifies the Board’s rulemaking over various aspects of liquor regulation.

[RCW 66.20.170](#) states that a card of identification may for the purpose of this title and for the purpose of procuring liquor, be accepted as an identification card by any licensee and as evidence of legal age of the person presenting such card, provided the licensee complies with the conditions and procedures prescribed herein and such regulations as may be made by the board.

[RCW 66.20.180](#) states that a card of identification must be presented by the holder thereof upon request of any licensee, peace officer, or enforcement officer of the board for the purpose of aiding the licensee, peace officer, or enforcement officer of the board to determine whether or not such person is of legal age to purchase liquor when such person desires to procure liquor from a licensed establishment.

[RCW 66.20.330](#) identifies the Board’s rulemaking authority to implement the provisions of RCW 66.20.300 through 66.20.350 including, but not limited to, procedures and grounds for denying, suspending, or revoking permits [for service of alcohol].

### *Rules*

[WAC 314-01-005\(2\)](#) states that “Card of identification” means the forms of identification that are acceptable to verify a person's age per **RCW 66.16.040**.

[WAC 314-02-058\(3\)\(b\)](#) states that if alcohol service is requested outside of the parameters listed [below], a special request with justification for the alcohol service area must be submitted with the operating plan for consideration by the board.

[WAC 314-11-020\(3\)](#) states that “Per [RCW 66.20.180](#), at the request of any law enforcement officer, a holder of a card of identification must present his/her card of identification if the person is on a portion of a premises that is restricted to persons over twenty-one years of age, or if the person is purchasing liquor, attempting to purchase liquor, consuming liquor, or in the possession of liquor. If the person fails or refuses to present a card of identification it may be considered a violation of Title [66](#) RCW and:

- (a) The person may not remain on the licensed premises after being asked to leave by a law enforcement officer; and

(b) The person may be detained by a law enforcement officer for a reasonable period of time and in such a reasonable manner as is necessary to determine the person's true identity and date of birth.

[WAC 314-11-025](#) states that:

- (1) Acceptable forms of identification to verify a person's age for the purpose of selling, serving, or allowing a person to possess or consume alcohol must include:
  - (a) The identification holder's photo;
  - (b) The identification holder's date of birth; and
  - (c) The identification holder's signature, except on federally issued identification where a visible signature is not required.
- (2) If the identification has an expiration date, it cannot be used to verify age after the expiration date.
- (3) Acceptable forms of identification include:
  - (a) A driver's license, instruction permit, or identification card of any state, province of Canada, U.S. territory, or the District of Columbia, or an "identocard" issued by the Washington state department of licensing per RCW [46.20.117](#);
  - (b) A United States armed forces identification card issued to active duty, reserve, and retired personnel and the personnel's dependents;
  - (c) A passport, passport card, or NEXUS card;
  - (d) A Merchant Marine identification card issued by the United States Coast Guard;  
or
  - (e) An enrollment card issued by the governing authority of a federally recognized Indian tribe, if the enrollment card incorporates reasonable security features sufficient to deter counterfeiting, which may include features similar to those used by the department of licensing for standard Washington driver's licenses.
    - (i) An enrollment card must be approved by the board's enforcement division prior to use as an acceptable form of identification. The tribe may request approval by submitting the following for review and inspection:
      - (A) A letter requesting approval and describing the security features of the enrollment card;

(B) A physical sample of an enrollment card; and

(C) For tribes located outside of Washington, a contact phone number where enforcement officers may call at any time to verify the validity of the enrollment card.

(ii) After review and inspection, the board's designee will send a letter approving or denying the enrollment card as an acceptable form of identification.

(iii) The board may rescind approval if the enrollment card no longer meets the requirements of this section.

[WAC 314-17-025\(1\)\(b\)](#) states that [a]ny time a licensee or an employee performs the duties outlined in [WAC 314-17-015](#) at a retail licensed premises, a licensee or an employee must have one form of identification (see RCW [66.16.040](#) for acceptable forms of identification).

[WAC 314-17-110\(2\)\(b\)](#) identifies a permit holder having checked one of the acceptable forms of identification (see RCW 66.16.040 for acceptable forms of identification) as an example of mitigating circumstances that would allow the imposition of a less severe penalty than described in [WAC 314-17-105](#).

## Analysis

#1: Whether the Board should initiate the rulemaking process to consider amending WAC 314-01-005(2) to delete the definition of the term “card of identification”?

The Petitioner identified the issue regarding WAC 314-01-005(2) as follows:

Requested Rule Amendment No. 1	
WAC Section:	WAC 314-01-005(2)
I am requesting the following change:	(2) <del>"Card of identification" means the forms of identification that are acceptable to verify a person's age per RCW 66.16.040</del> <a href="#">Intentionally deleted</a> .
This change is needed because:	WAC 314-01-005(2) currently provides that the forms of identification that are acceptable to verify a person's age can be found in RCW 66.16.040. However, RCW 66.16.040 was repealed by Initiative Measure No. 1183 in 2012. This change is needed because the defined term “card of identification”: <ul style="list-style-type: none"><li>• Is obsolete;</li><li>• Contains an incorrect statutory reference; and</li><li>• Is used in only one other WAC section (WAC 314-11-020(3)).</li></ul>
The effect of this rule change will be:	To eliminate an obsolete definition with an incorrect statutory reference.
The rule is not clearly or simply stated:	N/A

RCW 66.16.040 was repealed by c. 2 section 215 Laws of 2012 (Initiative 1183) (see subsection 10, section 215, [page 32 of 33](#)). Because the term “card of identification” was defined in RCW 66.16.040, and this statute no longer exists, the Petitioner argues that the term “card of identification” is “obsolete”, and as supporting argument, points to the fact that the only other provision of Title 314 WAC that uses the term is WAC 314-11-020(3), the subject of the next part of the petition submitted.

The cleaner solution, according to the Petitioner, is to remove the term from both instances of regulation. And if these were the only two instances of valid Washington state law where the term was used, this would be simple enough. However, this is not the case.

Both [RCW 66.20.170](#) and [66.20.180](#) use the term “card of identification”, as cited in their entirety above. Therefore, even if the Board were to remove all instances of the term “cards of identification” from Title 314 WAC, that would leave the use of the term in at least the two provisions of RCW just identified, if not more. Washington statutes related to liquor are scattered throughout over a dozen parts of Title 66 RCW, and it is entirely possible that, despite the multiple attempts at cleaning up Title 66 RCW that have been made in the 90 plus years of its existence, and that occurred after Washington state voters approved Initiative 1183, there may very well be other instances of the term “card of identification” being used.

Removing its use from Title 314 WAC would do nothing to clarify what this phrase means in Title 66 RCW. Therefore, while it is certainly more than time for WAC 314-01-005(2) to be amended to reflect a post-Initiative 1183 definition for “cards of identification,” removing its use from WAC 314-11-020(3) as proposed below would not obviate the need for the term to still be defined.

If the Petitioner wants to try and get the term “cards of identification” removed from Title 66 RCW, the Washington state legislature would be the most appropriate avenue to seek such a change.

Therefore, the Board should accept the petition regarding the request to amend WAC 314-01-005(2), but not necessarily use the exact amended language proposed by the Petitioner because some definition of the term “card of identification” needs to remain in Title 314 WAC.

## #2: Whether the Board should initiate the rulemaking process to consider amending WAC 314-11-020(3) to remove references to “card of identification”?

The Petitioner’s requested amendment of WAC 314-11-020(3) gets at the same essential issue as analyzed above, that the term “card of identification” currently refers to an obsolete statute. However, the Petitioner here proposes replacing the term “card of identification” with the phrase “one of the acceptable forms of identification identified in WAC 314-11-025”, which begs the question of why the Petitioner proposed deleting the term “cards of identification” and its definition from WAC 314-01-005(2), rather than simply replacing the current definition with a similar or the exact phrase the Petitioner is

proposing here: “one of the acceptable forms of identification identified in WAC 314-11-025.”

While it is admittedly not the cleanest separate definition, doing so would prevent the need to hunt through Title 314 WAC for other instances of the phrase, and would instead allow the term to expand in meaning as forms of identification are added to WAC 314-11-025.

While the Board has the authority to engage in this requested rulemaking, it is not clear that this would be necessary if the phrase “one of the forms of valid identification identified in WAC 314-11-025” were inserted in WAC 314-01-005(2) as the definition of the term “cards of identification.” It appears the same goal can be accomplished with less regulatory change in a less burdensome manner by doing so.

A simpler solution would eliminate the need to amend WAC 314-11-020(3) and allow the Board to deny the petition regarding amending WAC 314-11-020(3) while still providing a more relevant defining framework for the phrase “cards of identification”, which will remain in Title 66 RCW regardless of how the Board decides to proceed regarding this petition.

Therefore, the Board should reject this part of the petition.

The Petitioner described the issue regarding WAC 314-11-020(3) as follows:

Requested Rule Amendment No. 2	
<b>WAC Section:</b>	WAC 314-11-020(3)
<b>I am requesting the following change:</b>	(3) Per RCW 66.20.180, at the request of any law enforcement officer, a <del>holder of a card of identification</del> <u>person</u> must present <del>his/her card of identification</del> <u>one of the acceptable forms of identification listed in WAC 314-11-025</u> if the person is on a portion of a premises that is restricted to persons over twenty-one years of age, or if the person is purchasing liquor, attempting to purchase liquor, consuming liquor, or in the possession of liquor. If the person fails or refuses to present <del>a card of identification</del> <u>one of the acceptable forms of identification listed in WAC 314-11-025</u> it may be considered a violation of Title 66 RCW and:
<b>This change is needed because:</b>	<p>WAC 314-11-020(3) currently uses the defined term “card of identification” which is defined in WAC 314-01-005(2). The definition of “card of identification” is obsolete and contains an incorrect statutory reference. This change is needed because the defined term “card of identification”:</p> <ul style="list-style-type: none"><li>• Is obsolete;</li><li>• Contains an incorrect statutory reference in WAC 314-01-005(2); and</li><li>• Is used in only one other WAC section (WAC 314-01-005(2)).</li></ul>
<b>The effect of this rule change will be:</b>	To eliminate the use of an obsolete defined term whose definition contains an incorrect statutory reference.
<b>The rule is not clearly or simply stated:</b>	N/A

#3: Whether the Board should initiate the rulemaking process to consider amending WAC 314-11-025 to add the Petitioner's proposed definition of a "biometric age verification system" as a valid form of identification?

Here the Petitioner is proposing adding an entirely new form of valid identification for purposes of WAC 314-11-025 and creating multiple new definitions to and elements to limit the scope of this new form of identification. Unlike other petitions that have proposed adding different forms of already-existing government identification as recognized to be valid under the schema of WAC 314-11-025, the Petitioner proposes that the elements of a required form of identification be shifted to being one of two permissible frameworks for valid identification, the other framework being the proposed definition of a "biometric age verification system." (hereinafter abbreviated to BAVS).

Additionally, as mentioned above, while all the other forms of valid identification identified in WAC 314-11-025(3) are issued by some government entity, whether it is state, federal, tribal or other, BAVS is not connected to any government authority of any kind. However, the proposed definition of BAVS defines the system as connecting some "biometric identifier", another term that is proposed to be defined, to an existing form of presumptively valid identification, and in identifying such a presumptively valid identification, points to the other forms of identification already in WAC 314-11-025(3).

In lay terms, BAVS takes another form of identification, such as a driver's license or a passport, and connects it to a fingerprint or retinal scan, storing the connection between the driver's license and the fingerprint in this system. Such a connection is proposed to be made electronically and authenticated in a manner that presumably, according to the Petitioner's view, would make it easier or more convenient to do this than to carry around a driver's license. But the validity of the proposed system still hinges on the user being able to present the system with one of the other forms of identification already recognized as valid in WAC 314-11-025(3), and as such, any user of BAVS would need to already have a valid form of identification identified in WAC 314-11-025(3).

The Petitioner's proposed definition uses many adjectives to describe the proposed system, including "automated", "centralized", "highly secure", and "encrypted." The system further is defined as being capable of "capturing," "processing," and "storing" a biometric identifier such as a fingerprint or retinal scan.

If this definition were in a law passed by the Washington state legislature, each of these terms may be the proper subject of Board rulemaking. While this is not a reason in and of itself to reject the proposed definition, it does highlight the complex and highly technical nature of this technology, and perhaps this topic is one better left to the legislature to determine whether they think it is in Washingtonians' best interest to have such technology recognized as presumptively valid identification.

Lastly, the proposed BAVS is so different from the other recognized forms of identification in WAC 314-11-025(3) that it is not clear that the Board has the statutory authority to add

such an innovative form of proposed identification to the others laid out in WAC 314-11-025(3).

Therefore, the Board should reject this portion of the petition which requests to add a “biometric age verification system” as a form of identification to WAC 314-11-025.

The Petitioner described the issue identified with WAC 314-11-025 as follows:

Requested Rule Amendment No. 3	
WAC Section:	WAC 314-11-025
I am requesting the following change:	<p>(1) Acceptable forms of identification to verify a person's age for the purpose of selling, serving, or allowing a person to possess or consume alcohol must include <u>either</u>:</p> <p>(a) <u>All of the following</u>:</p> <p><u>(i)</u> The identification holder's photo;</p> <p><u>(b)(i)</u> The identification holder's date of birth; and</p> <p><u>(c)(i)</u> The identification holder's signature, except on federally issued identification where a visible signature is not required; <u>or</u></p> <p><u>(b) A biometric age verification system.</u></p> <p><u>(i) For purposes of this section, a “biometric age verification system” is an automated age verification system capable of capturing, processing, and storing a biometric identifier in a centralized, highly secured, encrypted biometric database; securely linking the biometric identifier to data from the individual's authenticated record of identification described in sections (3)(a)-(3)(e) of this regulation; and instantly returning the identity and age indicator of the individual upon future scans of the biometric characteristic.</u></p> <p><u>(ii) A “biometric identifier” is data generated by automatic measurements of an individual's biometric characteristic, such as a fingerprint, voiceprint, eye retina, iris, or other unique biological pattern or characteristic that is used to identify a specific individual.</u></p> <p><u>(iii) Prior to linking a biometric identifier to data from a record of identification, the authenticity of the record of identification must be verified through an electronic authentication process and the identity of the record holder must be verified through an electronic authentication process or set of processes, such as a public records query or biometric liveness detection.</u></p> <p>(2) If the identification has an expiration date, it cannot be used to verify age after the expiration date.</p> <p>(3) Acceptable forms of identification include:</p> <p>(a) A driver's license, instruction permit, or identification card of any state, province of Canada, U.S. territory, or the District of Columbia, or an "identocard" issued by the Washington state department of licensing per RCW 46.20.117;</p> <p>(b) A United States armed forces identification card issued to active duty, reserve, and retired personnel and the personnel's dependents;</p> <p>(c) A passport, passport card, or NEXUS card;</p> <p>(d) A Merchant Marine identification card issued by the United States Coast Guard; <del>or</del></p> <p>(e) An enrollment card issued by the governing authority of a federally recognized Indian tribe, if the enrollment card incorporates reasonable security features sufficient to deter counterfeiting, which may include</p>

	<p>features similar to those used by the department of licensing for standard Washington driver's licenses.</p> <p>(i) An enrollment card must be approved by the board's enforcement division prior to use as an acceptable form of identification. The tribe may request approval by submitting the following for review and inspection:</p> <p>(A) A letter requesting approval and describing the security features of the enrollment card;</p> <p>(B) A physical sample of an enrollment card; and</p> <p>(C) For tribes located outside of Washington, a contact phone number where enforcement officers may call at any time to verify the validity of the enrollment card.</p> <p>(ii) After review and inspection, the board's designee will send a letter approving or denying the enrollment card as an acceptable form of identification.</p> <p>(iii) The board may rescind approval if the enrollment card no longer meets the requirements of this section.</p> <p><u>(f) A biometric age verification system.</u></p> <p><u>(4) The licensee or the biometric age verification system or its agent, shall maintain for 30 days a record of each biometric age verification transaction, including the date and time of the transaction, the location of the transaction, and the type and number of the authenticated record of identification.</u></p>
<b>This change is needed because:</b>	Including biometric age verification as an acceptable form of identification will help reduce human error in identification checking, increase public safety, and decrease sales to minors by allowing retail licensees to efficiently and accurately establish the age of individuals attempting to purchase alcohol.
<b>The effect of this rule change will be:</b>	To add biometric characteristics as an acceptable form of identification and age verification.
<b>The rule is not clearly or simply stated:</b>	N/A

#### #4: Whether the Board should initiate the rulemaking process to consider amending WAC 314-17-025(1)(b) to replace references to repealed RCW 66.16.040 with WAC 314-11-025?

Similar to the analysis of Issues #1 and #2 above, this request similarly seeks to remove references to repealed RCW 66.16.040 and replace them with WAC 314-11-025. However, key differences here are twofold: First, there is no use of the term “card of identification”, and thus no link to WAC 314-01-005(2). Second, there is already rulemaking underway regarding WAC 314-17 related to alcohol servers (See [MAST 13 Permit Privilege Review Rulemaking](#)).

The proposed replacement of a repealed statute with a still-valid regulation appears uncomplicated and straightforward. It additionally is internally consistent with the overall proposed structure of the Board’s approach to this multipronged petition for rulemaking.

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The Petitioner identified the issue with WAC 314-17-025(1)(b) as follows:

Requested Rule Amendment No. 4	
<b>WAC Section:</b>	WAC 314-17-025(1)(b)
<b>I am requesting the following change:</b>	(1) Any time a licensee or an employee performs the duties outlined in WAC 314-17-015 at a retail licensed premises, a licensee or an employee must have:  (a) His or her class 12 or 13 permit on the retail licensed premises; and  (b) One form of identification (see <del>RCW 66.16.040</del> <a href="#">WAC 314-11-025</a> for acceptable forms of identification).
<b>This change is needed because:</b>	WAC 314-17-025(1)(b) currently provides that the forms of identification that are acceptable to verify a person's age can be found in RCW 66.16.040. However, RCW 66.16.040 was repealed by Initiative Measure No. 1183 in 2012. This change is needed to correct an error.
<b>The effect of this rule change will be:</b>	To correct an error in WAC 314-17-025(1)(b).
<b>The rule is not clearly or simply stated:</b>	N/A

**#5: Whether the Board should initiate the rulemaking process to consider amending WAC 314-17-110(2)(b) to replace references to repealed RCW 66.16.040 with WAC 314-11-025?**

The Petitioner identified the issue with WAC 314-17-110(2)(b) as follows:

Requested Rule Amendment No. 5	
<b>WAC Section:</b>	WAC 314-17-110(2)(b)
<b>I am requesting the following change:</b>	(2) Examples of aggravating and mitigating circumstances include, but are not limited to:  (b) Examples of mitigating circumstances that may allow a less severe penalty:  Permit holder checked one of the acceptable forms of identification (see <del>RCW 66.16.040</del> <a href="#">WAC 314-11-025</a> );
<b>This change is needed because:</b>	WAC 314-17-110(2)(b) currently provides that the forms of identification that are acceptable to verify a person's age can be found in RCW 66.16.040. However, RCW 66.16.040 was repealed by Initiative Measure No. 1183 in 2012. This change is needed to correct an error.
<b>The effect of this rule change will be:</b>	To correct an error in WAC 314-17-110(2)(b).
<b>The rule is not clearly or simply stated:</b>	N/A

The proposed change #5 is similar if not identical to the circumstances identified in #4 above, and the proposed change is identical in that a reference to RCW 66.16.040 would

be replaced with WAC 314-11-025. Therefore, just as with #4 above, the proposed replacement of a repealed statute with a still-valid regulation appears uncomplicated and straightforward.

## **Divisional, Interagency, Intergovernmental, DEIB, Social Equity and Other Impacts**

### ***Divisional***

#### **Licensing**

The Licensing Division agrees with the proposed course of action. The Licensing Division also notes that pilot projects are typically addressed by requests submitted to the Licensing Division, and are processed in accordance with established procedures through the Licensing Division, and typically are not initiated in response to rules petitions.

#### **Enforcement & Education**

The Enforcement & Education Division (E&E) notes that while other states have acted on biometric age verification similar to what is being proposed by the Petitioner, those states have done so through the legislative process.<sup>1</sup> The Enforcement & Education Division is unclear how its enforcement officers would verify proof of identification as permitted in RCW 66.20.180 if the Petitioner's proposed definition of BAVS were adopted. Would E&E staff need to download third-party licensed software on their state-issued devices? While the proposed system is similar to [CLEAR](#) which is currently used at airports, such as Seattle-Tacoma International Airport, CLEAR is not currently free for all to use. This in turn may raise equity issues as identified below.

Additionally, RCW 19.375 already discusses biometric identification and provides definitions of "biometric identifier" that may be relevant.

**Finance** – no identified impact.

**Information Technology/Infrastructure** – no identified impact.

#### **Public Health/Prevention**

The ability to verify that a person is of legal age to purchase alcohol is of utmost importance to prevent purchases by underage persons. [RCW 66.20.180](#) requires that a customer must present "a card of identification" upon request of any licensee, peace officer, or LCB enforcement officer to determine whether the person is of legal age to purchase alcohol at a licensed location. Adding a "biometric age verification system" has no added value currently because it doesn't change this legal requirement. The purchaser still must be in possession of a valid card of identification.

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<sup>1</sup> Arizona ([A.R.S. §4-241\(W\)](#)), Colorado ([1 CCR 203-2-47-912](#), See page 84 of 102), Georgia [Biometric ID FAQ](#), Maryland [Mobile ID FAQ](#).

## ***Interagency***

Department of Health – no identified impact.

Labor & Industries – no identified impact.

## ***Intergovernmental***

Tribes – no identified impact.

## ***DEIB, Social Equity***

While not limited to retinal scans or fingerprints, there have been numerous reported concerns regarding the potential bias that occurs with use of biometric data for identification.<sup>2</sup> Any inclusion of the use of biometric data as an acceptable form of identification would need to account for its limited access to those who have the financial means to use such services, as well as to provide safeguards against the sort of algorithmic bias that has been identified over the past few years in facial recognition technology.

## **Supplemental – Washington Legislative**

During the 2023 legislative session, there were multiple efforts to regulate the sale and commercial use of biometric data. A bill requested by the Attorney General's office was successfully passed, [HB 1155, chapter 191, Laws of 2023](#). This bill requires all businesses that collect “consumer health data” – explicitly including “biometric data” – publish a privacy policy and disclose what they do with the data, who they share it with, and how a consumer can exercise certain rights about that data. Consumers have the right to prevent a firm from transferring or selling the data to another business. It is unclear how this new legislation may or may not impact any action taking on the BAVS.

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<sup>2</sup> Office of Inspector General, U.S. Department of Labor, March 31, 2023, Alert Memorandum: ETA and States Need to Ensure the Use of Identity Verification Service Contractors Results in Equitable Access to UI Benefits and Secure Biometric Data, Report #19-23-005-03-315, available at <https://www.oig.dol.gov/public/reports/oa/2023/19-23-005-03-315.pdf>.

COMMENTS OF THE ELECTRONIC PRIVACY INFORMATION CENTER and THE AMERICAN CIVIL LIBERTIES UNION to the National Institute of Standards and Technology on Digital Identity Guidelines: Enrollment and Identity Proofing, Initial Public Draft NIST SP 800-63A-4 ipd, April 14, 2023, available at <https://epic.org/documents/epic-and-aclu-comments-on-nists-2023-digital-identity-draft-guidelines/>.

## Conclusion

The Board should accept the Petition in part, and reject it in part as follows:

- 1) The Board should accept the petition to amend WAC 314-01-005(2).
- 2) The Board should reject the petition to amend WAC 314-11-020(3).
- 3) The Board should reject the petition to amend WAC 314-11-025.
- 4) The Board should accept the petition to amend WAC 314-17-025(1)(b).
- 5) The Board should accept the petition to amend WAC 314-17-110(2)(b).

## Recommendation

For the reasons described above, Director's Office staff recommend that consistent with RCW 34.05.330(1)(b), the Board accept in part and reject in part Claire Mitchell's petition for amending of rule submitted on May 17, 2023.

## Board Action

After considering the recommendation of Director's Office staff, the Board accepts in part and rejects in part the petition for rulemaking received from Claire Mitchell on May 17, 2023.

_____ Accept _____ Deny	_____	_____
	David Postman, Chair	Date
_____ Accept _____ Deny	_____	_____
	Ollie Garrett, Board Member	Date
_____ Accept _____ Deny	_____	_____
	Jim Vollendroff, Board Member	Date

## Attachments

1. Email from Claire Mitchell received May 17, 2023, containing rule petition.
2. Laws and Rules cited under the "Authority" section above.

**From:** [Johnson, Susan M.](#)  
**To:** [LCB DL Rules](#); [Jacobs, Daniel \(LCB\)](#)  
**Cc:** [Mitchell, Claire J.](#)  
**Subject:** Petition for Rule Amendment - Biometric Age Verification [SR-ACTIVE.FID5614646]  
**Date:** Wednesday, May 17, 2023 2:51:48 PM  
**Attachments:** [image001.png](#)  
[Petition for Rule Amendment - Biometric Age Verification \(final 5.17.23\)\(119611103.1\).pdf](#)  
[Petition for Rule Amendment Addendum - Biometric Age Verification \(final 5.17.23\)\(119611570.1\).pdf](#)

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External Email

Hello Daniel,

Attached please find a petition for rule amendments relating to Biometric Age Verification and an addendum covering WAC Chapter 82-05 requirements and rationale for the proposed amendments.

My colleague Claire Mitchell is the petitioner and will be the point of contact going forward.

Susan

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## PETITION FOR ADOPTION, AMENDMENT, OR REPEAL OF A STATE ADMINISTRATIVE RULE

Print Form

In accordance with [RCW 34.05.330](#), the Office of Financial Management (OFM) created this form for individuals or groups who wish to petition a state agency or institution of higher education to adopt, amend, or repeal an administrative rule. You may use this form to submit your request. You also may contact agencies using other formats, such as a letter or email.

The agency or institution will give full consideration to your petition and will respond to you within 60 days of receiving your petition. For more information on the rule petition process, see Chapter 82-05 of the Washington Administrative Code (WAC) at <http://apps.leg.wa.gov/wac/default.aspx?cite=82-05>.

### CONTACT INFORMATION *(please type or print)*

Petitioner's Name Claire Mitchell  
Name of Organization Stoel Rives LLP  
Mailing Address 600 University Street, Ste. 3600  
City Seattle State WA Zip Code \_\_\_\_\_  
Telephone 206-386-7698 Email claire.mitchell@stoel.com

### COMPLETING AND SENDING PETITION FORM

- Check all of the boxes that apply.
- Provide relevant examples.
- Include suggested language for a rule, if possible.
- Attach additional pages, if needed.
- Send your petition to the agency with authority to adopt or administer the rule. Here is a list of agencies and their rules coordinators: <http://www.leg.wa.gov/CodeReviser/Documents/RClist.htm>.

### INFORMATION ON RULE PETITION

Agency responsible for adopting or administering the rule: Washington State Liquor and Cannabis Board

☐ **1. NEW RULE - I am requesting the agency to adopt a new rule.**

☐ The subject (or purpose) of this rule is: \_\_\_\_\_

☐ The rule is needed because: \_\_\_\_\_

☐ The new rule would affect the following people or groups: \_\_\_\_\_

☒ **2. AMEND RULE - I am requesting the agency to change an existing rule.**

List rule number (WAC), if known: 314-01-005(2); 314-11-020(3); 314-11-025; 314-17-025(1)(b); 314-17-110(2)(b)

☒ I am requesting the following change: See attached addendum.

☐ This change is needed because: \_\_\_\_\_

☐ The effect of this rule change will be: \_\_\_\_\_

☐ The rule is not clearly or simply stated: \_\_\_\_\_

☐ **3. REPEAL RULE - I am requesting the agency to eliminate an existing rule.**

List rule number (WAC), if known: \_\_\_\_\_

*(Check one or more boxes)*

☐ It does not do what it was intended to do.

☐ It is no longer needed because: \_\_\_\_\_

☐ It imposes unreasonable costs: \_\_\_\_\_

☐ The agency has no authority to make this rule: \_\_\_\_\_

☐ It is applied differently to public and private parties: \_\_\_\_\_

☐ It conflicts with another federal, state, or local law or rule. List conflicting law or rule, if known: \_\_\_\_\_

☐ It duplicates another federal, state or local law or rule. List duplicate law or rule, if known: \_\_\_\_\_

☐ Other (please explain): \_\_\_\_\_

Requested Rule Amendment No. 1	
<b>WAC Section:</b>	WAC 314-01-005(2)
<b>I am requesting the following change:</b>	(2) <del>"Card of identification" means the forms of identification that are acceptable to verify a person's age per RCW 66.16.040</del> <a href="#">Intentionally deleted</a> .
<b>This change is needed because:</b>	WAC 314-01-005(2) currently provides that the forms of identification that are acceptable to verify a person's age can be found in RCW 66.16.040. However, RCW 66.16.040 was repealed by Initiative Measure No. 1183 in 2012. This change is needed because the defined term "card of identification": <ul style="list-style-type: none"> <li>• Is obsolete;</li> <li>• Contains an incorrect statutory reference; and</li> <li>• Is used in only one other WAC section (WAC 314-11-020(3)).</li> </ul>
<b>The effect of this rule change will be:</b>	To eliminate an obsolete definition with an incorrect statutory reference.
<b>The rule is not clearly or simply stated:</b>	N/A

**Full text of existing rule:**

**WAC 314-01-005**

**Definitions.**

The following definitions apply to Title 314 WAC. Additional definitions are in RCW [66.04.010](#).

(1) "Licensed premises" or "premises" means all areas of a premises under the legal control of the licensee and available to or used by customers and/or employees in the conduct of business operations. Specific alcohol consumption areas of a licensed premises shall be approved by the board.

(2) "Card of identification" means the forms of identification that are acceptable to verify a person's age per RCW [66.16.040](#).

(3) "Employee" means any person performing services on a licensed premises for the benefit of the licensee.

(4) "Liquor enforcement officers" means any individual designated as a liquor enforcement officer by the board, and any peace officer as defined by RCW [9A.04.110](#)(15) as it now exists or may later be amended.

(5) "Liquor" means beer, wine, or spirits (per RCW [66.04.010](#)(19) - Definitions).

Requested Rule Amendment No. 2	
<b>WAC Section:</b>	WAC 314-11-020(3)
<b>I am requesting the following change:</b>	(3) Per RCW 66.20.180, at the request of any law enforcement officer, a <del>holder of a card of identification person</del> must present <del>his/her card of identification</del> <u>one of the acceptable forms of identification listed in WAC 314-11-025</u> if the person is on a portion of a premises that is restricted to persons over twenty-one years of age, or if the person is purchasing liquor, attempting to purchase liquor, consuming liquor, or in the possession of liquor. If the person fails or refuses to present <del>a card of identification</del> <u>one of the acceptable forms of identification listed in WAC 314-11-025</u> it may be considered a violation of Title 66 RCW and:
<b>This change is needed because:</b>	WAC 314-11-020(3) currently uses the defined term “card of identification” which is defined in WAC 314-01-005(2). The definition of “card of identification” is obsolete and contains an incorrect statutory reference. This change is needed because the defined term “card of identification”: <ul style="list-style-type: none"> <li>• Is obsolete;</li> <li>• Contains an incorrect statutory reference in WAC 314-01-005(2); and</li> <li>• Is used in only one other WAC section (WAC 314-01-005(2)).</li> </ul>
<b>The effect of this rule change will be:</b>	To eliminate the use of an obsolete defined term whose definition contains an incorrect statutory reference.
<b>The rule is not clearly or simply stated:</b>	N/A

**Full text of existing rule:**

**314-11-020**

**What are the guidelines regarding sales to persons under twenty-one years of age and where persons under twenty-one are allowed on a licensed premises?**

(1) Per RCW 66.44.270, licensees or employees may not supply liquor to any person under twenty-one years of age, either for his/her own use or for the use of any other person.

(2) Per RCW 66.44.310, licensees or employees may not allow persons under twenty-one years of age to remain in any premises or area of a premises classified as off-limits to persons under twenty-one. (See RCW 66.44.310 (1)(b) regarding nonprofit, private club licensees.)

(3) Per RCW 66.20.180, at the request of any law enforcement officer, a holder of a card of identification must present his/her card of identification if the person is on a portion of a premises that is restricted to persons over twenty-one years of age, or if the person is purchasing liquor, attempting to purchase liquor, consuming liquor, or in the possession of liquor. If the person fails or refuses to present a card of identification it may be considered a violation of Title 66 RCW and:

(a) The person may not remain on the licensed premises after being asked to leave by a law enforcement officer; and

(b) The person may be detained by a law enforcement officer for a reasonable period of time and in such a reasonable manner as is necessary to determine the person's true identity and date of birth.

Requested Rule Amendment No. 3	
<b>WAC Section:</b>	WAC 314-11-025
<b>I am requesting the following change:</b>	<p>(1) Acceptable forms of identification to verify a person's age for the purpose of selling, serving, or allowing a person to possess or consume alcohol must include <u>either</u>:</p> <p>(a) <u>All of the following</u>:</p> <p><u>(i)</u> The identification holder's photo;</p> <p><del>(b)(i)</del> The identification holder's date of birth; and</p> <p><del>(c)(ii)</del> The identification holder's signature, except on federally issued identification where a visible signature is not required; <u>or</u></p> <p><u>(b) A biometric age verification system.</u></p> <p><u>(i) For purposes of this section, a "biometric age verification system" is an automated age verification system capable of capturing, processing, and storing a biometric identifier in a centralized, highly secured, encrypted biometric database; securely linking the biometric identifier to data from the individual's authenticated record of identification described in sections (3)(a)-(3)(e) of this regulation; and instantly returning the identity and age indicator of the individual upon future scans of the biometric characteristic.</u></p> <p><u>(ii) A "biometric identifier" is data generated by automatic measurements of an individual's biometric characteristic, such as a fingerprint, voiceprint, eye retina, iris, or other unique biological pattern or characteristic that is used to identify a specific individual.</u></p> <p><u>(iii) Prior to linking a biometric identifier to data from a record of identification, the authenticity of the record of identification must be verified through an electronic authentication process and the identity of the record holder must be verified through an electronic authentication process or set of processes, such as a public records query or biometric liveness detection.</u></p> <p>(2) If the identification has an expiration date, it cannot be used to verify age after the expiration date.</p> <p>(3) Acceptable forms of identification include:</p> <p>(a) A driver's license, instruction permit, or identification card of any state, province of Canada, U.S. territory, or the District of Columbia, or an "identocard" issued by the Washington state department of licensing per RCW 46.20.117;</p> <p>(b) A United States armed forces identification card issued to active duty, reserve, and retired personnel and the personnel's dependents;</p> <p>(c) A passport, passport card, or NEXUS card;</p> <p>(d) A Merchant Marine identification card issued by the United States Coast Guard; <del>or</del></p> <p>(e) An enrollment card issued by the governing authority of a federally recognized Indian tribe, if the enrollment card incorporates reasonable security features sufficient to deter counterfeiting, which may include</p>

	<p>features similar to those used by the department of licensing for standard Washington driver's licenses.</p> <p>(i) An enrollment card must be approved by the board's enforcement division prior to use as an acceptable form of identification. The tribe may request approval by submitting the following for review and inspection:</p> <p>(A) A letter requesting approval and describing the security features of the enrollment card;</p> <p>(B) A physical sample of an enrollment card; and</p> <p>(C) For tribes located outside of Washington, a contact phone number where enforcement officers may call at any time to verify the validity of the enrollment card.</p> <p>(ii) After review and inspection, the board's designee will send a letter approving or denying the enrollment card as an acceptable form of identification.</p> <p>(iii) The board may rescind approval if the enrollment card no longer meets the requirements of this section.</p> <p><a href="#">(f) A biometric age verification system.</a></p> <p><a href="#">(4) The licensee or the biometric age verification system or its agent, shall maintain for 30 days a record of each biometric age verification transaction, including the date and time of the transaction, the location of the transaction, and the type and number of the authenticated record of identification.</a></p>
<b>This change is needed because:</b>	<p>Including biometric age verification as an acceptable form of identification will help reduce human error in identification checking, increase public safety, and decrease sales to minors by allowing retail licensees to efficiently and accurately establish the age of individuals attempting to purchase alcohol.</p>
<b>The effect of this rule change will be:</b>	<p>To add biometric characteristics as an acceptable form of identification and age verification.</p>
<b>The rule is not clearly or simply stated:</b>	<p>N/A</p>

**Full text of existing rule:**

**314-11-025**

**What are the acceptable forms of identification?**

(1) Acceptable forms of identification to verify a person's age for the purpose of selling, serving, or allowing a person to possess or consume alcohol must include:

- (a) The identification holder's photo;
- (b) The identification holder's date of birth; and
- (c) The identification holder's signature, except on federally issued identification where a visible signature is not required.

(2) If the identification has an expiration date, it cannot be used to verify age after the expiration date.

(3) Acceptable forms of identification include:

Petition for Rule Amendment Addendum – Biometric Age Verification  
Washington State Liquor and Cannabis Board  
May 17, 2023

(a) A driver's license, instruction permit, or identification card of any state, province of Canada, U.S. territory, or the District of Columbia, or an "identocard" issued by the Washington state department of licensing per RCW [46.20.117](#);

(b) A United States armed forces identification card issued to active duty, reserve, and retired personnel and the personnel's dependents;

(c) A passport, passport card, or NEXUS card;

(d) A Merchant Marine identification card issued by the United States Coast Guard; or

(e) An enrollment card issued by the governing authority of a federally recognized Indian tribe, if the enrollment card incorporates reasonable security features sufficient to deter counterfeiting, which may include features similar to those used by the department of licensing for standard Washington driver's licenses.

(i) An enrollment card must be approved by the board's enforcement division prior to use as an acceptable form of identification. The tribe may request approval by submitting the following for review and inspection:

(A) A letter requesting approval and describing the security features of the enrollment card;

(B) A physical sample of an enrollment card; and

(C) For tribes located outside of Washington, a contact phone number where enforcement officers may call at any time to verify the validity of the enrollment card.

(ii) After review and inspection, the board's designee will send a letter approving or denying the enrollment card as an acceptable form of identification.

(iii) The board may rescind approval if the enrollment card no longer meets the requirements of this section.

Requested Rule Amendment No. 4	
<b>WAC Section:</b>	WAC 314-17-025(1)(b)
<b>I am requesting the following change:</b>	<p>(1) Any time a licensee or an employee performs the duties outlined in WAC 314-17-015 at a retail licensed premises, a licensee or an employee must have:</p> <p>(a) His or her class 12 or 13 permit on the retail licensed premises; and</p> <p>(b) One form of identification (see <del>RCW 66.16.040</del> <a href="#">WAC 314-11-025</a> for acceptable forms of identification).</p>
<b>This change is needed because:</b>	WAC 314-17-025(1)(b) currently provides that the forms of identification that are acceptable to verify a person's age can be found in RCW 66.16.040. However, RCW 66.16.040 was repealed by Initiative Measure No. 1183 in 2012. This change is needed to correct an error.
<b>The effect of this rule change will be:</b>	To correct an error in WAC 314-17-025(1)(b).
<b>The rule is not clearly or simply stated:</b>	N/A

**Full text of existing rule:**

**WAC 314-17-025**

**Does a permit holder have to carry his or her class 12 or 13 permit?**

- (1) Any time a licensee or an employee performs the duties outlined in WAC [314-17-015](#) at a retail licensed premises, a licensee or an employee must have:
- (a) His or her class 12 or 13 permit on the retail licensed premises; and
  - (b) One form of identification (see RCW [66.16.040](#) for acceptable forms of identification).
- (2) Both a class 12 or 13 permit and a form of identification must be available for inspection by any representative of the board, peace officer or law enforcement officer.
- (3) A person shall be in violation if he or she falsifies a class 12 or 13 permit or keeps or possesses a class 12 or 13 permit contrary to the provisions of this title.
- (4) The name and personal identifying characteristics on a class 12 or 13 permit must match with those on a permit holder's form of identification.

Requested Rule Amendment No. 5	
<b>WAC Section:</b>	WAC 314-17-110(2)(b)
<b>I am requesting the following change:</b>	(2) Examples of aggravating and mitigating circumstances include, but are not limited to:  (b) Examples of mitigating circumstances that may allow a less severe penalty:  Permit holder checked one of the acceptable forms of identification (see <del>RCW 66.16.040</del> <a href="#">WAC 314-11-025</a> );
<b>This change is needed because:</b>	WAC 314-17-110(2)(b) currently provides that the forms of identification that are acceptable to verify a person's age can be found in RCW 66.16.040. However, RCW 66.16.040 was repealed by Initiative Measure No. 1183 in 2012. This change is needed to correct an error.
<b>The effect of this rule change will be:</b>	To correct an error in WAC 314-17-110(2)(b).
<b>The rule is not clearly or simply stated:</b>	N/A

**Full text of existing rule:**

**WAC 314-17-110**

**May the board impose sanctions or penalties other than those described in WAC [314-17-105](#)?**

(1) Based on aggravating or mitigating circumstances, the board may impose a different penalty or suspension than the standard penalties and suspensions described in WAC [314-17-105](#).

(2) Examples of aggravating and mitigating circumstances include, but are not limited to:

(a) Examples of aggravating circumstances that may cause a more severe penalty:	(b) Examples of mitigating circumstances that may allow a less severe penalty:
<ul style="list-style-type: none"> <li>Patron's identification not checked;</li> <li>Noncooperation with or obstruction of any law enforcement officer;</li> <li>Permit holder did not call law enforcement officer when requested by a customer or a board employee.</li> </ul>	<ul style="list-style-type: none"> <li>Permit holder checked one of the acceptable forms of identification (see RCW <a href="#">66.16.040</a>);</li> <li>Cooperation with law enforcement officer(s);</li> <li>Permit holder used a licensee certification card (see RCW <a href="#">66.20.190</a>).</li> </ul>

NEW SECTION. Sec. 306. If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected.

NEW SECTION. Sec. 307. This act takes effect sixty days from its enactment by the people.

NEW SECTION. Sec. 308. This act may be known and cited as the restoring quality home care initiative.

Originally filed in Office of Secretary of State April 21, 2011.

Approved by the People of the State of Washington in the General Election on November 8, 2011.

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## CHAPTER 2

[Initiative 1183]

### LIQUOR SALES—PRIVATIZATION

AN ACT Relating to liquor; amending RCW 66.24.360, 82.08.150, 66.08.050, 66.08.060, 66.20.010, 66.20.160, 66.24.310, 66.24.380, 66.28.030, 66.24.540, 66.24.590, 66.28.060, 66.28.070, 66.28.170, 66.28.180, 66.28.190, 66.28.280, 66.04.010, 43.19.19054, 66.08.020, 66.08.026, 66.08.030, 66.24.145, 66.24.160, 66.32.010, 66.44.120, 66.44.150, 66.44.340, 19.126.010, and 19.126.040; reenacting and amending RCW 66.28.040 and 19.126.020; adding new sections to chapter 66.24 RCW; adding new sections to chapter 66.28 RCW; creating new sections; repealing RCW 66.08.070, 66.08.075, 66.08.160, 66.08.165, 66.08.166, 66.08.167, 66.08.220, 66.08.235, 66.16.010, 66.16.040, 66.16.041, 66.16.050, 66.16.060, 66.16.070, 66.16.100, 66.16.110, 66.16.120, and 66.28.045; contingently repealing ESSB 5942, 2011 1st sp.s. c ... ss 1 through 10; and providing an effective date.

Be it enacted by the People of the State of Washington:

## PART I LICENSED SALE OF SPIRITS

NEW SECTION. Sec. 101. (1) The people of the state of Washington, in enacting this initiative measure, find that the state government monopoly on liquor distribution and liquor stores in Washington and the state government regulations that arbitrarily restrict the wholesale distribution and pricing of wine are outdated, inefficient, and costly to local taxpayers, consumers, distributors, and retailers. Therefore, the people wish to privatize and modernize both wholesale distribution and retail sales of liquor and remove outdated restrictions on the wholesale distribution of wine by enacting this initiative.

(2) This initiative will:

(a) Privatize and modernize wholesale distribution and retail sales of liquor in Washington state in a manner that will reduce state government costs and provide increased funding for state and local government services, while continuing to strictly regulate the distribution and sale of liquor;

(b) Get the state government out of the commercial business of distributing, selling, and promoting the sale of liquor, allowing the state to focus on the more appropriate government role of enforcing liquor laws and protecting public health and safety concerning all alcoholic beverages;

(c) Authorize the state to auction off its existing state liquor distribution and state liquor store facilities and equipment;

(d) Allow a private distributor of alcohol to get a license to distribute liquor if that distributor meets the requirements set by the Washington state liquor control board and is approved for a license by the board and create provisions to promote investments by private distributors;

(e) Require private distributors who get licenses to distribute liquor to pay ten percent of their gross spirits revenues to the state during the first two years and five percent of their gross spirits revenues to the state after the first two years;

(f) Allow for a limited number of retail stores to sell liquor if they meet public safety requirements set by this initiative and the liquor control board;

(g) Require that a retail store must have ten thousand square feet or more of fully enclosed retail space within a single structure in order to get a license to sell liquor, with limited exceptions;

(h) Require a retail store to demonstrate to state regulators that it can effectively prevent sales of alcohol to minors in order to get a license to sell liquor;

(i) Ensure that local communities have input before a liquor license can be issued to a local retailer or distributor and maintain all local zoning requirements and authority related to the location of liquor stores;

(j) Require private retailers who get licenses to sell liquor to pay seventeen percent of their gross spirits revenues to the state;

(k) Maintain the current distribution of liquor revenues to local governments and dedicate a portion of the new revenues raised from liquor license fees to increase funding for local public safety programs, including police, fire, and emergency services in communities throughout the state;

(l) Make the standard fines and license suspension penalties for selling liquor to minors twice as strong as the existing fines and penalties for selling beer or wine to minors;

(m) Make requirements for training and supervision of employees selling spirits at retail more stringent than what is now required for sales of beer and wine;

(n) Update the current law on wine distribution to allow wine distributors and wineries to give volume discounts on the wholesale price of wine to retail stores and restaurants; and

(o) Allow retailers and restaurants to distribute wine to their own stores from a central warehouse.

**NEW SECTION. Sec. 102.** A new section is added to chapter 66.24 RCW to read as follows:

(1) The holder of a spirits distributor license or spirits retail license issued under this title may commence sale of spirits upon issuance thereof, but in no event earlier than March 1, 2012, for distributors, or June 1, 2012, for retailers. The board must complete application processing by those dates of all complete applications for spirits licenses on file with the board on or before sixty days from the effective date of this section.

(2) The board must effect orderly closure of all state liquor stores no later than June 1, 2012, and must thereafter refrain from purchase, sale, or distribution of liquor, except for asset sales authorized by this act.

(3) The board must devote sufficient resources to planning and preparation for sale of all assets of state liquor stores and distribution centers, and all other

assets of the state over which the board has power of disposition, including without limitation goodwill and location value associated with state liquor stores, with the objective of depleting all inventory of liquor by May 31, 2012, and closing all other asset sales no later than June 1, 2013. The board, in furtherance of this subsection, may sell liquor to spirits licensees.

(4)(a) Disposition of any state liquor store or distribution center assets remaining after June 1, 2013, must be managed by the department of revenue.

(b) The board must obtain the maximum reasonable value for all asset sales made under this section.

(c) The board must sell by auction open to the public the right at each state-owned store location of a spirits retail licensee to operate a liquor store upon the premises. Such right must be freely alienable and subject to all state and local zoning and land use requirements applicable to the property. Acquisition of the operating rights must be a precondition to, but does not establish eligibility for, a spirits retail license at the location of a state store and does not confer any privilege conferred by a spirits retail license. Holding the rights does not require the holder of the right to operate a liquor-licensed business or apply for a liquor license.

(5) All sales proceeds under this section, net of direct sales expenses and other transition costs authorized by this section, must be deposited into the liquor revolving fund.

(6)(a) The board must complete the orderly transition from the current state-controlled system to the private licensee system of spirits retailing and distribution as required under this chapter by June 1, 2012.

(b) The transition must include, without limitation, a provision for applying operating and asset sale revenues of the board to just and reasonable measures to avert harm to interests of tribes, military buyers, and nonemployee liquor store operators under then existing contracts for supply by the board of distilled spirits, taking into account present value of issuance of a spirits retail license to the holder of such interest. The provision may extend beyond the time for completion of transition to a spirits licensee system.

(c) Purchases by the federal government from any licensee of the board of spirits for resale through commissaries at military installations are exempt from sales tax based on selling price levied by RCW 82.08.150.

**NEW SECTION. Sec. 103.** A new section is added to chapter 66.24 RCW to read as follows:

(1) There is a spirits retail license to: Sell spirits in original containers to consumers for consumption off the licensed premises and to permit holders; sell spirits in original containers to retailers licensed to sell spirits for consumption on the premises, for resale at their licensed premises according to the terms of their licenses, although no single sale may exceed twenty-four liters, unless the sale is by a licensee that was a contract liquor store manager of a contract liquor store at the location of its spirits retail licensed premises from which it makes such sales; and export spirits.

(2) For the purposes of this title, a spirits retail license is a retail license, and a sale by a spirits retailer is a retail sale only if not for resale. Nothing in this title authorizes sales by on-sale licensees to other retail licensees. The board must establish by rule an obligation of on-sale spirits retailers to:

(a) Maintain a schedule by stock-keeping unit of all their purchases of spirits from spirits retail licensees, indicating the identity of the seller and the quantities purchased; and

(b) Provide, not more frequently than quarterly, a report for each scheduled item containing the identity of the purchasing on-premise licensee and the quantities of that scheduled item purchased since any preceding report to:

(i) A distributor authorized by the distiller to distribute a scheduled item in the on-sale licensee's geographic area; or

(ii) A distiller acting as distributor of the scheduled item in the area.

(3)(a) Except as otherwise provided in subsection (c) of this section, the board may issue spirits retail licenses only for premises comprising at least ten thousand square feet of fully enclosed retail space within a single structure, including storerooms and other interior auxiliary areas but excluding covered or fenced exterior areas, whether or not attached to the structure, and only to applicants that the board determines will maintain systems for inventory management, employee training, employee supervision, and physical security of the product substantially as effective as those of stores currently operated by the board with respect to preventing sales to or pilferage by underage or inebriated persons.

(b) License issuances and renewals are subject to RCW 66.24.010 and the regulations promulgated thereunder, including without limitation rights of cities, towns, county legislative authorities, the public, churches, schools, and public institutions to object to or prevent issuance of local liquor licenses. However, existing grocery premises licensed to sell beer and/or wine are deemed to be premises "now licensed" under RCW 66.24.010(9)(a) for the purpose of processing applications for spirits retail licenses.

(c) The board may not deny a spirits retail license to an otherwise qualified contract liquor store at its contract location or to the holder of former state liquor store operating rights sold at auction under section 102 of this act on the grounds of location, nature, or size of the premises to be licensed. The board shall not deny a spirits retail license to applicants that are not contract liquor stores or operating rights holders on the grounds of the size of the premises to be licensed, if such applicant is otherwise qualified and the board determines that:

(i) There is no retail spirits license holder in the trade area that the applicant proposes to serve;

(ii) The applicant meets, or upon licensure will meet, the operational requirements established by the board by rule; and

(iii) The licensee has not committed more than one public safety violation within the three years preceding application.

(d) A retailer authorized to sell spirits for consumption on or off the licensed premises may accept delivery of spirits at its licensed premises or at one or more warehouse facilities registered with the board, which facilities may also warehouse and distribute nonliquor items, and from which the retailer may deliver to its own licensed premises and, pursuant to sales permitted under subsection (1) of this section:

(i) To other retailer premises licensed to sell spirits for consumption on the licensed premises;

(ii) To other registered facilities; or

(iii) To lawful purchasers outside the state. The facilities may be registered and utilized by associations, cooperatives, or comparable groups of retailers, including at least one retailer licensed to sell spirits.

(4) Each spirits retail licensee must pay to the board, for deposit into the liquor revolving fund, a license issuance fee equivalent to seventeen percent of all spirits sales revenues under the license, exclusive of taxes collected by the licensee and of sales of items on which a license fee payable under this section has otherwise been incurred. The board must establish rules setting forth the timing of such payments and reporting of sales dollar volume by the licensee, with payments required quarterly in arrears. The first payment is due October 1, 2012.

(5) In addition to the payment required under subsection (4) of this section, each licensee must pay an annual license renewal fee of one hundred sixty-six dollars. The board must periodically review and adjust the renewal fee as may be required to maintain it as comparable to annual license renewal fees for licenses to sell beer and wine not for consumption on the licensed premises. If required by law at the time, any increase of the annual renewal fee becomes effective only upon ratification by the legislature.

(6) As a condition to receiving and renewing a retail spirits license the licensee must provide training as prescribed by the board by rule for individuals who sell spirits or who manage others who sell spirits regarding compliance with laws and regulations regarding sale of spirits, including without limitation the prohibitions against sale of spirits to individuals who are underage or visibly intoxicated. The training must be provided before the individual first engages in the sale of spirits and must be renewed at least every five years. The licensee must maintain records documenting the nature and frequency of the training provided. An employee training program is presumptively sufficient if it incorporates a "responsible vendor program" promulgated by the board.

(7) The maximum penalties prescribed by the board in WAC 314-29-020 through 314-29-040 relating to fines and suspensions are doubled for violations relating to the sale of spirits by retail spirits licensees.

(8)(a) The board must promulgate regulations concerning the adoption and administration of a compliance training program for spirits retail licensees, to be known as a "responsible vendor program," to reduce underage drinking, encourage licensees to adopt specific best practices to prevent sales to minors, and provide licensees with an incentive to give their employees on-going training in responsible alcohol sales and service.

(b) Licensees who join the responsible vendor program under this section and maintain all of the program's requirements are not subject to the doubling of penalties provided in this section for a single violation in any period of twelve calendar months.

(c) The responsible vendor program must be free, voluntary, and self-monitoring.

(d) To participate in the responsible vendor program, licensees must submit an application form to the board. If the application establishes that the licensee meets the qualifications to join the program, the board must send the licensee a membership certificate.

(e) A licensee participating in the responsible vendor program must at a minimum:

- (i) Provide on-going training to employees;
- (ii) Accept only certain forms of identification for alcohol sales;
- (iii) Adopt policies on alcohol sales and checking identification;
- (iv) Post specific signs in the business; and
- (v) Keep records verifying compliance with the program's requirements.

**Sec. 104.** RCW 66.24.360 and 2011 c 119 s 203 are each amended to read as follows:

~~((1))~~ (1) There ~~((shall be))~~ is a ~~((beer and/or wine retailer's license to be designated as a))~~ grocery store license to sell wine and/or beer, including without limitation strong beer~~((, and/or wine))~~ at retail in ~~((bottles, cans, and))~~ original containers, not to be consumed upon the premises where sold~~((, at any store other than the state liquor stores))~~.

~~((4))~~ (2) There is a wine retailer reseller endorsement of a grocery store license, to sell wine at retail in original containers to retailers licensed to sell wine for consumption on the premises, for resale at their licensed premises according to the terms of the license. However, no single sale may exceed twenty-four liters, unless the sale is made by a licensee that was a contract liquor store manager of a contract-operated liquor store at the location from which such sales are made. For the purposes of this title, a grocery store license is a retail license, and a sale by a grocery store licensee with a reseller endorsement is a retail sale only if not for resale.

(3) Licensees obtaining a written endorsement from the board may also sell malt liquor in kegs or other containers capable of holding less than five and one-half gallons of liquid.

~~((2))~~ (4) The annual fee for the grocery store license is one hundred fifty dollars for each store.

~~((3))~~ (5) The annual fee for the wine retailer reseller endorsement is one hundred sixty-six dollars for each store.

(6) The board ~~((shall))~~ must issue a restricted grocery store license authorizing the licensee to sell beer and only table wine, if the board finds upon issuance or renewal of the license that the sale of strong beer or fortified wine would be against the public interest. In determining the public interest, the board ~~((shall))~~ must consider at least the following factors:

(a) The likelihood that the applicant will sell strong beer or fortified wine to persons who are intoxicated;

(b) Law enforcement problems in the vicinity of the applicant's establishment that may arise from persons purchasing strong beer or fortified wine at the establishment; and

(c) Whether the sale of strong beer or fortified wine would be detrimental to or inconsistent with a government-operated or funded alcohol treatment or detoxification program in the area.

If the board receives no evidence or objection that the sale of strong beer or fortified wine would be against the public interest, it ~~((shall))~~ must issue or renew the license without restriction, as applicable. The burden of establishing that the sale of strong beer or fortified wine by the licensee would be against the public interest is on those persons objecting.

~~((4))~~ (7) Licensees holding a grocery store license must maintain a minimum three thousand dollar inventory of food products for human consumption, not including pop, beer, strong beer, or wine.

~~((5))~~ (8) A grocery store licensee with a wine retailer reseller endorsement may accept delivery of wine at its licensed premises or at one or more warehouse facilities registered with the board, which facilities may also warehouse and distribute nonliquor items, and from which it may deliver to its own licensed premises and, pursuant to sales permitted by this title, to other licensed premises, to other registered facilities, or to lawful purchasers outside the state. Facilities may be registered and utilized by associations, cooperatives, or comparable groups of grocery store licensees.

(9) Upon approval by the board, the grocery store licensee may also receive an endorsement to permit the international export of beer, strong beer, and wine.

(a) Any beer, strong beer, or wine sold under this endorsement must have been purchased from a licensed beer or wine distributor licensed to do business within the state of Washington.

(b) Any beer, strong beer, and wine sold under this endorsement must be intended for consumption outside the state of Washington and the United States and appropriate records must be maintained by the licensee.

(c) Any beer, strong beer, or wine sold under this ~~((license))~~ endorsement must be sold at a price no less than the acquisition price paid by the holder of the license.

(d) The annual cost of this endorsement is five hundred dollars and is in addition to the license fees paid by the licensee for a grocery store license.

~~((6))~~ (10) A grocery store licensee holding a snack bar license under RCW 66.24.350 may receive an endorsement to allow the sale of confections containing more than one percent but not more than ten percent alcohol by weight to persons twenty-one years of age or older.

**NEW SECTION. Sec. 105.** A new section is added to chapter 66.24 RCW to read as follows:

(1) There is a license for spirits distributors to (a) sell spirits purchased from manufacturers, distillers, or suppliers including, without limitation, licensed Washington distilleries, licensed spirits importers, other Washington spirits distributors, or suppliers of foreign spirits located outside of the United States, to spirits retailers including, without limitation, spirits retail licensees, special occasion license holders, interstate common carrier license holders, restaurant spirits retailer license holders, spirits, beer, and wine private club license holders, hotel license holders, sports entertainment facility license holders, and spirits, beer, and wine nightclub license holders, and to other spirits distributors; and (b) export the same from the state.

(2) By January 1, 2012, the board must issue spirits distributor licenses to all applicants who, upon the effective date of this section, have the right to purchase spirits from a spirits manufacturer, spirits distiller, or other spirits supplier for resale in the state, or are agents of such supplier authorized to sell to licensees in the state, unless the board determines that issuance of a license to such applicant is not in the public interest.

(3)(a) As limited by (b) of this subsection and subject to (c) of this subsection, each spirits distributor licensee must pay to the board for deposit into the liquor revolving fund, a license issuance fee calculated as follows:

(i) In each of the first two years of licensure, ten percent of the total revenue from all the licensee's sales of spirits made during the year for which the fee is due, respectively; and

(ii) In the third year of licensure and each year thereafter, five percent of the total revenue from all the licensee's sales of spirits made during the year for which the fee is due, respectively.

(b) The fee required under this subsection (3) is calculated only on sales of items which the licensee was the first spirits distributor in the state to have received:

(i) In the case of spirits manufactured in the state, from the distiller; or

(ii) In the case of spirits manufactured outside the state, from an authorized out-of-state supplier.

(c) By March 31, 2013, all persons holding spirits distributor licenses on or before March 31, 2013, must have paid collectively one hundred fifty million dollars or more in spirits distributor license fees. If the collective payment through March 31, 2013, totals less than one hundred fifty million dollars, the board must, according to rules adopted by the board for the purpose, collect by May 31, 2013, as additional spirits distributor license fees the difference between one hundred fifty million dollars and the actual receipts, allocated among persons holding spirits distributor licenses at any time on or before March 31, 2013, ratably according to their spirits sales made during calendar year 2012. Any amount by which such payments exceed one hundred fifty million dollars by March 31, 2013, must be credited to future license issuance fee obligations of spirits distributor licensees according to rules adopted by the board.

(d) A retail licensee selling for resale must pay a distributor license fee under the terms and conditions in this section on resales of spirits the licensee has purchased on which no other distributor license fee has been paid. The board must establish rules setting forth the frequency and timing of such payments and reporting of sales dollar volume by the licensee, with payments due quarterly in arrears.

(e) No spirits inventory may be subject to calculation of more than a single spirits distributor license issuance fee.

(4) In addition to the payment set forth in subsection (3) of this section, each spirits distributor licensee renewing its annual license must pay an annual license renewal fee of one thousand three hundred twenty dollars for each licensed location.

(5) There is no minimum facility size or capacity for spirits distributor licenses, and no limit on the number of such licenses issued to qualified applicants. License applicants must provide physical security of the product that is substantially as effective as the physical security of the distribution facilities currently operated by the board with respect to preventing pilferage. License issuances and renewals are subject to RCW 66.24.010 and the regulations promulgated thereunder, including without limitation rights of cities, towns, county legislative authorities, the public, churches, schools, and public institutions to object to or prevent issuance of local liquor licenses. However, existing distributor premises licensed to sell beer and/or wine are deemed to be premises "now licensed" under RCW 66.24.010(9)(a) for the purpose of processing applications for spirits distributor licenses.

**Sec. 106.** RCW 82.08.150 and 2009 c 479 s 65 are each amended to read as follows:

(1) There is levied and ~~((shall be))~~ collected a tax upon each retail sale of spirits in the original package at the rate of fifteen percent of the selling price~~((The tax imposed in this subsection shall apply to all such sales including sales by the Washington state liquor stores and agencies, but excluding sales to spirits, beer, and wine restaurant licensees))~~.

(2) There is levied and ~~((shall be))~~ collected a tax upon each sale of spirits in the original package at the rate of ten percent of the selling price on sales by ~~((Washington state liquor stores and agencies to spirits, beer, and wine restaurant licensees))~~ a spirits distributor licensee or other licensee acting as a spirits distributor pursuant to Title 66 RCW to restaurant spirits retailers.

(3) There is levied and ~~((shall be))~~ collected an additional tax upon each ~~((retail))~~ sale of spirits in the original package by a spirits distributor licensee or other licensee acting as a spirits distributor pursuant to Title 66 RCW to a restaurant spirits retailer and upon each retail sale of spirits in the original package by a licensee of the board at the rate of one dollar and seventy-two cents per liter. ~~((The additional tax imposed in this subsection shall apply to all such sales including sales by Washington state liquor stores and agencies, and including sales to spirits, beer, and wine restaurant licensees.))~~

(4) An additional tax is imposed equal to fourteen percent multiplied by the taxes payable under subsections (1), (2), and (3) of this section.

(5) An additional tax is imposed upon each ~~((retail))~~ sale of spirits in the original package by a spirits distributor licensee or other licensee acting as a spirits distributor pursuant to Title 66 RCW to a restaurant spirits retailer and upon each retail sale of spirits in the original package by a licensee of the board at the rate of seven cents per liter. ~~((The additional tax imposed in this subsection shall apply to all such sales including sales by Washington state liquor stores and agencies, and including sales to spirits, beer, and wine restaurant licensees.))~~ All revenues collected during any month from this additional tax ~~((shall))~~ must be deposited in the state general fund by the twenty-fifth day of the following month.

(6)(a) An additional tax is imposed upon retail sale of spirits in the original package at the rate of ~~((one and seven-tenths percent of the selling price through June 30, 1995, two and six-tenths percent of the selling price for the period July 1, 1995, through June 30, 1997, and))~~ three and four-tenths percent of the selling price ~~((thereafter. This additional tax applies to all such sales including sales by Washington state liquor stores and agencies, but excluding sales to spirits, beer, and wine restaurant licensees))~~.

(b) An additional tax is imposed upon retail sale of spirits in the original package ~~to a restaurant spirits retailer~~ at the rate of ~~((one and one-tenth percent of the selling price through June 30, 1995, one and seven-tenths percent of the selling price for the period July 1, 1995, through June 30, 1997, and))~~ two and three-tenths percent of the selling price ~~((thereafter. This additional tax applies to all such sales to spirits, beer, and wine restaurant licensees))~~.

(c) An additional tax is imposed upon each ~~((retail))~~ sale of spirits in the original package by a spirits distributor licensee or other licensee acting as a spirits distributor pursuant to Title 66 RCW to a restaurant spirits retailer and upon each retail sale of spirits in the original package by a licensee of the board at the rate of ~~((twenty cents per liter through June 30, 1995, thirty cents per liter for the period July 1, 1995, through June 30, 1997, and))~~ forty-one cents per liter

~~((thereafter. This additional tax applies to all such sales including sales by Washington state liquor stores and agencies, and including sales to spirits, beer, and wine restaurant licensees)).~~

(d) All revenues collected during any month from additional taxes under this subsection ~~((shall))~~ must be deposited in the state general fund by the twenty-fifth day of the following month.

(7)(a) An additional tax is imposed upon each retail sale of spirits in the original package at the rate of one dollar and thirty-three cents per liter. ~~((This additional tax applies to all such sales including sales by Washington state liquor stores and agencies, but excluding sales to spirits, beer, and wine restaurant licensees.))~~

(b) All revenues collected during any month from additional taxes under this subsection ~~((shall))~~ must be deposited by the twenty-fifth day of the following month into the general fund.

(8) The tax imposed in RCW 82.08.020 ~~((shall))~~ does not apply to sales of spirits in the original package.

(9) The taxes imposed in this section ~~((shall))~~ must be paid by the buyer to the seller, and each seller ~~((shall))~~ must collect from the buyer the full amount of the tax payable in respect to each taxable sale under this section. The taxes required by this section to be collected by the seller ~~((shall))~~ must be stated separately from the selling price, and for purposes of determining the tax due from the buyer to the seller, it ~~((shall be))~~ is conclusively presumed that the selling price quoted in any price list does not include the taxes imposed by this section. Sellers must report and return all taxes imposed in this section in accordance with rules adopted by the department.

(10) As used in this section, the terms, "spirits" and "package" ~~((shall))~~ have the same meaning ~~((ascribed to them))~~ as provided in chapter 66.04 RCW.

**Sec. 107.** RCW 66.08.050 and 2011 c 186 s 2 are each amended to read as follows:

The board, subject to the provisions of this title and the rules, ~~((shall))~~ must:

(1) ~~((Determine the localities within which state liquor stores shall be established throughout the state, and the number and situation of the stores within each locality;~~

~~((2) Appoint in cities and towns and other communities, in which no state liquor store is located, contract liquor stores. In addition, the board may appoint, in its discretion, a manufacturer that also manufactures liquor products other than wine under a license under this title, as a contract liquor store for the purpose of sale of liquor products of its own manufacture on the licensed premises only. Such contract liquor stores shall be authorized to sell liquor under the guidelines provided by law, rule, or contract, and such contract liquor stores shall be subject to such additional rules and regulations consistent with this title as the board may require. Sampling on contract store premises is permitted under this act;~~

~~((3) Establish all necessary warehouses for the storing and bottling, diluting and rectifying of stocks of liquors for the purposes of this title;~~

~~((4) Provide for the leasing for periods not to exceed ten years of all premises required for the conduct of the business; and for remodeling the same, and the procuring of their furnishings, fixtures, and supplies; and for obtaining options~~

~~of renewal of such leases by the lessee. The terms of such leases in all other respects shall be subject to the direction of the board;~~

~~((5))~~) Determine the nature, form and capacity of all packages to be used for containing liquor kept for sale under this title;

~~((6))~~) (2) Execute or cause to be executed, all contracts, papers, and documents in the name of the board, under such regulations as the board may fix;

~~((7))~~) (3) Pay all customs, duties, excises, charges and obligations whatsoever relating to the business of the board;

~~((8))~~) (4) Require bonds from all employees in the discretion of the board, and to determine the amount of fidelity bond of each such employee;

~~((9))~~) (5) Perform services for the state lottery commission to such extent, and for such compensation, as may be mutually agreed upon between the board and the commission;

~~((10))~~) (6) Accept and deposit into the general fund-local account and disburse, subject to appropriation, federal grants or other funds or donations from any source for the purpose of improving public awareness of the health risks associated with alcohol consumption by youth and the abuse of alcohol by adults in Washington state. The board's alcohol awareness program ~~((shall))~~ must cooperate with federal and state agencies, interested organizations, and individuals to effect an active public beverage alcohol awareness program;

~~((11))~~) (7) Perform all other matters and things, whether similar to the foregoing or not, to carry out the provisions of this title, and ~~((shall have))~~ has full power to do each and every act necessary to the conduct of its ~~((business, including all buying, selling, preparation and approval of forms, and every other function of the business whatsoever, subject only to audit by the state auditor. PROVIDED, That the board shall have))~~ regulatory functions, including all supplies procurement, preparation and approval of forms, and every other undertaking necessary to perform its regulatory functions whatsoever, subject only to audit by the state auditor. However, the board has no authority to regulate the content of spoken language on licensed premises where wine and other liquors are served and where there is not a clear and present danger of disorderly conduct being provoked by such language or to restrict advertising of lawful prices.

**Sec. 108.** RCW 66.08.060 and 2005 c 231 s 3 are each amended to read as follows:

~~((1) The board shall not advertise liquor in any form or through any medium whatsoever.~~

~~(2) In-store liquor merchandising is not advertising for the purposes of this section.~~

~~((3))~~) The board ~~((shall have))~~ has power to adopt any and all reasonable rules as to the kind, character, and location of advertising of liquor.

**Sec. 109.** RCW 66.20.010 and 2011 c 119 s 213 are each amended to read as follows:

Upon application in the prescribed form being made to any employee authorized by the board to issue permits, accompanied by payment of the prescribed fee, and upon the employee being satisfied that the applicant should be granted a permit under this title, the employee ~~((shall))~~ must issue to the

applicant under such regulations and at such fee as may be prescribed by the board a permit of the class applied for, as follows:

(1) Where the application is for a special permit by a physician or dentist, or by any person in charge of an institution regularly conducted as a hospital or sanatorium for the care of persons in ill health, or as a home devoted exclusively to the care of aged people, a special liquor purchase permit, except that the governor may waive the requirement for a special liquor purchase permit under this subsection pursuant to an order issued under RCW 43.06.220(2);

(2) Where the application is for a special permit by a person engaged within the state in mechanical or manufacturing business or in scientific pursuits requiring alcohol for use therein, or by any private individual, a special permit to purchase alcohol for the purpose named in the permit, except that the governor may waive the requirement for a special liquor purchase permit under this subsection pursuant to an order issued under RCW 43.06.220(2);

(3) Where the application is for a special permit to consume liquor at a banquet, at a specified date and place, a special permit to purchase liquor for consumption at such banquet, to such applicants as may be fixed by the board;

(4) Where the application is for a special permit to consume liquor on the premises of a business not licensed under this title, a special permit to purchase liquor for consumption thereon for such periods of time and to such applicants as may be fixed by the board;

(5) Where the application is for a special permit by a manufacturer to import or purchase within the state alcohol, malt, and other materials containing alcohol to be used in the manufacture of liquor, or other products, a special permit;

(6) Where the application is for a special permit by a person operating a drug store to purchase liquor at retail prices only, to be thereafter sold by such person on the prescription of a physician, a special liquor purchase permit, except that the governor may waive the requirement for a special liquor purchase permit under this subsection pursuant to an order issued under RCW 43.06.220(2);

(7) Where the application is for a special permit by an authorized representative of a military installation operated by or for any of the armed forces within the geographical boundaries of the state of Washington, a special permit to purchase liquor for use on such military installation (~~at prices to be fixed by the board~~);

(8) Where the application is for a special permit by a vendor that manufactures or sells a product which cannot be effectively presented to potential buyers without serving it with liquor or by a manufacturer, importer, or distributor, or representative thereof, to serve liquor without charge to delegates and guests at a convention of a trade association composed of licensees of the board, when the said liquor is served in a hospitality room or from a booth in a board-approved suppliers' display room at the convention, and when the liquor so served is for consumption in the said hospitality room or display room during the convention, anything in this title (~~66—RCW~~) to the contrary notwithstanding. Any such spirituous liquor (~~shall~~) must be purchased from (~~the board or a spirits, beer, and wine restaurant licensee~~) a spirits retailer or distributor, and any such (~~beer and wine shall be~~) liquor is subject to the taxes imposed by RCW 66.24.290 and 66.24.210;

(9) Where the application is for a special permit by a manufacturer, importer, or distributor, or representative thereof, to donate liquor for a reception, breakfast, luncheon, or dinner for delegates and guests at a convention of a trade association composed of licensees of the board, when the liquor so donated is for consumption at the said reception, breakfast, luncheon, or dinner during the convention, anything in this title (~~((66-RCW))~~) to the contrary notwithstanding. Any such spirituous liquor (~~((shall))~~) must be purchased from (~~((the board or a spirits, beer, and wine restaurant licensee))~~) a spirits retailer or distributor, and any such (~~((beer and wine shall be))~~) liquor is subject to the taxes imposed by RCW 66.24.290 and 66.24.210;

(10) Where the application is for a special permit by a manufacturer, importer, or distributor, or representative thereof, to donate and/or serve liquor without charge to delegates and guests at an international trade fair, show, or exposition held under the auspices of a federal, state, or local governmental entity or organized and promoted by a nonprofit organization, anything in this title (~~((66-RCW))~~) to the contrary notwithstanding. Any such spirituous liquor (~~((shall))~~) must be purchased from (~~((the board))~~) a liquor spirits retailer or distributor, and any such (~~((beer or wine shall be))~~) liquor is subject to the taxes imposed by RCW 66.24.290 and 66.24.210;

(11) Where the application is for an annual special permit by a person operating a bed and breakfast lodging facility to donate or serve wine or beer without charge to overnight guests of the facility if the wine or beer is for consumption on the premises of the facility. "Bed and breakfast lodging facility," as used in this subsection, means a facility offering from one to eight lodging units and breakfast to travelers and guests.

**Sec. 110.** RCW 66.20.160 and 2005 c 151 s 8 are each amended to read as follows:

~~((Words and phrases))~~ As used in RCW 66.20.160 (~~((to))~~) through 66.20.210, inclusive, (~~((shall have the following meaning:~~

~~"Card of identification" means any one of those cards described in RCW 66.16.040.))~~

"licensee" means the holder of a retail liquor license issued by the board, and includes any employee or agent of the licensee.

~~((("Store employee" means a person employed in a state liquor store to sell liquor.))~~

**Sec. 111.** RCW 66.24.310 and 2011 c 119 s 301 are each amended to read as follows:

(1)(a) Except as provided in (b) of this subsection, no person (~~((shall))~~) may canvass for, solicit, receive, or take orders for the purchase or sale of liquor, nor contact any licensees of the board in goodwill activities, unless (~~((such person shall be the accredited representative of a person, firm, or corporation holding a certificate of approval issued pursuant to RCW 66.24.270 or 66.24.206, a beer distributor's license, a microbrewer's license, a domestic brewer's license, a beer importer's license, a domestic winery license, a wine importer's license, or a wine distributor's license within the state of Washington, or the accredited representative of a distiller, manufacturer, importer, or distributor of spirituous liquor, or foreign produced beer or wine, and shall have))~~) the person is the representative of a licensee or certificate holder authorized by this title to sell

liquor for resale in the state and has applied for and received a representative's license.

(b) (a) of this subsection (~~((shall))~~) does not apply to: (i) Drivers who deliver spirits, beer, or wine; or (ii) domestic wineries or their employees.

(2) Every representative's license issued under this title (~~((shall be))~~) is subject to all conditions and restrictions imposed by this title or by the rules and regulations of the board; the board, for the purpose of maintaining an orderly market, may limit the number of representative's licenses issued for representation of specific classes of eligible employers.

(3) Every application for a representative's license must be approved by a holder of a certificate of approval (~~((issued pursuant to RCW 66.24.270 or 66.24.206))~~), a licensed beer distributor, a licensed domestic brewer, a licensed beer importer, a licensed microbrewer, a licensed domestic winery, a licensed wine importer, a licensed wine distributor, or by a distiller, manufacturer, importer, or distributor of (~~((spirituous liquor))~~) spirits, or of foreign-produced beer or wine, as required by the rules and regulations of the board (~~((shall require))~~).

(4) The fee for a representative's license (~~((shall be))~~) is twenty-five dollars per year.

~~((5) An accredited representative of a distiller, manufacturer, importer, or distributor of spirituous liquor may, after he or she has applied for and received a representative's license, contact retail licensees of the board only in goodwill activities pertaining to spirituous liquor products.))~~

**Sec. 112.** RCW 66.24.380 and 2005 c 151 s 10 are each amended to read as follows:

There (~~((shall be))~~) is a retailer's license to be designated as a special occasion license to be issued to a not-for-profit society or organization to sell spirits, beer, and wine by the individual serving for on-premises consumption at a specified event, such as at picnics or other special occasions, at a specified date and place; fee sixty dollars per day.

(1) The not-for-profit society or organization is limited to sales of no more than twelve calendar days per year. For the purposes of this subsection, special occasion licensees that are "agricultural area fairs" or "agricultural county, district, and area fairs," as defined by RCW 15.76.120, that receive a special occasion license may, once per calendar year, count as one event fairs that last multiple days, so long as alcohol sales are at set dates, times, and locations, and the board receives prior notification of the dates, times, and locations. The special occasion license applicant will pay the sixty dollars per day for this event.

(2) The licensee may sell spirits, beer, and/or wine in original, unopened containers for off-premises consumption if permission is obtained from the board prior to the event.

(3) Sale, service, and consumption of spirits, beer, and wine is to be confined to specified premises or designated areas only.

(4) (~~((Spirituous))~~) Liquor sold under this special occasion license must be purchased ((at a state liquor store or contract liquor store without discount at retail prices, including all taxes)) from a licensee of the board.

(5) Any violation of this section is a class 1 civil infraction having a maximum penalty of two hundred fifty dollars as provided for in chapter 7.80 RCW.

**Sec. 113.** RCW 66.28.030 and 2004 c 160 s 10 are each amended to read as follows:

Every domestic distillery, brewery, and microbrewery, domestic winery, certificate of approval holder, licensed liquor importer, licensed wine importer, and licensed beer importer (~~((shall be))~~) is responsible for the conduct of any licensed spirits, beer, or wine distributor in selling, or contracting to sell, to retail licensees, spirits, beer, or wine manufactured by such domestic distillery, brewery, microbrewery, domestic winery, manufacturer holding a certificate of approval, sold by an authorized representative holding a certificate of approval, or imported by such liquor, beer, or wine importer. Where the board finds that any licensed spirits, beer, or wine distributor has violated any of the provisions of this title or of the regulations of the board in selling or contracting to sell spirits, beer, or wine to retail licensees, the board may, in addition to any punishment inflicted or imposed upon such distributor, prohibit the sale of the brand or brands of spirits, beer, or wine involved in such violation to any or all retail licensees within the trade territory usually served by such distributor for such period of time as the board may fix, irrespective of whether the distiller manufacturing such spirits or the liquor importer importing such spirits, brewer manufacturing such beer or the beer importer importing such beer, or the domestic winery manufacturing such wine or the wine importer importing such wine or the certificate of approval holder manufacturing such spirits, beer, or wine or acting as authorized representative actually participated in such violation.

**Sec. 114.** RCW 66.24.540 and 1999 c 129 s 1 are each amended to read as follows:

(1) There (~~((shall be))~~) is a retailer's license to be designated as a motel license. The motel license may be issued to a motel regardless of whether it holds any other class of license under this title. No license may be issued to a motel offering rooms to its guests on an hourly basis. The license authorizes the licensee to:

(~~((1))~~) (a) Sell, at retail, in locked honor bars, spirits in individual bottles not to exceed fifty milliliters, beer in individual cans or bottles not to exceed twelve ounces, and wine in individual bottles not to exceed one hundred eighty-seven milliliters, to registered guests of the motel for consumption in guest rooms.

(~~((a))~~) (i) Each honor bar must also contain snack foods. No more than one-half of the guest rooms may have honor bars.

(~~((b))~~) (ii) All spirits to be sold under the license must be purchased from a spirits retailer or a spirits distributor licensee of the board.

(~~((c))~~) (iii) The licensee (~~((shall))~~) must require proof of age from the guest renting a guest room and requesting the use of an honor bar. The guest (~~((shall))~~) must also execute an affidavit verifying that no one under twenty-one years of age (~~((shall have))~~) has access to the spirits, beer, and wine in the honor bar.

(~~((2))~~) (b) Provide without additional charge, to overnight guests of the motel, spirits, beer, and wine by the individual serving for on-premises consumption at a specified regular date, time, and place as may be fixed by the

board. Self-service by attendees is prohibited. All spirits, beer, and wine service must be done by an alcohol server as defined in RCW 66.20.300 and comply with RCW 66.20.310.

(2) The annual fee for a motel license is five hundred dollars.

(3) For the purposes of this section, "motel" ~~((as used in this section))~~ means a transient accommodation licensed under chapter 70.62 RCW.

~~((As used in this section, "spirits," "beer," and "wine" have the meanings defined in RCW 66.04.010.))~~

**Sec. 115.** RCW 66.24.590 and 2011 c 119 s 403 are each amended to read as follows:

(1) There ~~((shall be))~~ is a retailer's license to be designated as a hotel license. No license may be issued to a hotel offering rooms to its guests on an hourly basis. Food service provided for room service, banquets or conferences, or restaurant operation under this license ~~((shall))~~ must meet the requirements of rules adopted by the board.

(2) The hotel license authorizes the licensee to:

(a) Sell spirituous liquor, beer, and wine, by the individual glass, at retail, for consumption on the premises, including mixed drinks and cocktails compounded and mixed on the premises;

(b) Sell, at retail, from locked honor bars, in individual units, spirits not to exceed fifty milliliters, beer in individual units not to exceed twelve ounces, and wine in individual bottles not to exceed three hundred eighty-five milliliters, to registered guests of the hotel for consumption in guest rooms. The licensee ~~((shall))~~ must require proof of age from the guest renting a guest room and requesting the use of an honor bar. The guest ~~((shall))~~ must also execute an affidavit verifying that no one under twenty-one years of age ~~((shall))~~ will have access to the spirits, beer, and wine in the honor bar;

(c) Provide without additional charge, to overnight guests, spirits, beer, and wine by the individual serving for on-premises consumption at a specified regular date, time, and place as may be fixed by the board. Self-service by attendees is prohibited;

(d) Sell beer, including strong beer, wine, or spirits, in the manufacturer's sealed container or by the individual drink to guests through room service, or through service to occupants of private residential units which are part of the buildings or complex of buildings that include the hotel;

(e) Sell beer, including strong beer, spirits, or wine, in the manufacturer's sealed container at retail sales locations within the hotel premises;

(f) Sell beer to a purchaser in a sanitary container brought to the premises by the purchaser or furnished by the licensee and filled at the tap in the restaurant area by the licensee at the time of sale;

(g) Sell for on or off-premises consumption, including through room service and service to occupants of private residential units managed by the hotel, wine carrying a label exclusive to the hotel license holder;

(h) Place in guest rooms at check-in, a complimentary bottle of ~~((beer, including strong beer, or wine))~~ liquor in a manufacturer-sealed container, and make a reference to this service in promotional material.

(3) If all or any facilities for alcoholic beverage service and the preparation, cooking, and serving of food are operated under contract or joint venture agreement, the operator may hold a license separate from the license held by the

operator of the hotel. Food and beverage inventory used in separate licensed operations at the hotel may not be shared and ~~((shall))~~ must be separately owned and stored by the separate licensees.

(4) All spirits to be sold under this license must be purchased from a spirits retailer or spirits distributor licensee of the board.

(5) All on-premise alcoholic beverage service must be done by an alcohol server as defined in RCW 66.20.300 and must comply with RCW 66.20.310.

(6)(a) The hotel license allows the licensee to remove from the liquor stocks at the licensed premises, liquor for sale and service at event locations at a specified date and place not currently licensed by the board. If the event is open to the public, it must be sponsored by a society or organization as defined by RCW 66.24.375. If attendance at the event is limited to members or invited guests of the sponsoring individual, society, or organization, the requirement that the sponsor must be a society or organization as defined by RCW 66.24.375 is waived.

(b) The holder of this license ~~((shall))~~ must, if requested by the board, notify the board or its designee of the date, time, place, and location of any event. Upon request, the licensee ~~((shall))~~ must provide to the board all necessary or requested information concerning the society or organization that will be holding the function at which the endorsed license will be utilized.

(c) Licensees may cater events on a domestic winery, brewery, or distillery premises.

(7) The holder of this license or its manager may furnish spirits, beer, or wine to the licensee's employees who are twenty-one years of age or older free of charge as may be required for use in connection with instruction on spirits, beer, and wine. The instruction may include the history, nature, values, and characteristics of spirits, beer, or wine, the use of wine lists, and the methods of presenting, serving, storing, and handling spirits, beer, or wine. The licensee must use the ~~((beer or wine))~~ liquor it obtains under its license for the sampling as part of the instruction. The instruction must be given on the premises of the licensee.

(8) Minors may be allowed in all areas of the hotel where ~~((alcohol))~~ liquor may be consumed; however, the consumption must be incidental to the primary use of the area. These areas include, but are not limited to, tennis courts, hotel lobbies, and swimming pool areas. If an area is not a mixed use area, and is primarily used for alcohol service, the area must be designated and restricted to access by ~~((minors))~~ persons of lawful age to purchase liquor.

(9) The annual fee for this license is two thousand dollars.

(10) As used in this section, "hotel," "spirits," "beer," and "wine" have the meanings defined in RCW 66.24.410 and 66.04.010.

**Sec. 116.** RCW 66.28.040 and 2011 c 186 s 4, 2011 c 119 s 207, and 2011 c 62 s 4 are each reenacted and amended to read as follows:

Except as permitted by the board under RCW 66.20.010, no domestic brewery, microbrewery, distributor, distiller, domestic winery, importer, rectifier, certificate of approval holder, or other manufacturer of liquor ~~((shall))~~ may, within the state of Washington, give to any person any liquor; but nothing in this section nor in RCW 66.28.305 prevents a domestic brewery, microbrewery, distributor, domestic winery, distiller, certificate of approval holder, or importer from furnishing samples of beer, wine, or spirituous liquor to authorized

licensees for the purpose of negotiating a sale, in accordance with regulations adopted by the liquor control board, provided that the samples are subject to taxes imposed by RCW 66.24.290 and 66.24.210~~((, and in the case of spirituous liquor, any product used for samples must be purchased at retail from the board; nothing in this section shall prevent the furnishing of samples of liquor to the board for the purpose of negotiating the sale of liquor to the state liquor control board))~~; nothing in this section ~~((shall))~~ prevents a domestic brewery, microbrewery, domestic winery, distillery, certificate of approval holder, or distributor from furnishing beer, wine, or spirituous liquor for instructional purposes under RCW 66.28.150; nothing in this section ~~((shall))~~ prevents a domestic winery, certificate of approval holder, or distributor from furnishing wine without charge, subject to the taxes imposed by RCW 66.24.210, to a not-for-profit group organized and operated solely for the purpose of enology or the study of viticulture which has been in existence for at least six months and that uses wine so furnished solely for such educational purposes or a domestic winery, or an out-of-state certificate of approval holder, from furnishing wine without charge or a domestic brewery, or an out-of-state certificate of approval holder, from furnishing beer without charge, subject to the taxes imposed by RCW 66.24.210 or 66.24.290, or a domestic distiller licensed under RCW 66.24.140 or an accredited representative of a distiller, manufacturer, importer, or distributor of spirituous liquor licensed under RCW 66.24.310, from furnishing spirits without charge, to a nonprofit charitable corporation or association exempt from taxation under ~~((section))~~ 26 U.S.C. Sec. 501(c)(3) or (6) of the internal revenue code of 1986 ~~((26 U.S.C. Sec. 501(c)(3) or (6)))~~ for use consistent with the purpose or purposes entitling it to such exemption; nothing in this section ~~((shall))~~ prevents a domestic brewery or microbrewery from serving beer without charge, on the brewery premises; nothing in this section ~~((shall))~~ prevents donations of wine for the purposes of RCW 66.12.180; nothing in this section ~~((shall))~~ prevents a domestic winery from serving wine without charge, on the winery premises; nothing in this section ~~((shall))~~ prevents a craft distillery from serving spirits without charge, on the distillery premises subject to RCW 66.24.145; nothing in this section prohibits spirits sampling under chapter 186, Laws of 2011; and nothing in this section ~~((shall))~~ prevents a winery or microbrewery from serving samples at a farmers market under section 1, chapter 62, Laws of 2011.

**Sec. 117.** RCW 66.28.060 and 2008 c 94 s 7 are each amended to read as follows:

Every distillery licensed under this title ~~((shall))~~ must make monthly reports to the board pursuant to the regulations. ~~((No such distillery shall make any sale of spirits within the state of Washington except to the board and as provided in RCW 66.24.145.))~~

**Sec. 118.** RCW 66.28.070 and 2006 c 302 s 8 are each amended to read as follows:

(1) Except as provided in subsection (2) of this section, it ~~((shall be))~~ is unlawful for any retail spirits, beer, or wine licensee to purchase spirits, beer, or wine, except from a duly licensed distributor, domestic winery, domestic brewer, or certificate of approval holder with a direct shipment endorsement~~((, or the board))~~.

(2)(a) A spirits, beer, or wine retailer (~~((licensee))~~) may purchase spirits, beer, or wine;

(i) From a government agency (~~((which))~~) that has lawfully seized (~~((beer or wine from))~~) liquor possessed by a licensed (~~((beer))~~) distributor or (~~((wine))~~) retailer(~~((or))~~);

(ii) From a board-authorized (~~((retailer))~~) manufacturer or certificate holder authorized by this title to act as a distributor of liquor(~~((or))~~);

(iii) From a licensed retailer which has discontinued business if the distributor has refused to accept spirits, beer, or wine from that retailer for return and refund(~~((Beer and wine))~~);

(iv) From a retailer whose license or license endorsement permits resale to a retailer of wine and/or spirits for consumption on the premises, if the purchasing retailer is authorized to sell such wine and/or spirits.

(b) Goods purchased under this subsection (~~((shall))~~) (2) must meet the quality standards set by (~~((its))~~) the manufacturer of the goods.

(3) Special occasion licensees holding a special occasion license may only purchase spirits, beer, or wine from a spirits, beer, or wine retailer duly licensed to sell spirits, beer, or wine for off-premises consumption, (~~((the board,))~~) or from a duly licensed spirits, beer, or wine distributor.

**Sec. 119.** RCW 66.28.170 and 2004 c 160 s 17 are each amended to read as follows:

It is unlawful for a manufacturer of spirits, wine, or malt beverages holding a certificate of approval (~~((issued under RCW 66.24.270 or 66.24.206))~~) or the manufacturer's authorized representative, a distillery, brewery, or a domestic winery to discriminate in price in selling to any purchaser for resale in the state of Washington. Price differentials for sales of spirits or wine based upon competitive conditions, costs of servicing a purchaser's account, efficiencies in handling goods, or other bona fide business factors, to the extent the differentials are not unlawful under trade regulation laws applicable to goods of all kinds, do not violate this section.

**NEW SECTION. Sec. 120.** A new section is added to chapter 66.28 RCW to read as follows:

(1) No price for spirits sold in the state by a distributor or other licensee acting as a distributor pursuant to this title may be below acquisition cost unless the item sold below acquisition cost has been stocked by the seller for a period of at least six months. The seller may not restock the item for a period of one year following the first effective date of such below cost price.

(2) Spirits sold to retailers for resale for consumption on or off the licensed premises may be delivered to the retailer's licensed premises, to a location specified by the retailer and approved for deliveries by the board, or to a carrier engaged by either party to the transaction.

(3) In selling spirits to another retailer, to the extent consistent with the purposes of this act, a spirits retail licensee must comply with all provisions of and regulations under this title applicable to wholesale distributors selling spirits to retailers.

(4) A distiller holding a license or certificate of compliance as a distiller under this title may act as distributor in the state of spirits of its own production or of foreign-produced spirits it is entitled to import. The distiller must, to the

extent consistent with the purposes of this act, comply with all provisions of and regulations under this title applicable to wholesale distributors selling spirits to retailers.

(5) With respect to any alleged violation of this title by sale of spirits at a discounted price, all defenses under applicable trade regulation laws are available, including without limitation good faith meeting of a competitor's lawful price and absence of harm to competition.

(6) Notwithstanding any other provision of law, no licensee may import, purchase, distribute, or accept delivery of any wine that is produced outside of the United States or any distilled spirits without the written consent of the brand owner or its authorized agent.

**Sec. 121.** RCW 66.28.180 and 2009 c 506 s 10 are each amended to read as follows:

(1) Beer and/or wine distributors.

(a) Every beer ~~((or wine))~~ distributor ~~((shall))~~ must maintain at its liquor-licensed location a price list showing the wholesale prices at which any and all brands of beer ~~((and wine))~~ sold by ~~((such beer and/or wine))~~ the distributor ~~((shall be))~~ are sold to retailers within the state.

(b) Each price list ~~((shall))~~ must set forth:

(i) All brands, types, packages, and containers of beer ~~((or wine))~~ offered for sale by ~~((such beer and/or wine))~~ the distributor; and

(ii) The wholesale prices thereof to retail licensees, including allowances, if any, for returned empty containers.

(c) No beer ~~((and/or wine))~~ distributor may sell or offer to sell any package or container of beer ~~((or wine))~~ to any retail licensee at a price differing from the price for such package or container as shown in the price list, according to rules adopted by the board.

(d) Quantity discounts of sales prices of beer are prohibited. No distributor's sale price of beer may be below the distributor's acquisition cost.

(e) Distributor prices below acquisition cost on a "close-out" item ~~((shall be))~~ are allowed if the item to be discontinued has been listed for a period of at least six months, and upon the further condition that the distributor who offers such a close-out price ~~((shall))~~ may not restock the item for a period of one year following the first effective date of such close-out price.

(f) Any beer ~~((and/or wine))~~ distributor ~~((or employee authorized by the distributor employer))~~ may sell beer ~~((and/or wine))~~ at the distributor's listed prices to any annual or special occasion retail licensee upon presentation to the distributor ~~((or employee))~~ at the time of purchase or delivery of an original or facsimile license or a special permit issued by the board to such licensee.

(g) Every annual or special occasion retail licensee, upon purchasing any beer ~~((and/or wine))~~ from a distributor, ~~((shall))~~ must immediately cause such beer ~~((or wine))~~ to be delivered to the licensed premises, and the licensee ~~((shall))~~ may not thereafter permit such beer to be disposed of in any manner except as authorized by the license.

(h) Beer ~~((and wine))~~ sold as provided in this section ~~((shall))~~ must be delivered by the distributor or an authorized employee either to the retailer's licensed premises or directly to the retailer at the distributor's licensed premises. When a ~~((domestic winery,))~~ brewery, microbrewery, or certificate of approval holder with a direct shipping endorsement is acting as a distributor of beer of its

own production, a licensed retailer may contract with a common carrier to obtain the ~~((product))~~ beer directly from the ~~((domestic winery,))~~ brewery, microbrewery, or certificate of approval holder with a direct shipping endorsement. A distributor's prices to retail licensees ~~((shall))~~ for beer must be the same at both such places of delivery. Wine sold to retailers must be delivered to the retailer's licensed premises, to a location specified by the retailer and approved for deliveries by the board, or to a carrier engaged by either party to the transaction.

(2) Beer ~~((and wine))~~ suppliers' contracts and memoranda.

(a) Every domestic brewery, microbrewery, ~~((domestic winery,))~~ certificate of approval holder, and beer and/or wine importer offering beer ~~((and/or wine))~~ for sale to distributors within the state and any beer ~~((and/or wine))~~ distributor who sells to other beer ~~((and/or wine))~~ distributors ~~((shall))~~ must maintain at its liquor-licensed location a beer price list and a copy of every written contract and a memorandum of every oral agreement which such brewery ~~((or winery))~~ may have with any beer ~~((or wine))~~ distributor for the supply of beer, which contracts or memoranda ~~((shall))~~ must contain:

(i) All advertising, sales and trade allowances, and incentive programs; and

(ii) All commissions, bonuses or gifts, and any and all other discounts or allowances.

(b) Whenever changed or modified, such revised contracts or memoranda ~~((shall))~~ must also be maintained at its liquor licensed location.

(c) Each price list ~~((shall))~~ must set forth all brands, types, packages, and containers of beer ~~((or wine))~~ offered for sale by such ~~((licensed brewery or winery))~~ supplier.

(d) Prices of a domestic brewery, microbrewery, ~~((domestic winery,))~~ or certificate of approval holder ~~((shall))~~ for beer must be uniform prices to all distributors or retailers on a statewide basis less bona fide allowances for freight differentials. Quantity discounts of suppliers' prices for beer are prohibited. No price ~~((shall))~~ may be below the supplier's acquisition<sup>(4)</sup> or production cost.

(e) A domestic brewery, microbrewery, ~~((domestic winery,))~~ certificate of approval holder, ~~((beer or wine))~~ importer, or ~~((beer or wine))~~ distributor acting as a supplier to another distributor must file ~~((a distributor appointment))~~ with the board a list of all distributor licensees of the board to which it sells or offers to sell beer.

(f) No domestic brewery, microbrewery, ~~((domestic winery,))~~ or certificate of approval holder may sell or offer to sell any package or container of beer ~~((or wine))~~ to any distributor at a price differing from the price list for such package or container as shown in the price list of the domestic brewery, microbrewery, ~~((domestic winery,))~~ or certificate of approval holder and then in effect, according to rules adopted by the board.

(3) In selling wine to another retailer, to the extent consistent with the purposes of this act, a grocery store licensee with a reseller endorsement must comply with all provisions of and regulations under this title applicable to wholesale distributors selling wine to retailers.

(4) With respect to any alleged violation of this title by sale of wine at a discounted price, all defenses under applicable trade regulation laws are available including, without limitation, good faith meeting of a competitor's lawful price and absence of harm to competition.

**Sec. 122.** RCW 66.28.190 and 2003 c 168 s 305 are each amended to read as follows:

~~((RCW 66.28.010))~~ (1) Any other provision of this title notwithstanding, persons licensed under ~~((RCW 66.24.200 as wine distributors and persons licensed under RCW 66.24.250 as beer distributors))~~ this title to sell liquor for resale may sell at wholesale nonliquor food and food ingredients on thirty-day credit terms to persons licensed as retailers under this title, but complete and separate accounting records ~~((shall))~~ must be maintained on all sales of nonliquor food and food ingredients to ensure that such persons are in compliance with ~~((RCW 66.28.010))~~ this title.

(2) For the purpose of this section, "nonliquor food and food ingredients" includes, without limitation, all food and food ingredients for human consumption as defined in RCW 82.08.0293 as it ~~((exists))~~ existed on July 1, 2004.

**NEW SECTION. Sec. 123.** A new section is added to chapter 66.28 RCW to read as follows:

A retailer authorized to sell wine may accept delivery of wine at its licensed premises or at one or more warehouse facilities registered with the board, which facilities may also warehouse and distribute nonliquor items, and from which it may deliver to its own licensed premises and, pursuant to sales permitted by this title, to other licensed retailers, to other registered facilities, or to lawful purchasers outside the state; such facilities may be registered and utilized by associations, cooperatives, or comparable groups of retailers including at least one retailer licensed to sell wine. A restaurant retailer authorized to sell spirits may accept delivery of spirits at its licensed premises or at one or more warehouse facilities registered with the board, which facilities may also warehouse and distribute nonliquor items, from which it may deliver to its own licensed premises and, pursuant to sales permitted by this title, to other licensed retailers, to other registered facilities, or to lawful purchasers outside the state; such facilities may be registered and utilized by associations, cooperatives, or comparable groups of retailers including at least one restaurant retailer licensed to sell spirits. Nothing in this section authorizes sales of spirits or wine by a retailer holding only an on-sale privilege to another retailer.

**Sec. 124.** RCW 66.28.280 and 2009 c 506 s 1 are each amended to read as follows:

~~((The legislature recognizes that Washington's current three-tier system, where the functions of manufacturing, distributing, and retailing are distinct and the financial relationships and business transactions between entities in these tiers are regulated, is a valuable system for the distribution of beer and wine.))~~ The legislature ~~((further))~~ recognizes that the historical total prohibition on ownership of an interest in one tier by a person with an ownership interest in another tier, as well as the historical restriction on financial incentives and business relationships between tiers, is unduly restrictive. The legislature finds the ~~((modifications contained in chapter 506, Laws of 2009 are appropriate, because the modifications))~~ provisions of RCW 66.28.285 through 66.28.320 appropriate for all varieties of liquor, because they do not impermissibly interfere with ~~((the goals of orderly marketing of alcohol in the state, encouraging moderation in consumption of alcohol by the citizens of the state.))~~

protecting the public interest and advancing public safety by preventing the use and consumption of alcohol by minors and other abusive consumption, and promoting the efficient collection of taxes by the state.

**NEW SECTION. Sec. 125.** A new section is added to chapter 66.04 RCW to read as follows:

In this title, unless the context otherwise requires:

(1) "Retailer" except as expressly defined by RCW 66.28.285(5) with respect to its use in RCW 6.28.280 through 66.28.315, means the holder of a license or permit issued by the board authorizing sale of liquor to consumers for consumption on and/or off the premises. With respect to retailer licenses, "on-sale" refers to the license privilege of selling for consumption upon the licensed premises.

(2) "Spirits distributor" means a person, other than a person who holds only a retail license, who buys spirits from a domestic distiller, manufacturer, supplier, spirits distributor, or spirits importer, or who acquires foreign-produced spirits from a source outside of the United States, for the purpose of reselling the same not in violation of this title, or who represents such distiller as agent.

(3) "Spirits importer" means a person who buys distilled spirits from a distiller outside the state of Washington and imports such spirits into the state for sale or export.

## PART II LIQUOR CONTROL BOARD—DISCONTINUING RETAIL SALES— TECHNICAL CHANGES

**Sec. 201.** RCW 43.19.19054 and 1975-'76 2nd ex.s. c 21 s 7 are each amended to read as follows:

The provisions of RCW 43.19.1905 (~~((shall))~~) do not apply to materials, supplies, and equipment purchased for resale to other than public agencies by state agencies, including educational institutions. (~~((In addition, RCW 43.19.1905 shall not apply to liquor purchased by the state for resale under the provisions of Title 66 RCW.))~~)

**Sec. 202.** RCW 66.08.020 and 1933 ex.s. c 62 s 5 are each amended to read as follows:

The administration of this title (~~((including the general control, management and supervision of all liquor stores, shall be))~~) is vested in the liquor control board, constituted under this title.

**Sec. 203.** RCW 66.08.026 and 2008 c 67 s 1 are each amended to read as follows:

Administrative expenses of the board (~~((shall))~~) must be appropriated and paid from the liquor revolving fund. These administrative expenses (~~((shall))~~) include, but not be limited to: The salaries and expenses of the board and its employees, (~~((the cost of opening additional state liquor stores and warehouses.))~~) legal services, pilot projects, annual or other audits, and other general costs of conducting the business of the board. The administrative expenses (~~((shall))~~) do not include (~~((costs of liquor and lottery tickets purchased, the cost of transportation and delivery to the point of distribution, the cost of operating, maintaining, relocating, and leasing state liquor stores and warehouses, other~~

~~costs pertaining to the acquisition and receipt of liquor and lottery tickets; agency commissions for contract liquor stores, transaction fees associated with credit or debit card purchases for liquor in state liquor stores and in contract liquor stores pursuant to RCW 66.16.040 and 66.16.041, sales tax, and)) those amounts distributed pursuant to RCW 66.08.180, 66.08.190, 66.08.200, or 66.08.210 ((and 66.08.220)). Agency commissions for contract liquor stores ((shall)) must be established by the liquor control board after consultation with and approval by the director of the office of financial management. All expenditures and payment of obligations authorized by this section are subject to the allotment requirements of chapter 43.88 RCW.~~

**Sec. 204.** RCW 66.08.030 and 2002 c 119 s 2 are each amended to read as follows:

~~((1) For the purpose of carrying into effect the provisions of this title according to their true intent or of supplying any deficiency therein, the board may make such regulations not inconsistent with the spirit of this title as are deemed necessary or advisable. All regulations so made shall be a public record and shall be filed in the office of the code reviser, and thereupon shall have the same force and effect as if incorporated in this title. Such regulations, together with a copy of this title, shall be published in pamphlets and shall be distributed as directed by the board.~~

~~(2) Without thereby limiting the generality of the provisions contained in subsection (1), it is declared that)) The power of the board to make regulations ((in the manner set out in that subsection shall)) under chapter 34.05 RCW extends to~~

~~((a) regulating the equipment and management of stores and warehouses in which state liquor is sold or kept, and prescribing the books and records to be kept therein and the reports to be made thereon to the board;~~

~~((b)))~~;

~~(1) Prescribing the duties of the employees of the board, and regulating their conduct in the discharge of their duties;~~

~~((c) governing the purchase of liquor by the state and the furnishing of liquor to stores established under this title;~~

~~(d) determining the classes, varieties, and brands of liquor to be kept for sale at any store;~~

~~(e) prescribing, subject to RCW 66.16.080, the hours during which the state liquor stores shall be kept open for the sale of liquor;~~

~~(f) providing for the issuing and distributing of price lists showing the price to be paid by purchasers for each variety of liquor kept for sale under this title;~~

~~((g)) (2) Prescribing an official seal and official labels and stamps and determining the manner in which they ((shall)) must be attached to every package of liquor sold or sealed under this title, including the prescribing of different official seals or different official labels for different classes of liquor;~~

~~((h) providing for the payment by the board in whole or in part of the carrying charges on liquor shipped by freight or express;~~

~~((i)) (3) Prescribing forms to be used for purposes of this title or the regulations, and the terms and conditions to be contained in permits and licenses issued under this title, and the qualifications for receiving a permit or license issued under this title, including a criminal history record information check. The board may submit the criminal history record information check to the~~

Washington state patrol and to the identification division of the federal bureau of investigation in order that these agencies may search their records for prior arrests and convictions of the individual or individuals who filled out the forms. The board ~~((shall))~~ must require fingerprinting of any applicant whose criminal history record information check is submitted to the federal bureau of investigation;

~~((+))~~ (4) Prescribing the fees payable in respect of permits and licenses issued under this title for which no fees are prescribed in this title, and prescribing the fees for anything done or permitted to be done under the regulations;

~~((+))~~ (5) Prescribing the kinds and quantities of liquor which may be kept on hand by the holder of a special permit for the purposes named in the permit, regulating the manner in which the same ~~((shall be))~~ is kept and disposed of, and providing for the inspection of the same at any time at the instance of the board;

~~((+))~~ (6) Regulating the sale of liquor kept by the holders of licenses which entitle the holder to purchase and keep liquor for sale;

~~((+))~~ (7) Prescribing the records of purchases or sales of liquor kept by the holders of licenses, and the reports to be made thereon to the board, and providing for inspection of the records so kept;

~~((+))~~ (8) Prescribing the kinds and quantities of liquor for which a prescription may be given, and the number of prescriptions which may be given to the same patient within a stated period;

~~((+))~~ (9) Prescribing the manner of giving and serving notices required by this title or the regulations, where not otherwise provided for in this title;

~~((+))~~ (10) Regulating premises in which liquor is kept for export from the state, or from which liquor is exported, prescribing the books and records to be kept therein and the reports to be made thereon to the board, and providing for the inspection of the premises and the books, records and the liquor so kept;

~~((+))~~ (11) Prescribing the conditions and qualifications requisite for the obtaining of club licenses and the books and records to be kept and the returns to be made by clubs, prescribing the manner of licensing clubs in any municipality or other locality, and providing for the inspection of clubs;

~~((+))~~ (12) Prescribing the conditions, accommodations, and qualifications requisite for the obtaining of licenses to sell beer ~~((and))~~, wines, and spirits, and regulating the sale of beer ~~((and))~~, wines, and spirits thereunder;

~~((+))~~ (13) Specifying and regulating the time and periods when, and the manner, methods and means by which manufacturers ~~((shall))~~ must deliver liquor within the state; and the time and periods when, and the manner, methods and means by which liquor may lawfully be conveyed or carried within the state;

~~((+))~~ (14) Providing for the making of returns by brewers of their sales of beer shipped within the state, or from the state, showing the gross amount of such sales and providing for the inspection of brewers' books and records, and for the checking of the accuracy of any such returns;

~~((+))~~ (15) Providing for the making of returns by the wholesalers of beer whose breweries are located beyond the boundaries of the state;

~~((+))~~ (16) Providing for the making of returns by any other liquor manufacturers, showing the gross amount of liquor produced or purchased, the amount sold within and exported from the state, and to whom so sold or

exported, and providing for the inspection of the premises of any such liquor manufacturers, their books and records, and for the checking of any such return;

~~((w))~~ (17) Providing for the giving of fidelity bonds by any or all of the employees of the board ~~((:—PROVIDED, That))~~. However, the premiums therefor ~~((shall))~~ must be paid by the board;

~~((x))~~ (18) Providing for the shipment ~~((by mail or common carrier))~~ of liquor to any person holding a permit and residing in any unit which has, by election pursuant to this title, prohibited the sale of liquor therein;

~~((y))~~ (19) Prescribing methods of manufacture, conditions of sanitation, standards of ingredients, quality and identity of alcoholic beverages manufactured, sold, bottled, or handled by licensees and the board; and conducting from time to time, in the interest of the public health and general welfare, scientific studies and research relating to alcoholic beverages and the use and effect thereof;

~~((z))~~ (20) Seizing, confiscating and destroying all alcoholic beverages manufactured, sold or offered for sale within this state which do not conform in all respects to the standards prescribed by this title or the regulations of the board ~~((:—PROVIDED,))~~. However, nothing herein contained ~~((shall))~~ may be construed as authorizing the liquor board to prescribe, alter, limit or in any way change the present law as to the quantity or percentage of alcohol used in the manufacturing of wine or other alcoholic beverages.

**Sec. 205.** RCW 66.24.145 and 2010 c 290 s 2 are each amended to read as follows:

(1) Any craft distillery may sell spirits of its own production for consumption off the premises, up to two liters per person per day. ~~((Spirits sold under this subsection must be purchased from the board and sold at the retail price established by the board.))~~ A craft distillery selling spirits under this subsection must comply with the applicable laws and rules relating to retailers.

(2) Any craft distillery may contract distill spirits for, and sell contract distilled spirits to, holders of distillers' or manufacturers' licenses, including licenses issued under RCW 66.24.520, or for export.

(3) Any craft distillery licensed under this section may provide, free of charge, one-half ounce or less samples of spirits of its own production to persons on the premises of the distillery. The maximum total per person per day is two ounces. Every person who participates in any manner in the service of samples must obtain a class 12 alcohol server permit. ~~((Spirits used for samples must be purchased from the board.))~~

(4) The board ~~((shall))~~ must adopt rules to implement the alcohol server permit requirement and may adopt additional rules to implement this section.

(5) Distilling is an agricultural practice.

**NEW SECTION. Sec. 206.** A new section is added to chapter 66.24 RCW to read as follows:

Any distiller licensed under this title may act as a retailer and/or distributor to retailers selling for consumption on or off the licensed premises of spirits of its own production, and any manufacturer, importer, or bottler of spirits holding a certificate of approval may act as a distributor of spirits it is entitled to import into the state under such certificate. The board must by rule provide for issuance of certificates of approval to spirits suppliers. An industry member operating as

a distributor and/or retailer under this section must comply with the applicable laws and rules relating to distributors and/or retailers, except that an industry member operating as a distributor under this section may maintain a warehouse off the distillery premises for the distribution of spirits of its own production to spirits retailers within the state, if the warehouse is within the United States and has been approved by the board.

**Sec. 207.** RCW 66.24.160 and 1981 1st ex.s. c 5 s 30 are each amended to read as follows:

A ~~((Liquor))~~ spirits importer's license may be issued to any qualified person, firm or corporation, entitling the holder thereof to import into the state any liquor other than beer or wine; to store the same within the state, and to sell and export the same from the state; fee six hundred dollars per annum. Such ~~((Liquor))~~ spirits importer's license ~~((shall be))~~ is subject to all conditions and restrictions imposed by this title or by the rules and regulations of the board, and ~~((shall be))~~ is issued only upon such terms and conditions as may be imposed by the board. ~~((No liquor importer's license shall be required in sales to the Washington state liquor control board.))~~

**Sec. 208.** RCW 66.32.010 and 1955 c 39 s 3 are each amended to read as follows:

~~((Except as permitted by))~~ The board may, ~~((no liquor shall be kept or had by any person within this state unless the package in which the liquor was contained had, while containing that liquor, been))~~ to the extent required to control unlawful diversion of liquor from authorized channels of distribution, require that packages of liquor transported within the state be sealed with ((the)) such official seal as may be adopted by the board, except in the case of:

(1) ~~((Liquor imported by the board; or~~

~~((2)))~~ Liquor manufactured in the state ((for sale to the board or for export));

or

~~((3) Beer;))~~ (2) Liquor purchased within the state or for shipment to a consumer within the state in accordance with the provisions of law; or

~~((4)))~~ (3) Wine or beer exempted in RCW 66.12.010.

**Sec. 209.** RCW 66.44.120 and 2011 c 96 s 46 are each amended to read as follows:

(1) No person other than an employee of the board ~~((shall))~~ may keep or have in his or her possession any official seal ~~((prescribed))~~ adopted by the board under this title, unless the same is attached to a package ~~((which has been purchased from a liquor store or contract liquor store))~~ in accordance with the law; nor ((shall)) may any person keep or have in his or her possession any design in imitation of any official seal prescribed under this title, or calculated to deceive by its resemblance thereto, or any paper upon which any design in imitation thereof, or calculated to deceive as aforesaid, is stamped, engraved, lithographed, printed, or otherwise marked.

(2)(a) Except as provided in (b) of this subsection, every person who willfully violates this section is guilty of a gross misdemeanor and ~~((shall be))~~ is liable on conviction thereof for a first offense to imprisonment in the county jail for a period of not less than three months nor more than six months, without the option of the payment of a fine, and for a second offense, to imprisonment in the

county jail for not less than six months nor more than three hundred sixty-four days, without the option of the payment of a fine.

(b) A third or subsequent offense is a class C felony, punishable by imprisonment in a state correctional facility for not less than one year nor more than two years.

**Sec. 210.** RCW 66.44.150 and 1955 c 289 s 5 are each amended to read as follows:

If any person in this state buys alcoholic beverages from any person other than ~~((the board, a state liquor store, or some))~~ a person authorized by the board to sell ~~((them, he shall be))~~ alcoholic beverages, he or she is guilty of a misdemeanor.

**Sec. 211.** RCW 66.44.340 and 1999 c 281 s 11 are each amended to read as follows:

(1) Employers holding grocery store or beer and/or wine specialty shop licenses exclusively are permitted to allow their employees, between the ages of eighteen and twenty-one years, to sell, stock, and handle ~~((beer or wine))~~ liquor in, on or about any establishment holding a ~~((grocery store or beer and/or wine specialty shop))~~ license ~~((exclusively: PROVIDED, That))~~ to sell such liquor, if:

(a) There is an adult twenty-one years of age or older on duty supervising the sale of liquor at the licensed premises~~((: PROVIDED, That))~~; and

(b) In the case of spirits, there are at least two adults twenty-one years of age or older on duty supervising the sale of spirits at the licensed premises.

(2) Employees under twenty-one years of age may make deliveries of beer and/or wine purchased from licensees holding grocery store or beer and/or wine specialty shop licenses exclusively, when delivery is made to cars of customers adjacent to such licensed premises but only, however, when the underage employee is accompanied by the purchaser.

**Sec. 212.** RCW 19.126.010 and 2003 c 59 s 1 are each amended to read as follows:

(1) The legislature recognizes that both suppliers and wholesale distributors of malt beverages and spirits are interested in the goal of best serving the public interest through the fair, efficient, and competitive distribution of such beverages. The legislature encourages them to achieve this goal by:

(a) Assuring the wholesale distributor's freedom to manage the business enterprise, including the wholesale distributor's right to independently establish its selling prices; and

(b) Assuring the supplier and the public of service from wholesale distributors who will devote their best competitive efforts and resources to sales and distribution of the supplier's products which the wholesale distributor has been granted the right to sell and distribute.

(2) This chapter governs the relationship between suppliers of malt beverages and spirits and their wholesale distributors to the full extent consistent with the Constitution and laws of this state and of the United States.

**Sec. 213.** RCW 19.126.020 and 2009 c 155 s 1 are each reenacted and amended to read as follows:

The definitions in this section apply throughout this chapter unless the context clearly requires otherwise.

(1) "Agreement of distributorship" means any contract, agreement, commercial relationship, license, association, or any other arrangement, for a definite or indefinite period, between a supplier and distributor.

(2) "Authorized representative" has the same meaning as "authorized representative" as defined in RCW 66.04.010.

(3) "Brand" means any word, name, group of letters, symbol, or combination thereof, including the name of the distiller or brewer if the distiller's or brewer's name is also a significant part of the product name, adopted and used by a supplier to identify ((a)) specific spirits or a specific malt beverage product and to distinguish that product from other spirits or malt beverages produced by that supplier or other suppliers.

(4) "Distributor" means any person, including but not limited to a component of a supplier's distribution system constituted as an independent business, importing or causing to be imported into this state, or purchasing or causing to be purchased within this state, any spirits or malt beverages for sale or resale to retailers licensed under the laws of this state, regardless of whether the business of such person is conducted under the terms of any agreement with a distiller or malt beverage manufacturer.

(5) "Importer" means any distributor importing spirits or beer into this state for sale to retailer accounts or for sale to other distributors designated as "subjobbers" for resale.

(6) "Malt beverage manufacturer" means every brewer, fermenter, processor, bottler, or packager of malt beverages located within or outside this state, or any other person, whether located within or outside this state, who enters into an agreement of distributorship for the resale of malt beverages in this state with any wholesale distributor doing business in the state of Washington.

(7) "Person" means any natural person, corporation, partnership, trust, agency, or other entity, as well as any individual officers, directors, or other persons in active control of the activities of such entity.

(8) "Spirits manufacturer" means every distiller, processor, bottler, or packager of spirits located within or outside this state, or any other person, whether located within or outside this state, who enters into an agreement of distributorship for the resale of spirits in this state with any wholesale distributor doing business in the state of Washington.

(9) "Successor distributor" means any distributor who enters into an agreement, whether oral or written, to distribute a brand of spirits or malt beverages after the supplier with whom such agreement is made or the person from whom that supplier acquired the right to manufacture or distribute the brand has terminated, canceled, or failed to renew an agreement of distributorship, whether oral or written, with another distributor to distribute that same brand of spirits or malt beverages.

~~((9))~~ (10) "Supplier" means any spirits or malt beverage manufacturer or importer who enters into or is a party to any agreement of distributorship with a wholesale distributor. "Supplier" does not include: (a) Any ~~((domestic))~~ distiller licensed under RCW 66.24.140 or 66.24.145 and producing less than sixty thousand proof gallons of spirits annually or any brewery or microbrewery licensed under RCW 66.24.240 and producing less than two hundred thousand barrels of malt liquor annually; (b) any brewer or manufacturer of malt liquor

producing less than two hundred thousand barrels of malt liquor annually and holding a certificate of approval issued under RCW 66.24.270; or (c) any authorized representative of distillers or malt liquor manufacturers who holds an appointment from one or more distillers or malt liquor manufacturers which, in the aggregate, produce less than two hundred thousand barrels of malt liquor or sixty thousand proof gallons of spirits.

~~((40))~~ (11) "Terminated distribution rights" means distribution rights with respect to a brand of malt beverages which are lost by a terminated distributor as a result of termination, cancellation, or nonrenewal of an agreement of distributorship for that brand.

~~((44))~~ (12) "Terminated distributor" means a distributor whose agreement of distributorship with respect to a brand of spirits or malt beverages, whether oral or written, has been terminated, canceled, or not renewed.

**Sec. 214.** RCW 19.126.040 and 2009 c 155 s 3 are each amended to read as follows:

Wholesale distributors are entitled to the following protections which are deemed to be incorporated into every agreement of distributorship:

(1) Agreements between wholesale distributors and suppliers ~~((shall))~~ must be in writing;

(2) A supplier ~~((shall))~~ must give the wholesale distributor at least sixty days prior written notice of the supplier's intent to cancel or otherwise terminate the agreement, unless such termination is based on a reason set forth in RCW 19.126.030(5) or results from a supplier acquiring the right to manufacture or distribute a particular brand and electing to have that brand handled by a different distributor. The notice ~~((shall))~~ must state all the reasons for the intended termination or cancellation. Upon receipt of notice, the wholesale distributor ~~((shall have))~~ has sixty days in which to rectify any claimed deficiency. If the deficiency is rectified within this sixty-day period, the proposed termination or cancellation is null and void and without legal effect;

(3) The wholesale distributor may sell or transfer its business, or any portion thereof, including the agreement, to successors in interest upon prior approval of the transfer by the supplier. No supplier may unreasonably withhold or delay its approval of any transfer, including wholesaler's rights and obligations under the terms of the agreement, if the person or persons to be substituted meet reasonable standards imposed by the supplier;

(4) If an agreement of distributorship is terminated, canceled, or not renewed for any reason other than for cause, failure to live up to the terms and conditions of the agreement, or a reason set forth in RCW 19.126.030(5), the wholesale distributor is entitled to compensation from the successor distributor for the laid-in cost of inventory and for the fair market value of the terminated distribution rights. For purposes of this section, termination, cancellation, or nonrenewal of a distributor's right to distribute a particular brand constitutes termination, cancellation, or nonrenewal of an agreement of distributorship whether or not the distributor retains the right to continue distribution of other brands for the supplier. In the case of terminated distribution rights resulting from a supplier acquiring the right to manufacture or distribute a particular brand and electing to have that brand handled by a different distributor, the affected distribution rights will not transfer until such time as the compensation to be

paid to the terminated distributor has been finally determined by agreement or arbitration;

(5) When a terminated distributor is entitled to compensation under subsection (4) of this section, a successor distributor must compensate the terminated distributor for the fair market value of the terminated distributor's rights to distribute the brand, less any amount paid to the terminated distributor by a supplier or other person with respect to the terminated distribution rights for the brand. If the terminated distributor's distribution rights to a brand of spirits or malt beverages are divided among two or more successor distributors, each successor distributor must compensate the terminated distributor for the fair market value of the distribution rights assumed by that successor distributor, less any amount paid to the terminated distributor by a supplier or other person with respect to the terminated distribution rights assumed by the successor distributor. A terminated distributor may not receive total compensation under this subsection that exceeds the fair market value of the terminated distributor's distribution rights with respect to the affected brand. Nothing in this section ~~((shall))~~ may be construed to require any supplier or other third person to make any payment to a terminated distributor;

(6) For purposes of this section, the "fair market value" of distribution rights as to a particular brand means the amount that a willing buyer would pay and a willing seller would accept for such distribution rights when neither is acting under compulsion and both have knowledge of all facts material to the transaction. "Fair market value" is determined as of the date on which the distribution rights are to be transferred in accordance with subsection (4) of this section;

(7) In the event the terminated distributor and the successor distributor do not agree on the fair market value of the affected distribution rights within thirty days after the terminated distributor is given notice of termination, the matter must be submitted to binding arbitration. Unless the parties agree otherwise, such arbitration must be conducted in accordance with the American arbitration association commercial arbitration rules with each party to bear its own costs and attorneys' fees;

(8) Unless the parties otherwise agree, or the arbitrator for good cause shown orders otherwise, an arbitration conducted pursuant to subsection (7) of this section must proceed as follows: (a) The notice of intent to arbitrate must be served within forty days after the terminated distributor receives notice of terminated distribution rights; (b) the arbitration must be conducted within ninety days after service of the notice of intent to arbitrate; and (c) the arbitrator or arbitrators must issue an order within thirty days after completion of the arbitration;

(9) In the event of a material change in the terms of an agreement of distribution, the revised agreement must be considered a new agreement for purposes of determining the law applicable to the agreement after the date of the material change, whether or not the agreement of distribution is or purports to be a continuing agreement and without regard to the process by which the material change is effected.

NEW SECTION. Sec. 215. The following acts or parts of acts are each repealed:

(1) RCW 66.08.070 (Purchase of liquor by board—Consignment not prohibited—Warranty or affirmation not required for wine or malt purchases) and 1985 c 226 s 2, 1973 1st ex.s. c 209 s 1, & 1933 ex.s. c 62 s 67;

(2) RCW 66.08.075 (Officer, employee not to represent manufacturer, wholesaler in sale to board) and 1937 c 217 s 5;

(3) RCW 66.08.160 (Acquisition of warehouse authorized) and 1947 c 134 s 1;

(4) RCW 66.08.165 (Strategies to improve operational efficiency and revenue) and 2005 c 231 s 1;

(5) RCW 66.08.166 (Sunday sales authorized—Store selection and other requirements) and 2005 c 231 s 2;

(6) RCW 66.08.167 (Sunday sales—Store selection) and 2005 c 231 s 4;

(7) RCW 66.08.220 (Liquor revolving fund—Separate account—Distribution) and 2011 c 325 s 8, 2009 c 271 s 4, 2007 c 370 s 15, 1999 c 281 s 2, & 1949 c 5 s 11;

(8) RCW 66.08.235 (Liquor control board construction and maintenance account) and 2011 c 5 s 918, 2005 c 151 s 4, 2002 c 371 s 918, & 1997 c 75 s 1;

(9) RCW 66.16.010 (Board may establish—Price standards—Prices in special instances) and 2005 c 518 s 935, 2003 1st sp.s. c 25 s 928, 1939 c 172 s 10, 1937 c 62 s 1, & 1933 ex.s. c 62 s 4;

(10) RCW 66.16.040 (Sales of liquor by employees—Identification cards—Permit holders—Sales for cash—Exception) and 2005 c 206 s 1, 2005 c 151 s 5, 2005 c 102 s 1, 2004 c 61 s 1, 1996 c 291 s 1, 1995 c 16 s 1, 1981 1st ex.s. c 5 s 8, 1979 c 158 s 217, 1973 1st ex.s. c 209 s 3, 1971 ex.s. c 15 s 1, 1959 c 111 s 1, & 1933 ex.s. c 62 s 7;

(11) RCW 66.16.041 (Credit and debit card purchases—Rules—Provision, installation, maintenance of equipment by board—Consideration of offsetting liquor revolving fund balance reduction) and 2011 1st sp.s. c ... (ESSB 5921) s 16, 2005 c 151 s 6, 2004 c 63 s 2, 1998 c 265 s 3, 1997 c 148 s 2, & 1996 c 291 s 2;

(12) RCW 66.16.050 (Sale of beer and wine to person licensed to sell) and 1933 ex.s. c 62 s 8;

(13) RCW 66.16.060 (Sealed packages may be required, exception) and 1943 c 216 s 1 & 1933 ex.s. c 62 s 9;

(14) RCW 66.16.070 (Liquor cannot be opened or consumed on store premises) and 2011 c 186 s 3 & 1933 ex.s. c 62 s 10;

(15) RCW 66.16.100 (Fortified wine sales) and 1997 c 321 s 42 & 1987 c 386 s 5;

(16) RCW 66.16.110 (Birth defects from alcohol—Warning required) and 1993 c 422 s 2;

(17) RCW 66.16.120 (Employees working on Sabbath) and 2005 c 231 s 5; and

(18) RCW 66.28.045 (Furnishing samples to board—Standards for accountability—Regulations) and 1975 1st ex.s. c 173 s 9.

**NEW SECTION. Sec. 216.** The following acts or parts of acts are each repealed:

(1) ESSB 5942 ss 1 through 6, as later assigned a session law number and/or codified;

(2) ESSB 5942 ss 7 through 10, as later assigned a session law number; and

(3) Any act or part of act relating to the warehousing and distribution of liquor, including the lease of the state's liquor warehousing and distribution facilities, adopted subsequent to May 25, 2011 in any 2011 special session.

### **PART III MISCELLANEOUS PROVISIONS**

**NEW SECTION. Sec. 301.** This act does not increase any tax, create any new tax, or eliminate any tax. Section 106 of this act applies to spirits licensees upon the effective date of this section, but all taxes presently imposed by RCW 82.08.150 on sales of spirits by or on behalf of the liquor control board continue to apply so long as the liquor control board makes any such sales.

**NEW SECTION. Sec. 302.** A new section is added to chapter 66.24 RCW to read as follows:

The distribution of spirits license fees under sections 103 and 105 of this act through the liquor revolving fund to border areas, counties, cities, towns, and the municipal research center must be made in a manner that provides that each category of recipients receive, in the aggregate, no less than it received from the liquor revolving fund during comparable periods prior to the effective date of this section. An additional distribution of ten million dollars per year from the spirits license fees must be provided to border areas, counties, cities, and towns through the liquor revolving fund for the purpose of enhancing public safety programs.

**NEW SECTION. Sec. 303.** The department of revenue must develop rules and procedures to address claims that this act unconstitutionally impairs any contract with the state and to provide a means for reasonable compensation of claims it finds valid, funded first from revenues based on spirits licensing and sale under this act.

**NEW SECTION. Sec. 304.** If any provision of this act or its application to any person or circumstance is held invalid, the remainder of this act or the application of the provision to other persons or circumstances is not affected.

**NEW SECTION. Sec. 305.** This act takes effect upon approval by the voters. Section 216, subsections (1) and (2) of this act take effect if Engrossed Substitute House Bill No. 5942 is enacted by the legislature in 2011 and the bill, or any portion of it, becomes law. Section 216, subsection (3) of this act takes effect if any act or part of an act relating to the warehousing and distribution of liquor, including the lease of the state's liquor warehousing and distribution facilities, is adopted subsequent to May 25, 2011 in any 2011 special session.

Originally filed in Office of Secretary of State May 26, 2011.

Approved by the People of the State of Washington in the General Election on November 8, 2011.

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### **CHAPTER 3**

[Engrossed Substitute Senate Bill 6239]

#### **SAME SEX MARRIAGE**

AN ACT Relating to providing equal protection for all families in Washington by creating equality in civil marriage and changing the domestic partnership laws, while protecting religious freedom; amending RCW 26.04.010, 26.04.020, 26.04.050, 26.04.060, 26.04.070, 26.60.010,

**RCW 19.375.010 Definitions.** The definitions in this section apply throughout this chapter, unless the context clearly requires otherwise.

(1) "Biometric identifier" means data generated by automatic measurements of an individual's biological characteristics, such as a fingerprint, voiceprint, eye retinas, irises, or other unique biological patterns or characteristics that is used to identify a specific individual. "Biometric identifier" does not include a physical or digital photograph, video or audio recording or data generated therefrom, or information collected, used, or stored for health care treatment, payment, or operations under the federal health insurance portability and accountability act of 1996.

(2) "Biometric system" means an automated identification system capable of capturing, processing, and storing a biometric identifier, comparing the biometric identifier to one or more references, and matching the biometric identifier to a specific individual.

(3) "Capture" means the process of collecting a biometric identifier from an individual.

(4) "Commercial purpose" means a purpose in furtherance of the sale or disclosure to a third party of a biometric identifier for the purpose of marketing of goods or services when such goods or services are unrelated to the initial transaction in which a person first gains possession of an individual's biometric identifier. "Commercial purpose" does not include a security or law enforcement purpose.

(5) "Enroll" means to capture a biometric identifier of an individual, convert it into a reference template that cannot be reconstructed into the original output image, and store it in a database that matches the biometric identifier to a specific individual.

(6) "Law enforcement officer" means a law enforcement officer as defined in RCW 9.41.010 or a federal peace officer as defined in RCW 10.93.020.

(7) "Person" means an individual, partnership, corporation, limited liability company, organization, association, or any other legal or commercial entity, but does not include a government agency.

(8) "Security purpose" means the purpose of preventing shoplifting, fraud, or any other misappropriation or theft of a thing of value, including tangible and intangible goods, services, and other purposes in furtherance of protecting the security or integrity of software, accounts, applications, online services, or any person.  
[2017 c 299 § 3.]

**RCW 66.08.030 Regulations—Scope.** The power of the board to make regulations under chapter 34.05 RCW extends to:

(1) Prescribing the duties of the employees of the board, and regulating their conduct in the discharge of their duties;

(2) Prescribing an official seal and official labels and stamps and determining the manner in which they must be attached to every package of liquor sold or sealed under this title, including the prescribing of different official seals or different official labels for different classes of liquor;

(3) Prescribing forms to be used for purposes of this title or the regulations, and the terms and conditions to be contained in permits and licenses issued under this title, and the qualifications for receiving a permit or license issued under this title, including a criminal history record information check. The board may submit the criminal history record information check to the Washington state patrol and to the identification division of the federal bureau of investigation in order that these agencies may search their records for prior arrests and convictions of the individual or individuals who filled out the forms. The board must require fingerprinting of any applicant whose criminal history record information check is submitted to the federal bureau of investigation;

(4) Prescribing the fees payable in respect of permits and licenses issued under this title for which no fees are prescribed in this title, and prescribing the fees for anything done or permitted to be done under the regulations;

(5) Prescribing the kinds and quantities of liquor which may be kept on hand by the holder of a special permit for the purposes named in the permit, regulating the manner in which the same is kept and disposed of, and providing for the inspection of the same at any time at the instance of the board;

(6) Regulating the sale of liquor kept by the holders of licenses which entitle the holder to purchase and keep liquor for sale;

(7) Prescribing the records of purchases or sales of liquor kept by the holders of licenses, and the reports to be made thereon to the board, and providing for inspection of the records so kept;

(8) Prescribing the kinds and quantities of liquor for which a prescription may be given, and the number of prescriptions which may be given to the same patient within a stated period;

(9) Prescribing the manner of giving and serving notices required by this title or the regulations, where not otherwise provided for in this title;

(10) Regulating premises in which liquor is kept for export from the state, or from which liquor is exported, prescribing the books and records to be kept therein and the reports to be made thereon to the board, and providing for the inspection of the premises and the books, records and the liquor so kept;

(11) Prescribing the conditions and qualifications requisite for the obtaining of club licenses and the books and records to be kept and the returns to be made by clubs, prescribing the manner of licensing clubs in any municipality or other locality, and providing for the inspection of clubs;

(12) Prescribing the conditions, accommodations, and qualifications requisite for the obtaining of licenses to sell beer, wines, and spirits, and regulating the sale of beer, wines, and spirits thereunder;

(13) Specifying and regulating the time and periods when, and the manner, methods and means by which manufacturers must deliver liquor within the state; and the time and periods when, and the manner, methods and means by which liquor may lawfully be conveyed or carried within the state;

(14) Providing for the making of returns by brewers of their sales of beer shipped within the state, or from the state, showing the gross amount of such sales and providing for the inspection of brewers' books and records, and for the checking of the accuracy of any such returns;

(15) Providing for the making of returns by the wholesalers of beer whose breweries are located beyond the boundaries of the state;

(16) Providing for the making of returns by any other liquor manufacturers, showing the gross amount of liquor produced or purchased, the amount sold within and exported from the state, and to whom so sold or exported, and providing for the inspection of the premises of any such liquor manufacturers, their books and records, and for the checking of any such return;

(17) Providing for the giving of fidelity bonds by any or all of the employees of the board. However, the premiums therefor must be paid by the board;

(18) Providing for the shipment of liquor to any person holding a permit and residing in any unit which has, by election pursuant to this title, prohibited the sale of liquor therein;

(19) Prescribing methods of manufacture, conditions of sanitation, standards of ingredients, quality and identity of alcoholic beverages manufactured, sold, bottled, or handled by licensees and the board; and conducting from time to time, in the interest of the public health and general welfare, scientific studies and research relating to alcoholic beverages and the use and effect thereof;

(20) Seizing, confiscating and destroying all alcoholic beverages manufactured, sold or offered for sale within this state which do not conform in all respects to the standards prescribed by this title or the regulations of the board. However, nothing herein contained may be construed as authorizing the \*liquor board to prescribe, alter, limit or in any way change the present law as to the quantity or percentage of alcohol used in the manufacturing of wine or other alcoholic beverages;

(21) Monitoring and regulating the practices of license holders as necessary in order to prevent the theft and illegal trafficking of liquor pursuant to RCW 66.28.350. [2014 c 63 § 2; 2012 c 2 § 204 (Initiative Measure No. 1183, approved November 8, 2011); 2002 c 119 § 2; 1977 ex.s. c 115 § 1; 1971 c 62 § 1; 1943 c 102 § 1; 1933 ex.s. c 62 § 79; RRS § 7306-79. Formerly RCW 66.08.030 and 66.08.040.]

**\*Reviser's note:** The "state liquor control board" was renamed the "state liquor and cannabis board" by 2015 c 70 § 3.

**Finding—Application—Rules—Effective date—Contingent effective date—2012 c 2 (Initiative Measure No. 1183):** See notes following RCW 66.24.620.

**RCW 66.20.170 Card of identification may be accepted as identification card and evidence of legal age.** A card of identification may for the purpose of this title and for the purpose of procuring liquor, be accepted as an identification card by any licensee and as evidence of legal age of the person presenting such card, provided the licensee complies with the conditions and procedures prescribed herein and such regulations as may be made by the board. [2016 c 235 § 7; 1973 1st ex.s. c 209 § 5; 1971 ex.s. c 15 § 3; 1959 c 111 § 5; 1949 c 67 § 2; Rem. Supp. 1949 § 7306-19B.]

**Severability—Effective date—1973 1st ex.s. c 209:** See notes following RCW 66.20.160.

**Effective date—1971 ex.s. c 15:** See note following RCW 66.20.160.

**RCW 66.20.180 Card of identification to be presented on request of licensee.** A card of identification must be presented by the holder thereof upon request of any licensee, peace officer, or enforcement officer of the board for the purpose of aiding the licensee, peace officer, or enforcement officer of the board to determine whether or not such person is of legal age to purchase liquor when such person desires to procure liquor from a licensed establishment. [2016 c 235 § 8; 2005 c 151 § 9; 1973 1st ex.s. c 209 § 6; 1971 ex.s. c 15 § 4; 1959 c 111 § 6; 1949 c 67 § 3; Rem. Supp. 1949 § 7306-19C.]

**Severability—Effective date—1973 1st ex.s. c 209:** See notes following RCW 66.20.160.

**Effective date—1971 ex.s. c 15:** See note following RCW 66.20.160.

**RCW 66.20.330 Alcohol servers—Rules.** The board shall adopt rules to implement RCW 66.20.300 through 66.20.350 including, but not limited to, procedures and grounds for denying, suspending, or revoking permits. [1995 c 51 § 5.]

**Findings—1995 c 51:** See note following RCW 66.20.300.

**WAC 314-01-005 Definitions.** The following definitions apply to Title 314 WAC. Additional definitions are in RCW 66.04.010.

(1) "Licensed premises" or "premises" means all areas of a premises under the legal control of the licensee and available to or used by customers and/or employees in the conduct of business operations. Specific alcohol consumption areas of a licensed premises shall be approved by the board.

(2) "Card of identification" means the forms of identification that are acceptable to verify a person's age per RCW 66.16.040.

(3) "Employee" means any person performing services on a licensed premises for the benefit of the licensee.

(4) "Liquor enforcement officers" means any individual designated as a liquor enforcement officer by the board, and any peace officer as defined by RCW 9A.04.110(15) as it now exists or may later be amended.

(5) "Liquor" means beer, wine, or spirits (per RCW 66.04.010(19) - Definitions).

[Statutory Authority: RCW 66.08.030, 66.04.010. WSR 01-06-016, § 314-01-005, filed 2/26/01, effective 3/29/01.]

**WAC 314-02-058 Sports/entertainment facility licenses—Operating plans. (1) What requirements govern the submission of operating plans?**

(a) To receive a license, a sports/entertainment facility must submit an operating plan for board approval.

(b) Once approved, the plan remains in effect until the licensee requests a change or the board determines that a change is necessary due to demonstrated problems or conditions not previously considered or adequately addressed in the original plan. Changes to an operating plan must be submitted to the board's licensing division for approval.

(c) The plan must be submitted in a format designated by the board.

(d) The plan must contain all of the following elements:

(i) How the sports/entertainment facility will prevent the sale and service of alcohol to persons under twenty-one years of age and those who appear to be intoxicated.

(ii) The ratio of alcohol service staff and security staff to the size of the audiences at events where alcohol is being served. The minimum ratio allowed is one staff person to fifty attendees at the event.

(iii) Training provided to staff who serve, regulate, or supervise the service of alcohol. Mandatory alcohol server training is required for all staff.

(iv) The facility's policy on the number of alcoholic beverages that will be served to an individual patron during one transaction. Two alcoholic beverages is the maximum number allowed to be sold and served to an individual patron during one transaction.

(v) An explanation of the alcoholic beverage containers that will be used to ensure they are significantly different from containers utilized from nonalcoholic beverages.

(vi) A list of event categories (see WAC 314-02-057(2)) to be held in the facility at which alcohol service is planned, along with a request for the level of alcohol service at each event.

(vii) The date must be included in the operating plan.

(viii) The pages must be numbered in the operating plan.

(ix) A site plan designating all alcohol service areas. Identify all beer garden areas to include dimensions of the area, capacity, number of alcohol service/security employees staffing the area, and what type/size of barrier will surround the alcohol service area.

(x) The operating plan must be signed by a principal of the licensed entity.

(e) Prior to the first of each month, the licensee must provide a schedule of events for the upcoming month to the facility's local liquor enforcement office. This schedule must show the date and time of each event during which alcohol service is planned. The licensee must notify the local enforcement office at least seventy-two hours in advance of any events where alcohol service is planned that were not included in the monthly schedule. Notice of private events is not required when the event is being held in conjunction with a professional or amateur sporting event, an entertainment event, or a special event as outlined in WAC 314-02-057(2).

**(2) May the liquor and cannabis board impose any other mandatory standards as a part of an operating plan?** Yes. To prevent persons who are under twenty-one years of age or who appear intoxicated from gaining access to alcohol, the board may impose the following standards as part of an operating plan:

(a) The board may require that an operating plan include additional mandatory requirements if it is judged by the board that the plan does not effectively prevent violations of liquor laws and regulations, particularly those that prevent persons under twenty-one years of age or who are apparently intoxicated from obtaining alcohol.

(b) To permit alcohol servers to establish the age of patrons and to prevent over-service, sports/entertainment facilities must meet minimum lighting requirements established by WAC 314-11-055 in any area where alcohol is served or consumed. For the purpose of establishing a permanent technical standard, an operating plan may include a lighting standard measured in foot candles, so long as the candle power of the lighting is, at all times, sufficient to permit alcohol servers to establish the validity of documents printed in eight point type.

(3) **Where will spirits, beer, and wine be allowed in a sports/entertainment facility?** The purpose of the following matrix is to outline where and when alcohol service will normally be permitted. Due to the unique nature of each facility, the board will determine the permitted alcohol service based on the facility's approved operating plan.

(a) Self-service of alcohol is prohibited.

(b) If alcohol service is requested outside of the parameters listed below, a special request with justification for the alcohol service area must be submitted with the operating plan for consideration by the board.

<b>Type of event as defined in WAC 314-02-057</b>	<b>Beer, wine, and spirits may be sold and served in approved restaurants, lounges, private suites, and club rooms</b>	<b>Beer, wine, and spirits may be sold and served in temporary lounges, beer gardens, or other approved service areas</b>	<b>Spirits, beer, and wine may be served and consumed in club seats during events</b>	<b>Beer and wine may be consumed throughout seating areas during events</b>	<b>Hawking - beer may be served throughout seating areas, subject to the provisions of WAC 314-02-058(4)</b>
Professional sporting events of baseball, football, basketball, soccer, tennis, volleyball, horse racing, hockey, and track and field events	x	x	x	x	x
All other professional sporting events including WWE, UFC, rodeo, motorcross, national auto racing, and monster truck events (level of alcohol service will be determined on a case-by-case basis per the approved operating plan)	x	x	x	x	

Type of event as defined in WAC 314-02-057	Beer, wine, and spirits may be sold and served in approved restaurants, lounges, private suites, and club rooms	Beer, wine, and spirits may be sold and served in temporary lounges, beer gardens, or other approved service areas	Spirits, beer, and wine may be served and consumed in club seats during events	Beer and wine may be consumed throughout seating areas during events	Hawking - beer may be served throughout seating areas, subject to the provisions of WAC 314-02-058(4)
Amateur sporting events (nonpaid athletes)	x	x		x	
Entertainment events	x	x			
Special events (trade shows, conventions)	x	x			
Darkened house events	x	x	x	x	

(c) For private events, beer, wine, and spirits may be served in the area where the event is held. This area may be a separate meeting or banquet room or the entire facility.

(d) In order to minimize youth access to alcohol, the board may prohibit or restrict the service of alcohol at events where the attendance is expected to be over thirty percent persons under twenty-one years of age. This restriction will not apply to the professional sporting events outlined in WAC 314-02-057 (2)(a).

(e) To request approval for walk around beer and/or wine consumption at special events, the licensee must provide the board the following information about the event:

- (i) Type of event;
- (ii) Demographics of the event;
- (iii) Lighting at the event; and
- (iv) If the event is located indoors or outdoors.

(4) **Darkened house.** Consumption of alcohol within the darkened seating portions of the venue during entertainment activities are subject to the following conditions:

(a) Request for darkened house activities will be part of the operating plan.

(b) The board will only approve darkened house events after notification to the local authority as identified by the licensing division and approval by the designated local authority. The notification will clearly state:

(i) Primary responsibility for the control of the darkened area of the establishment will rest with the licensee and local law enforcement authorities; and

(ii) The board will not entertain contradictory recommendations from subdivisions of the local jurisdictions.

(c) Violation of the darkened house addendum to the operating plan will be viewed as an aggravating factor to a violation rather than a primary enforcement issue.

(5) **Will hawking be allowed at sports/entertainment facilities?** Subject to the provisions of this rule, hawking may be permitted in general seating areas for the sale and consumption of beer, at the professional sporting events of baseball, football, basketball, soccer, tennis, volleyball, horse racing, hockey, and track and field events only, as defined by WAC 314-02-057 (2)(a).

(a) An operating plan must include procedures for hawkers to verify the age of purchasers and to prevent service to apparently intoxicated persons.

(b) During hawking, any patron may decline to handle alcoholic beverages, either on behalf of themselves and for any person under their supervision. When a patron objects to handling alcohol, hawkers must accommodate the objection. The facility operating plan will address how hawking will be managed, including how hawkers will respond to patron objections to handling alcohol.

[Statutory Authority: RCW 66.08.030. WSR 17-12-030, § 314-02-058, filed 5/31/17, effective 7/1/17. Statutory Authority: RCW 66.24.570 and 66.08.030. WSR 15-18-040, § 314-02-058, filed 8/26/15, effective 9/26/15. Statutory Authority: RCW 66.08.030 and 66.24.363. WSR 11-01-133, § 314-02-058, filed 12/21/10, effective 1/21/11.]

**WAC 314-11-020 What are the guidelines regarding sales to persons under twenty-one years of age and where persons under twenty-one are allowed on a licensed premises?** (1) Per RCW 66.44.270, licensees or employees may not supply liquor to any person under twenty-one years of age, either for his/her own use or for the use of any other person.

(2) Per RCW 66.44.310, licensees or employees may not allow persons under twenty-one years of age to remain in any premises or area of a premises classified as off-limits to persons under twenty-one. (See RCW 66.44.310 (1)(b) regarding nonprofit, private club licensees.)

(3) Per RCW 66.20.180, at the request of any law enforcement officer, a holder of a card of identification must present his/her card of identification if the person is on a portion of a premises that is restricted to persons over twenty-one years of age, or if the person is purchasing liquor, attempting to purchase liquor, consuming liquor, or in the possession of liquor. If the person fails or refuses to present a card of identification it may be considered a violation of Title 66 RCW and:

(a) The person may not remain on the licensed premises after being asked to leave by a law enforcement officer; and

(b) The person may be detained by a law enforcement officer for a reasonable period of time and in such a reasonable manner as is necessary to determine the person's true identity and date of birth.

[Statutory Authority: RCW 66.08.030, 66.12.160, 66.44.010, 66.44.200, 66.44.240, 66.44.270, 66.24.291 [66.44.291], 66.44.310. WSR 04-15-162, § 314-11-020, filed 7/21/04, effective 8/21/04. Statutory Authority: RCW 66.08.030, 66.28.100, 66.28.040, 66.28.090, 66.44.010, 66.44.070, 66.44.200, 66.44.270, 66.44.291, 66.44.292, 66.44.310, 66.44.316, 66.44.318, 66.44.340, and 66.44.350. WSR 02-11-054, § 314-11-020, filed 5/9/02, effective 6/9/02. Statutory Authority: RCW 66.08.030, 66.28.100, 66.28.040, 66.28.090, 66.44.010, 66.44.070, 66.44.200, 66.44.270, 66.44.291, 66.44.292, 66.44.310, 66.44.316, 66.44.318, 66.44.340, 66.44.350, and chapter 66.44 RCW. WSR 01-06-014, § 314-11-020, filed 2/26/01, effective 3/29/01.]

**WAC 314-11-025 What are the acceptable forms of identification?**

(1) Acceptable forms of identification to verify a person's age for the purpose of selling, serving, or allowing a person to possess or consume alcohol must include:

(a) The identification holder's photo;

(b) The identification holder's date of birth; and

(c) The identification holder's signature, except on federally issued identification where a visible signature is not required.

(2) If the identification has an expiration date, it cannot be used to verify age after the expiration date.

(3) Acceptable forms of identification include:

(a) A driver's license, instruction permit, or identification card of any state, province of Canada, U.S. territory, or the District of Columbia, or an "identocard" issued by the Washington state department of licensing per RCW 46.20.117;

(b) A United States armed forces identification card issued to active duty, reserve, and retired personnel and the personnel's dependents;

(c) A passport, passport card, or NEXUS card;

(d) A Merchant Marine identification card issued by the United States Coast Guard; or

(e) An enrollment card issued by the governing authority of a federally recognized Indian tribe, if the enrollment card incorporates reasonable security features sufficient to deter counterfeiting, which may include features similar to those used by the department of licensing for standard Washington driver's licenses.

(i) An enrollment card must be approved by the board's enforcement division prior to use as an acceptable form of identification. The tribe may request approval by submitting the following for review and inspection:

(A) A letter requesting approval and describing the security features of the enrollment card;

(B) A physical sample of an enrollment card; and

(C) For tribes located outside of Washington, a contact phone number where enforcement officers may call at any time to verify the validity of the enrollment card.

(ii) After review and inspection, the board's designee will send a letter approving or denying the enrollment card as an acceptable form of identification.

(iii) The board may rescind approval if the enrollment card no longer meets the requirements of this section.

[Statutory Authority: RCW 66.08.030 and chapter 66.44 RCW. WSR 19-17-089, § 314-11-025, filed 8/21/19, effective 9/21/19. Statutory Authority: RCW 66.08.030. WSR 18-08-094, § 314-11-025, filed 4/4/18, effective 5/5/18. Statutory Authority: RCW 66.08.030 and 66.08.050. WSR 12-17-006, § 314-11-025, filed 8/1/12, effective 9/1/12. Statutory Authority: RCW 66.16.040. WSR 08-03-081, § 314-11-025, filed 1/16/08, effective 2/16/08. Statutory Authority: RCW 66.08.030, 66.28.100, 66.28.040, 66.28.090, 66.44.010, 66.44.070, 66.44.200, 66.44.270, 66.44.291, 66.44.292, 66.44.310, 66.44.316, 66.44.318, 66.44.340, 66.44.350, and chapter 66.44 RCW. WSR 01-06-014, § 314-11-025, filed 2/26/01, effective 3/29/01.]

**WAC 314-17-025 Does a permit holder have to carry his or her class 12 or 13 permit?** (1) Any time a licensee or an employee performs the duties outlined in WAC 314-17-015 at a retail licensed premises, a licensee or an employee must have:

(a) His or her class 12 or 13 permit on the retail licensed premises; and

(b) One form of identification (see RCW 66.16.040 for acceptable forms of identification).

(2) Both a class 12 or 13 permit and a form of identification must be available for inspection by any representative of the board, peace officer or law enforcement officer.

(3) A person shall be in violation if he or she falsifies a class 12 or 13 permit or keeps or possesses a class 12 or 13 permit contrary to the provisions of this title.

(4) The name and personal identifying characteristics on a class 12 or 13 permit must match with those on a permit holder's form of identification.

[Statutory Authority: RCW 66.08.030 and 66.20.330. WSR 10-12-124, § 314-17-025, filed 6/2/10, effective 7/3/10. Statutory Authority: RCW 66.08.030, 66.20.300, 66.20.310, 66.20.320, 66.20.330, 66.20.340, 66.20.350. WSR 01-03-085, § 314-17-025, filed 1/17/01, effective 2/17/01.]

**WAC 314-17-110 May the board impose sanctions or penalties other than those described in WAC 314-17-105?** (1) Based on aggravating or mitigating circumstances, the board may impose a different penalty or suspension than the standard penalties and suspensions described in WAC 314-17-105.

(2) Examples of aggravating and mitigating circumstances include, but are not limited to:

(a) Examples of aggravating circumstances that may cause a more severe penalty:	(b) Examples of mitigating circumstances that may allow a less severe penalty:
<ul style="list-style-type: none"><li>• Patron's identification not checked;</li><li>• Noncooperation with or obstruction of any law enforcement officer;</li><li>• Permit holder did not call law enforcement officer when requested by a customer or a board employee.</li></ul>	<ul style="list-style-type: none"><li>• Permit holder checked one of the acceptable forms of identification (see RCW 66.16.040);</li><li>• Cooperation with law enforcement officer(s);</li><li>• Permit holder used a licensee certification card (see RCW 66.20.190).</li></ul>

[Statutory Authority: RCW 66.08.030 and 66.20.330. WSR 10-12-124, § 314-17-110, filed 6/2/10, effective 7/3/10. Statutory Authority: RCW 66.08.030, 66.20.300, 66.20.310, 66.20.320, 66.20.330, 66.20.340, 66.20.350. WSR 01-03-085, § 314-17-110, filed 1/17/01, effective 2/17/01.]