CODE REVISER USE ONLY

PROPOSED RULE MAKING

CR-102 (July 2022)
(Implements RCW 34.05.320)
Do **NOT** use for expedited rule making

Agency: Washington State Liquor and Cannabis Board

☒ **Original Notice**
☐ **Supplemental Notice to WSR _____**
☐ **Continuance of WSR _____**

☒ **Preproposal Statement of Inquiry was filed as WSR** 23-08-040 **; or**
☐ **Expedited Rule Making--Proposed notice was filed as WSR _____; or**
☐ **Proposal is exempt under RCW 34.05.310(4) or 34.05.330(1); or**
☐ **Proposal is exempt under RCW _____.**

Title of rule and other identifying information: (describe subject) The Washington State Liquor and Cannabis Board (Board) proposes to amend WAC 314-40-040 to allow private clubs to add additional membership drives and host consecutive membership drives.

Hearing location(s):

Date:	**Time:**	**Location:** (be specific)	**Comment:**
August 16, 2023.	10:00 a.m.	All public Board activity will be held in a "hybrid" environment. This means that the public will have options for in-person or virtual attendance. The Boardroom at the headquarters building in Olympia (1025 Union Avenue, Olympia, WA 98504) will be open for in-person attendance. The public may also login using a computer or device, or call-in using a phone, to listen to the meeting through the Microsoft Teams application. The public may provide verbal comments during the specified public comment and rules hearing segments. TVW also regularly airs these meetings. Please note that although the Boardroom will be staffed during a meeting, Board Members and agency participants may continue to appear virtually	For more information about Board meetings, please visit https://lcb.wa.gov/Boardmeetings/Board_meetings

Date of intended adoption: No earlier than August 30, 2023 (Note: This is **NOT** the **effective** date)

Submit written comments to:	**Assistance for persons with disabilities:**
Name: Rules Coordinator	Contact Anita Bingham, ADA Coordinator, Human Resources Director
Address: P.O. Box 43080, Olympia WA 98504-3080	Phone: 360-664-1739
Email: rules@lcb.wa.gov	Fax: 360-664-9689
Fax: 360-704-5027	TTY: 7-1-1 or 1-800-833-6388
Other:	Email: anita.bingham@lcb.wa.gov

By (date) August 16, 2023	Other: By (date) August 9, 2023

Purpose of the proposal and its anticipated effects, including any changes in existing rules: The purpose of this rule proposal is to extend the number of days per quarter that a private club may hold membership functions from one to two days per calendar quarter and provide that membership drives may be held on two consecutive days, rather than one, per calendar year. The proposal also provides that there must be at least seven days between membership events. The Board anticipates that the proposed rule changes will provide more opportunities for community service organizations, fraternal clubs, and other private clubs to recruit new members. The ability expand membership drives is anticipated to support continuation, expansion, and sustainability of needed community service provision.

Reasons supporting proposal: While this proposal was initiated as the result of a rule petition accepted on September 14, 2022, related to private club membership drives, there are additional reasons to support this proposal. Specifically, as a result of the COVID-19 pandemic and other limiting factors, community service organization membership has declined. The rule revision would provide more opportunity and flexibility to promote and recruit members. These organizations support and host a variety of community services, such as school supply drives, community health programs, high school scholarships, and community-specific fundraisers. Expanding membership will allow these organizations to continue and expand these activities.

Statutory authority for adoption: RCW 66.06.030; RCW 66.24.450.

Statute being implemented: RCW 66.06.030; RCW 66.24.450.

Is rule necessary because of a:

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

If yes, CITATION:

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

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

Name of agency personnel responsible for:

	Name	Office Location	Phone
Drafting:	Dr. Kathy Hoffman, Research Manager	1025 Union Avenue, Olympia WA 98501	360-664-1622
Implementation:	Rebecca Smith, Director of Licensing	1025 Union Avenue, Olympia WA 98501	360-664-1753
Enforcement:	Chandra Brady, Director of Education and Enforcement	1025 Union Avenue, Olympia WA 98501	360-664-1726

Is a school district fiscal impact statement required under RCW 28A.305.135? ☐ Yes ☒ No
If yes, insert statement here:

The public may obtain a copy of the school district fiscal impact statement by contacting:
Name:
Address:
Phone:
Fax:
TTY:
Email:
Other:

Is a cost-benefit analysis required under RCW 34.05.328?

☐ Yes: A preliminary cost-benefit analysis may be obtained by contacting:
Name:
Address:
Phone:
Fax:
TTY:
Email:
Other:

☒ No: Please explain: Consistent with RCW 34.05.328(5)(a), these proposed rules are not subject to cost-benefit analysis requirements unless requested by the joint administrative rules review committee or voluntarily applied. Additionally, the proposed rules do not qualify as significant legislative rules under RCW 34.05.328(5).

Regulatory Fairness Act and Small Business Economic Impact Statement

Note: The Governor's Office for Regulatory Innovation and Assistance (ORIA) provides support in completing this part.

(1) Identification of exemptions:

This rule proposal, or portions of the proposal, **may be exempt** from requirements of the Regulatory Fairness Act (see chapter 19.85 RCW). For additional information on exemptions, consult the exemption guide published by ORIA. Please check the box for any applicable exemption(s):

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

Citation and description:

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

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

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

- ☐ RCW 34.05.310 (4)(b) (Internal government operations)
- ☐ RCW 34.05.310 (4)(c) (Incorporation by reference)
- ☐ RCW 34.05.310 (4)(d) (Correct or clarify language)
- ☐ RCW 34.05.310 (4)(e) (Dictated by statute)
- ☐ RCW 34.05.310 (4)(f) (Set or adjust fees)
- ☐ RCW 34.05.310 (4)(g) ((i) Relating to agency hearings; or (ii) process requirements for applying to an agency for a license or permit)

☒ This rule proposal, or portions of the proposal, is exempt under RCW 19.85.025(4) (does not affect small businesses).

☐ This rule proposal, or portions of the proposal, is exempt under RCW _____.

Explanation of how the above exemption(s) applies to the proposed rule: The proposed rules are exempt from the Regulatory Fairness Act's (RFA) Small Business Economic Impact Statement (SBEIS) requirement under RCW 19.85.025(4) because they do not impose more than minor costs to businesses as demonstrated below.

(2) Scope of exemptions: *Check one.*

☒ The rule proposal is fully exempt *(skip section 3)*. Exemptions identified above apply to all portions of the rule proposal.

☐ The rule proposal is partially exempt *(complete section 3)*. The exemptions identified above apply to portions of the rule proposal, but less than the entire rule proposal. Provide details here (consider using this template from ORIA):

☐ The rule proposal is not exempt *(complete section 3)*. No exemptions were identified above.

(3) Small business economic impact statement: *Complete this section if any portion is not exempt.*

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

☒ No Briefly summarize the agency's minor cost analysis and how the agency determined the proposed rule did not impose more-than-minor costs.

Estimated Cost of Compliance. The proposed rule revisions extend the number of days per quarter that a private club may hold membership functions from one to two days per calendar quarter and provide that membership drives may be held on two consecutive days, rather than one, per calendar year. The proposal also provides that there must be at least seven days between membership events. These proposed rule revisions are anticipated to support continuation, expansion and sustainability of needed community service provision.

The agency anticipates that licensees will not incur additional compliance costs as a result of these rule revisions. The agency anticipates that licensees may need to spend a small amount of time (less than 30 minutes of administrative time) to apply for permitting for the additional membership drive days.

According to the 2019 Occupational Employment Statistics (OES) Databook available in the Employment Security Department (ESD) labor market report library (https://esd.wa.gov/labormarketinfo/report-library), the average hourly wage in Washington State for Secretaries and Administrative Assistants, Except Legal, Medical, and Executive (using the Standard Occupational Classification (SOC) Code 43-6014) is $21.31. Based on that data, the estimated cost for the administrative activity of familiarization with the rule revisions is $10.66 [$21.31 avg. hourly wage x .5 hours = approximately $10.66.

Minor Cost Threshold Estimates: The Board applied North American Industry Classification System (NAICS) codes 81341 for Civil and Social Organizations to estimate the minor cost thresholds for private clubs. According to the 2017 NAICS Manual (https://www.census.gov/library/publications/2017/econ/2017-naics-manual.html), civic and social organizations (81341) "comprises establishments primarily promoting the civic and social interests of their members. Establishments in this industry may operate bars and restaurants for their members." There are no separate NAICS codes available for private clubs.

As shown in the table below, the estimated one-time cost of compliance for distilleries and craft distilleries ($10.66) does not exceed the minor cost estimate for this industry ($3,309.70), so a small business economic impact statement (SBEIS) is not required under RCW 19.85.030.

2017 Industry NAICS Code	**Estimated Cost of Compliance**	**Industry Description**	**NAICS Code Title**	**Minor Cost Estimate -** Max of 1%Pay, 0.3%Rev, and $100	**1% of Avg Annual Payroll** . (0.01*AvgPay)	**0.3% of Avg Annual Gross Business Income** (0.003*AvgGBI)
81341	$10.66	Civic and Social Organizations	Distilleries	$3,309.70	$3,309.70 2020 Dataset pulled from ESD	$812.76 2020 Dataset pulled from DOR

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

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

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

Date: July 5, 2023	**Signature:**
Name: David Postman	
Title: Chair	