



**Washington State  
Liquor and Cannabis Board**

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**Date:** January 3, 2024

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

**From:** Daniel Jacobs, Policy and Rules Coordinator

**Copy:** Will Lukela, Agency Director  
Toni Hood, Agency Deputy Director  
Becky Smith, Director of Licensing and Regulations  
Chandra Wax, Director of Enforcement and Education  
Justin Nordhorn, Policy and External Affairs Director  
Cassidy West, Policy and Rules Manager

**Subject: Board approval of CR 102 on Trade Area.**

The Policy and Rules Coordinator requests approval to file a rule proposal (CR 102) to amend [WAC 314-02-1071](#) on Trade Area, as described in the CR 102 Memorandum attached to this order and presented at the Board meeting on January 3, 2024. If approved for filing, the tentative timeline for this rule proposal is as follows:

January 3, 2024	Board is asked to approve filing proposed rules (CR 102). CR 102 filed with the Office of the Code Reviser. LCB webpage updated and notice circulated by GovDelivery distribution list. Formal comment period begins.
January 17, 2024	Notice published in the Washington State Register under WSR 24-02.
February 14, 2024	Public hearing held and formal comment period ends.
No earlier than February 28, 2024	Board is asked to adopt rules if no substantive changes are made (CR 103). Concise Explanatory Statement provided to individuals who offered written or oral comment at the public hearing or during the formal comment period, consistent with RCW 34.05.325. CR 103 and adopted rules are filed with the Office of the Code Reviser. LCB webpage updated and notice circulated by GovDelivery distribution list.
March 30, 2024	Rules are effective 31 days after filing, unless otherwise specified. See RCW 34.05.380(2).

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

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

\_\_\_\_\_ Approve      \_\_\_\_\_ Disapprove      \_\_\_\_\_  
Jim Vollendroff, Board Member      \_\_\_\_\_  
Date

Attachment: CR 102 Memorandum



## CR 102 Memorandum

### Regarding Trade Area.

Date: January 3, 2024  
Presented by: Daniel Jacobs, Policy and Rules Coordinator

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### Background

[RCW 66.24.630\(3\)\(a\)](#) states that the Liquor & Cannabis Board (Board) may issue spirits retail licenses only for premises comprising at least 10,000 square feet of fully enclosed retail space within a single structure, subject to exceptions in subsection (3)(c). [RCW 66.24.630\(3\)\(c\)\(i\)](#) states that the Board may not deny a spirits retail license to an otherwise qualified applicant on the basis of the size of the premises if, among other things, there is no spirits retail license holder in the *trade area* that the applicant proposes to serve (emphasis added). Because there is no definition of the term “trade area” in statute, the Board defines it in [WAC 314-02-1071](#).

[WAC 314-02-1071\(1\)](#) defines a trade area as an area where there is no spirits retail license within a 20 mile travel distance at the time of application. When this rule was first created following the passage of Initiative 1183, there was discussion about the idea of exempting businesses on tribal land from the 20 mile requirement. See [WSR 13-11-026](#). While this proposal did not become part of the final rule, the Board’s Tribal partners have discussed this notion with the Board ever since, noting how exempting businesses on Tribal land from this requirement would recognize Tribal sovereignty in a manner that state and local governments have not always historically been known to do.

The CR 101 was [filed](#) in May 2023, with no public comment received on that filing. The goal of this rule project has been to address the historical omission of recognizing Tribal sovereignty and to try and address this through making the changes that were initially considered in 2013.

### Stakeholder and Tribal Engagement

The CR 102 rule proposal was developed through a collaborative rule development process. Conceptual draft rule language was developed through a series of internal project team meetings including LCB staff from the Licensing Division, Enforcement and Education Division, the Public Health liaison, the Board’s Tribal Liaison, and several rule discussion sessions with both Tribal partners and stakeholders. The first discussion session with Tribal partners was held in July 2023, along with draft rule language shared beforehand.

Following feedback from Tribal partners after the July 2023 session, the rules team reconvened repeatedly before sharing revised draft rule language at the end of October, before two engagement sessions held with Tribal partners in early November, and a stakeholder engagement session in mid-November 2023. Following the stakeholder engagement session, industry stakeholders asked to provide suggested edits, which have been attached here.

Ultimately, the industry suggestions have not been incorporated into the proposed rules because the proposed edits appear to be beyond the intentionally narrow scope of this rulemaking or ask for the Board to provide notice for the actions of other sovereign governments, which is the exact type of government-to-government relationship this rulemaking is seeking to move away from.

### Estimated Costs of Compliance

Under the Regulatory Fairness Act (RFA) in chapter 19.85 RCW, agencies are required to consider the costs that complying with the proposed rules will impose on businesses, unless the proposed rules are subject to an exemption to this requirement. The CR 102 form describes these exemptions in more detail. None of the exemptions apply to this rulemaking.

LCB applied a default estimated compliance cost when analyzing whether the rules would have a disproportionate impact on small businesses as defined in RCW 19.85.020(3). This reflects a generously estimated 2 hours of administrative time at \$50 per hour, for a total of \$100. The agency assumes this activity would involve reviewing the revised rules and considering the implications when applying for a spirits retail license. Existing spirits retail licensees have no reason or need to review the revised rules, but if they decide to, they too will expend no more than \$100. As explained in more detail in the CR 102 form, this is well below the cost of compliance that would trigger the need for a Small Business Economic Impact Statement (SBEIS).

### Rule Necessity

These rule changes are needed to return oversight of business on Tribal land to the sovereign governments that oversee them.

### Description of Rule Changes

#### Amended WAC 314-02-1071: What is “trade area”?

Section	Current Rule Language	Proposed New Language	Rule Necessity
Title	What is “trade area”?	Trade Area.	Improving clarity without changing effect.
(2)	The board will use the following criteria when determining to accept a spirits retail license application where the proposed premises location is less than ten thousand square feet of fully enclosed retail space:	For a spirits retail license application where the proposed premises is less than 10,000 square feet of fully enclosed retail space, the board will determine if there is an existing spirits retailer	Improving clarity without changing effect.  Removing reference to outdated mapping technology. This is no longer

	<p>(a) There is no spirits retail license holder or auction title holder within twenty travel miles at the time of license application; and</p> <p>(b) The board will determine travel distance by a publicly available mapping tool which may be accessed on the board's website. The web address of this site at the time of rule adoption is <a href="http://wslcb.maps.arcgis.com/home/">http://wslcb.maps.arcgis.com/home/</a>.</p>	within 20 travel miles at the time of license application.	necessary due to widespread availability of public mapping tools such as Google Maps, etc.
(3)	Former contract liquor stores and title holders by those who purchased a state store at auction are exempt from the ten thousand square foot minimum required by law. Should either choose to locate within an established trade area and they are in compliance with board relocation criteria, they may be issued a license.	Former contract or state liquor stores owners are exempt from the 10,000 square foot minimum required by law. If either entity chooses to locate within a trade area as defined in this section, they may be issued a licenses as long as they are in compliance with relocation criteria established by the board.	Improving clarity without changing effect.
(4)	The board may make an exception to the twenty mile travel distance for the following: A spirits retail license application is for a location where the significant mode of travel is other than by automobile.	[[5]] The board may make an exception to the 20-mile travel distance requirement for a spirits retail license application where access to the proposed location is by means of travel other than automobile.	<p>Improving clarity without changing effect.</p> <p>This has been renumbered as section (5) with the new language being new section (4) to ease the flow and readability of the rule.</p>
N/A	N/A	<p>[[4]] Stores owned and operated by a Tribe or its tribal enterprise, located in Indian country as defined by 18 U.S.C. Sec. 1151, including reservation and all lands held in trust by the United States for the Tribe or its members, are exempt from the 20 mile travel distance requirement.</p> <p>(a) For purposes of this subsection, "Tribe" means a federally recognized tribe as defined by 25 U.S.C. Sec. 4103(13)(B).</p> <p>(b) For purposes of this subsection, "tribal enterprise" means a wholly owned business enterprise of the Tribe.</p>	Returning oversight of entities on tribal land to Tribes.
All	[Changed written numbers to numeric form.]		Improving clarity without changing effect.

**Attachments:**

Attachment A. *Washington Food Industry Association Comments and Proposed Rule Language.*

# 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 23-11-160 ; 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) WAC 314-02-1071 - What is "trade area"?

### Hearing location(s):

Date:	Time:	Location: (be specific)	Comment:
February 14, 2024	10:00 AM	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 <a href="https://lcb.wa.gov/Boardmeetings/Board_meetings">https://lcb.wa.gov/Boardmeetings/Board_meetings</a>

**Date of intended adoption:** No earlier than February 28, 2024 (Note: This is **NOT** the **effective** date)

### Submit written comments to:

Name: Daniel Jacobs, Rules & Policy Coordinator

Address: PO Box 43080, Olympia WA 98504-3080

Email: [rules@lcb.wa.gov](mailto:rules@lcb.wa.gov)

Fax: 360 704 5027

Other:

By (date) February 7, 2024

### Assistance for persons with disabilities:

Contact Anita Bingham, ADA Coordinator, Human Resources

Phone: 360 664 1739

Fax: 360 664 9689

TTY: 7-1-1 or 1-800-833-6388

Email: [anita.bingham@lcb.wa.gov](mailto:anita.bingham@lcb.wa.gov)

Other:

By (date) February 7, 2024

**Purpose of the proposal and its anticipated effects, including any changes in existing rules:** The purpose of the proposed amended language is to clarify the language in WAC 314-02-1071 regarding exceptions to trade area requirements

for spirits retailers in locations that are primarily accessed by boat, and to exempt businesses on Tribal land and owned by tribal enterprises from the 20 mile travel distance requirement in WAC 314-02-1071(1). The proposed changes, as described below, define the terms “Tribe” and “tribal enterprise”, as well as moving around some of the language of existing WAC 314-02-1071 to enable better flow and readability of the rule language overall. It is anticipated to allow a small number of spirits retailers to open on Tribal land that have historically not been able to open due to regulatory requirements.

**Reasons supporting proposal:** WAC 314-02-1071 has not been revised since it was originally promulgated in 2013. The Board undertook the rule project to explore whether modernizing language was appropriate in the context of statewide demographic shifts and current socioeconomic factors. Extensive outreach to stakeholders and Tribal partners has been conducted, first in July 2023, and again in November 2023. After circulating draft language in July 2023, the Board received feedback from existing licensees and from several of the State’s Tribe’s and Tribal partners on suggestions to the rule language. Revised draft language was developed between July and November 2023, and feedback was gathered during two Tribal Engagement Sessions and a stakeholder engagement session in November. The proposed draft rule language was generally supported by the participants of the various rule workshops, and that is by and large the language that is being filed with this proposal. Some proposed edits received from industry groups have not been incorporated into the proposed rule language as they were viewed to be beyond the intentionally narrow scope of this rulemaking.

Section	Current Rule Language	Proposed New Language	Rule Necessity
Title	What is “trade area”?	Trade Area.	Improving clarity without changing effect.
(2)	The board will use the following criteria when determining to accept a spirits retail license application where the proposed premises location is less than ten thousand square feet of fully enclosed retail space: (a) There is no spirits retail license holder or auction title holder within twenty travel miles at the time of license application; and (b) The board will determine travel distance by a publicly available mapping tool which may be accessed on the board's website. The web address of this site at the time of rule adoption is <a href="http://wslcb.maps.arcgis.com/home/">http://wslcb.maps.arcgis.com/home/</a> .	For a spirits retail license application where the proposed premises is less than 10,000 square feet of fully enclosed retail space, the board will determine if there is an existing spirits retailer within 20 travel miles at the time of license application.	Improving clarity without changing effect.  Removing reference to outdated mapping technology. This is no longer necessary due to widespread availability of public mapping tools such as Google Maps, etc.
(3)	Former contract liquor stores and title holders by those who purchased a state store at auction are exempt from the ten thousand square foot minimum required by law. Should either choose to locate within an established trade area and they are in compliance with board relocation criteria, they may be issued a license.	Former contract or state liquor stores owners are exempt from the 10,000 square foot minimum required by law. If either entity chooses to locate within a trade area as defined in this section, they may be issued a license as long as they are in compliance with relocation criteria established by the board.	Improving clarity without changing effect.
(4)	The board may make an exception to the twenty mile travel distance for the following: A spirits retail license application is for a location where the significant mode of travel is other than by automobile.	[(5)] The board may make an exception to the 20-mile travel distance requirement for a spirits retail license application where access to the proposed location is by means of travel other than automobile.	Improving clarity without changing effect.  This has been renumbered as section (5) with the new language being new section (4) to ease the flow and readability of the rule.
N/A	N/A	[(4)] Stores owned and operated by a Tribe or its tribal enterprise, located in Indian country as defined by 18 U.S.C. Sec. 1151, including reservation and all lands held in trust by the United States for the Tribe or its members, are exempt	Returning oversight of entities on tribal land to Tribes.



		<p>from the 20 mile travel distance requirement.</p> <p>(a) For purposes of this subsection, "Tribe" means a federally recognized tribe as defined by 25 U.S.C. Sec. 4103(13)(B).</p> <p>(b) For purposes of this subsection, "tribal enterprise" means a wholly owned business enterprise of the Tribe.</p>	
All	[Changed written numbers to numeric form.]		Improving clarity without changing effect.

<b>Statutory authority for adoption:</b> RCW 66.08.030			
<b>Statute being implemented:</b> RCW 66.24.630			
<b>Is rule necessary because of a:</b>			
Federal Law?		<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No
Federal Court Decision?		<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No
State Court Decision?		<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No
If yes, CITATION:			
<b>Agency comments or recommendations, if any, as to statutory language, implementation, enforcement, and fiscal matters:</b> None			
<b>Type of proponent:</b> <input type="checkbox"/> Private <input type="checkbox"/> Public <input checked="" type="checkbox"/> Governmental			
<b>Name of proponent:</b> (person or organization) Washington State Liquor and Cannabis Board			
<b>Name of agency personnel responsible for:</b>			
	Name	Office Location	Phone
Drafting: Coordinator	Daniel Jacobs, Rules & Policy	1025 Union Avenue, Olympia WA, 98504	360-480-1238
Implementation: Licensing	Becky Smith, Director of	1025 Union Avenue, Olympia WA, 98504	360-664-1753
Enforcement: Enforcement & Education	Chandra Wax, Director of	1025 Union Avenue, Olympia WA, 98504	360-664-1726
<b>Is a school district fiscal impact statement required under <a href="#">RCW 28A.305.135</a>?</b>			<input type="checkbox"/> Yes <input checked="" type="checkbox"/> 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:			
<b>Is a cost-benefit analysis required under <a href="#">RCW 34.05.328</a>?</b>			
<input type="checkbox"/> Yes: A preliminary cost-benefit analysis may be obtained by contacting:			
Name:			
Address:			
Phone:			
Fax:			
TTY:			
Email:			
Other:			
<input checked="" type="checkbox"/> No: Please explain: The proposed amended rules do not qualify as a type of rule requiring a cost-benefit analysis under RCW 34.05.328(5). The LCB is not a listed agency under RCW 34.05.328(5)(a)(i), so the cost-benefit analysis			

requirements in RCW 34.05.328 are not applicable to the proposed rules unless voluntarily applied or made applicable by the joint administrative rules review committee under RCW 34.05.328(5)(a)(ii).

### 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:

- |   |  |
|---|--|
| <input type="checkbox"/> <a href="#">RCW 34.05.310</a> (4)(b)<br>(Internal government operations) | <input type="checkbox"/> <a href="#">RCW 34.05.310</a> (4)(e)<br>(Dictated by statute)   |
| <input type="checkbox"/> <a href="#">RCW 34.05.310</a> (4)(c)<br>(Incorporation by reference)     | <input type="checkbox"/> <a href="#">RCW 34.05.310</a> (4)(f)<br>(Set or adjust fees)  |
| <input type="checkbox"/> <a href="#">RCW 34.05.310</a> (4)(d)<br>(Correct or clarify language)    | <input type="checkbox"/> <a href="#">RCW 34.05.310</a> (4)(g)<br>((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:

#### (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. Agencies are required to consider costs imposed on business and costs associated with compliance with proposed rules. Agencies are not required under chapter 19.85 RCW to consider indirect costs not associated with compliance. Here, the agency considered potential administrative costs that a licensee may incur complying with the proposed rules.

LCB applied the North American Industry Classification System (NAICS) codes 445310 for Beer, Wine, and Liquor Stores. This is defined by the NAICS as follows: establishments primarily engaged in retailing packaged alcoholic beverages, such as ale, beer, wine and liquor. The industry description for this code is presented in the table below, and can be accessed at <https://www.census.gov/naics/>

LCB applied a default estimated compliance cost when analyzing whether the rules would have a disproportionate impact on small businesses as defined in RCW 19.85.020(3). This reflects a generously estimated 2 hours of administrative time at \$50 per hour, for a total of \$100. The agency assumes this activity would involve reviewing the revised rules and considering the implications when applying for a spirits retail license. Existing spirits retail licensees have no reason or need to review the revised rules, but if they decide to, they too will expend no more than \$100.

<u>2022 Industry NAICS Code</u>	<u>Estimated Cost of Compliance</u>	<u>Industry Description</u>	<u>NAICS Code Title</u>	<u>Minor Cost Estimate</u>	<u>1% of Avg Annual Payroll (Threshold)</u>	<u>0.3% of Avg Annual Gross Business Income (Threshold)</u>
445310	\$100	Beer, Wine, and Liquor Stores	Beer, Wine, and Liquor Stores	\$2,645.36	\$1,970.63 2021 Dataset pulled from ESD	\$2,645.36 2021 Dataset pulled from DOR

As the table demonstrates, the estimated cost of compliance does not exceed the threshold for spirits retailers, classified by NAICS as beer, wine and liquor stores. Therefore, implementation of this amended rule is not anticipated to result in more than minor costs on businesses as defined in RCW 19.85.020(2).

ESD – Washington State Employment Security Department  
DOR – Washington State Department of Revenue

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: Daniel Jacobs, Rules & Policy Coordinator  
Address: PO Box 43080, Olympia WA 98504-3080  
Phone: 360-480-1238  
Fax: 360 704 5027  
TTY:  
Email: rules@lcb.wa.gov  
Other:

<b>Date:</b> January 3, 2024	<b>Signature:</b>  Place signature here
<b>Name:</b> David Postman	
<b>Title:</b> Chair	

**WAC 314-02-1071** (~~(What is "trade area"?)~~) **Trade area.** (1)

"Trade area" as used in RCW 66.24.630 means an area where there is no spirits retail license within a (~~(twenty)~~) 20-mile travel distance at the time of license application.

(2) (~~The board will use the following criteria when determining to accept~~) For a spirits retail license application where the proposed premises (~~(location)~~) is less than (~~(ten thousand)~~) 10,000 square feet of fully enclosed retail space(~~+~~

~~(a) There is no spirits retail license holder or auction title holder~~), the board will determine if there is an existing spirits retailer within (~~(twenty)~~) 20 travel miles at the time of license application(~~+~~ and

~~(b) The board will determine travel distance by a publicly available mapping tool which may be accessed on the board's website. The web address of this site at the time of rule adoption is <http://wsleb.maps.aregis.com/home/>)~~).

(3) Former contract or state liquor store(~~s and title holders by those who purchased a state store at auction~~) owners are exempt from the (~~(ten thousand)~~) 10,000 square foot minimum required by law. (~~(Should)~~) If either entity chooses to locate within (~~(an establish- ed)~~) a trade area (~~(and)~~) as defined in this section, they may be is- sued a license as long as they are in compliance with (~~(board)~~) relo- cation criteria(~~(, they may be issued a license)~~) as established by the board.

(4) Spirits retailers owned and operated by a tribe or its tribal enterprise, located in Indian country as defined by 18 U.S.C. Sec. 1151, including reservation and all lands held in trust by the United States for the tribe or its members, are exempt from the 20-mile travel distance requirement.

(a) For purposes of this subsection, "tribe" means a federally recognized tribe as defined by 25 U.S.C. Sec. 4103(13)(B).

(b) For purposes of this subsection, "tribal enterprise" means a wholly owned business enterprise of the tribe.

(5) The board may make an exception to the (~~(twenty)~~) 20-mile travel distance requirement for (~~(the following+)~~) a spirits retail license application (~~(is for a location)~~) where (~~(the significant mode)~~) access to the proposed location is by means of travel (~~(is)~~) other than (~~(by)~~) automobile.



# Washington State Liquor and Cannabis Board

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Dear Tribal Leader:

**Subject:**

Notice of Rulemaking. In accordance with Chapter 43.376 RCW and the Washington State Centennial Accord of 1989, we invite collaboration with federally recognized Indian Tribes and Tribal organizations in the development of policies, agreements, and program implementation that directly affects Indian Tribes and Tribal people. Therefore, please be advised we are proposing amended rule language on WAC 314-02-1071 concerning alcohol trade areas.

**Purpose:**

The Washington State Liquor and Cannabis Board (LCB) is proposing to amend WAC 314-02-1071 to exempt the following from the 20 mile travel distance requirement for trade area: spirits retailers owned or operated by a Tribe or Tribal enterprise located in Indian Country as defined by 18 U.S.C. § 1151, including reservation and all lands held in trust by the United States for the Tribe or its members, where "Tribe" refers to a federally recognized Tribe as defined by 25 U.S.C. § 4103(13)(B).

**Anticipated Impact on Indians/Tribes/Tribal Communities/Tribal Consortium:**

We invite you to consider whether this rulemaking has an impact specific to American Indian/Alaska Native people, Tribes, Tribal communities, or Tribal Consortium. We would appreciate any input or concerns that Tribal representatives wish to share, including whether this rulemaking will have disproportionate impact on American Indian/Alaska Native people, Tribes, or Tribal communities.

**Rule File Available on Request:**

LCB will make copies of materials related to this rulemaking available upon request. To request copies of the rulemaking file specific to this project, please send a request for the file to the Policy & Rules team at [rules@lcb.wa.gov](mailto:rules@lcb.wa.gov).

**Comments and Questions**

Comments on the CR 102, or rule inquiry can be sent to the LCB rules team at [rules@lcb.wa.gov](mailto:rules@lcb.wa.gov).

Please contact Dr. Marla Conwell, our agency's Tribal & Government Liaison, by email at [tribal.liaison@lcb.wa.gov](mailto:tribal.liaison@lcb.wa.gov) if you would like to request a formal consultation with the agency or if you have any Tribal affairs related questions or concerns. Please forward this information to any interested party.

Sincerely,

Justin Nordhorn, Director of Policy and External Affairs  
Cassidy West, Policy and Rules Manager



## NOTICE OF PROPOSED RULES - WSR 24-02-XXX

The Washington State Liquor and Cannabis Board (LCB) invites your input on proposed rules (CR 102) to amend [WAC 314-02-1071](#) and what constitutes a “trade area” as used in [RCW 66.24.630](#). The proposed rules would exempt spirits retailers owned by Tribes and tribal enterprises, located in Indian country from requirements prohibiting operating within 20 miles of an existing spirits retailer.

This notice and other relevant rulemaking materials can be found at <https://lcb.wa.gov/laws/current-rulemaking-activity>

The LCB encourages your participation in the rulemaking process by providing feedback and comments on the proposed rules. The LCB will hold a public hearing before the rules are adopted.

### Public Comment

Please send your comments to the WSLCB through mail, email, or fax by **February 14, 2024**.

**By mail:** Rules Coordinator  
Liquor and Cannabis Board  
P.O. Box 43080  
Olympia, WA 98504-3080

**By email:**  
[rules@lcb.wa.gov](mailto:rules@lcb.wa.gov)

**By fax:**  
360-704-5027

**Public Hearing:** **February 14, 2024**  
**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](https://lcb.wa.gov/boardmeetings/board_meetings).

From: [Katie Beeson](#)  
To: [Jacobs, Daniel \(LCB\)](#)  
Cc: [Carolyn Logue](#)  
Subject: Trade Area Language  
Date: Friday, December 15, 2023 10:21:23 AM  
Attachments: [image001.png](#)  
[Trade Area- Proposed Language WFIA.pdf](#)

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**External Email**

Hi Daniel,

Thank you for giving us the opportunity and substantial timeframe to provide language suggestions to the current trade area rules.

In the attached document you will see our recommendations. The first simply allows the Board to make any exceptions to the trade area rules, our hope is that this would get at unique and extenuating circumstances. We have also added a second option if that language feels too broad. We have a licensee that burnt down and rebuilt into a slightly smaller footprint (under 10k sq ft), so we are trying to address this issue.

The second language is requiring the LCB to notify licensees if new tribal licenses are authorized within a trade area.

Always happy to discuss further or answer questions.

Thanks,  
Katie

**Katie Beeson**

Government Affairs Director

**C:** (360) 789-2136 | **W:** (360) 867-8721 | **O:** (360) 753-5177 ext. 4

[katie@wafood.org](mailto:katie@wafood.org) | [www.wafood.org](http://www.wafood.org) | P.O. Box 706, Olympia, WA 98507



Supporting and representing the neighborhood grocers, convenience and specialty retail stores, suppliers and distributors that make up the fabric of our communities in Washington State.

(1) "Trade area" as used in RCW [66.24.630](#) means an area where there is no spirits retail license within a twenty mile travel distance at the time of license application.

(2) The board will use the following criteria when determining to accept a spirits retail license application where the proposed premises location is less than ten thousand square feet of fully enclosed retail space:

(a) There is no spirits retail license holder or auction title holder within twenty travel miles at the time of license application; and

(b) The board will determine travel distance by a publicly available mapping tool which may be accessed on the board's website. The web address of this site at the time of rule adoption is <http://wslcb.maps.arcgis.com/home/>.

(3) Former contract liquor stores and title holders by those who purchased a state store at auction are exempt from the ten thousand square foot minimum required by law. Should either choose to locate within an established trade area and they are in compliance with board relocation criteria, they may be issued a license.

~~(4) The board may make an exception to the twenty mile travel distance for the following: A spirits retail license application is for a location where the significant mode of travel is other than by automobile.~~

(4) The Board may make an exception to the 20 mile travel distance requirement or 10,000 square feet requirement for a spirits retail license application

OR

(4) The board may make an exception to the twenty mile travel distance for the following: A spirits retail license application is for a location where the significant mode of travel is other than by automobile.

(5) The Board may make an exception to the 20 mile travel distance requirement or 10,000 square feet requirement for previous or renewing spirits retail licensees utilizing the same location

(5) The board shall make an exception to the 20-mile travel distance requirement for spirits retail sales when the store is owned and operated by a tribe or its tribal enterprise located on Indian country as defined by 18 U.S.C. Sec. 1151, including reservation and all lands held in trust by the United States for the tribe or its members.

(a) For purposes of this subsection, "tribe" means a federally recognized tribe as defined by 25 U.S.C. Sec. 4103(13)(B).

(b) For purposes of this subsection, "tribal enterprise" means a wholly owned business enterprise of the tribe.



(c) The Board must notify all spirits retail licenses within a 20 mile radius of any new store licensed under this section