



**Washington State
Liquor and Cannabis Board**

Date: January 31, 2024

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

From: Daniel Jacobs, Rules Coordinator

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

Subject: Request for approval of final rules (CR 103) regarding implementation of Substitute Senate Bill 5448 / MAST 13 Rulemaking.

The Rules Coordinator requests that the Board adopt the final rules and approve the CR 103 for revisions to, repeal of, and a creation of, the following rules:

SSB 5448	
Amended	WAC 314-03-035 "Consumer orders, internet sales, and delivery for on-premises beer and/or wine liquor licensees."
Amended	WAC 314-03-200 "Outside or extended alcohol service."
Amended	WAC 314-03-500 "Endorsement for sale of manufacturer sealed alcohol products through takeout or delivery service."
Amended	WAC 314-03-505 "Endorsement for sale of premixed cocktails, wine by the glass, premixed wine and spirits cocktails, or premixed wine drinks through takeout or delivery service."
Amended	WAC 314-03-510 "Endorsement for sale of growlers through takeout or delivery service."
Repealed	WAC 314-03-205 "Outdoor alcohol service for on-premises licensees."
New	WAC 314-03-600 "Takeout/delivery endorsement comparison table."

MAST 13 Permit Petition	
Amended	WAC 314-11-040 "What duties can an employee under twenty-one years of age perform on a licensed premises?"
Amended	WAC 314-17-015 "What are the two types of alcohol server training permits?"

The Board has been briefed on the rule development background and public comment received for this rule making project. A CR 103 memorandum, CR 103 form, concise explanatory statement, and rule text are attached.

If approved, the concise explanatory statement will be sent to everyone who provided public comment or testimony, the CR 103 form and rule text will be filed with the Code Reviser, and the rules will be effective March 2, 2024.

_____ Approve _____ Disapprove _____
David Postman, Chair _____
Date

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

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

Attachments: CR 103 Memorandum
 Concise Explanatory Statement



CR 103 Memorandum

Re: Implementation of Substitute Senate Bill 5448 / MAST 13 Rulemaking.

Date: January 31, 2024
Presented by: Daniel Jacobs, Rules Coordinator

Background

On July 19, 2023, the Washington State Liquor and Cannabis Board (LCB) filed a CR 101 preproposal statement of inquiry ([WSR# 23-15-116](#)) to consider creating new rule sections, amending existing rule sections, and repealing rule sections to implement Substitute Senate Bill (SSB) 5448 ([chapter 279, Laws of 2023](#)) and amending [WAC 314-17-015](#) and other sections of Title 314 WAC as necessary to allow MAST 13 permit holders to open and pour beer or wine in areas where minors are not prohibited.

On December 6, 2023, the proposed rules (CR 102) were filed ([WSR# 23-24-100](#)).

SSB 5448, passed during the 2023 Legislative Session, extended the expiration of delivery privileges for some liquor licensees to July 2025, made what was a temporary takeout endorsement permanent, rescinded some delivery and curbside privileges, and codified certain requirements for deliveries that had previously been only in regulation, such as requiring an accompanying meal for many delivery orders of alcohol and requiring delivery drivers to hold MAST 12 permits. This bill addressed many of the privileges put in place during the height of the COVID-19 pandemic through [Engrossed Second Substitute House Bill 1480](#). Most of these provisions are now codified at [RCW 66.24.710](#).

During most of the COVID-19 pandemic, the LCB [allowed](#) MAST 13 permit holders, employees between 18 and just under 21 years of age who can pour beer and wine at the customer's table, as well as take orders for spirits, to pour beer and wine away from the customer's table. After this allowance expired in September 2022, the LCB received a petition for rulemaking that sought to amend WAC 314-17-015 and make this a permanent part of rule – allowing MAST 13 permit holders to pour beer and wine away from the customer's table. In January 2023, the LCB [accepted](#) this petition for rulemaking. This rulemaking project began in March 2023, and was later combined with the SSB 5448 rulemaking.

The day before the scheduled public hearing, the Washington Wine Institute submitted a written public comment, reproduced in the Concise Explanatory Statement attached herein. During the public hearing held on January 17, 2024, Josh McDonald, Executive Director of the Washington Wine Institute, testified almost verbatim to the written comments submitted the day before. His testimony is also transcribed in the Concise Explanatory Statement. Based on this, the following changes identified in the variations table below were made to the proposed rules.

Rule Necessity & Description of Rule Changes

These rule changes are identified by necessity in the table below:

SSB 5448		
Rule Section	Description of proposed rule change	Rule Necessity
WAC 314-03-035 Consumer orders, internet sales, and delivery for on-premises beer and/or wine liquor licensees. (AMENDED)	Added language stating that on-premises beer or wine licensees must obtain the takeout or delivery endorsement identified in RCW 66.24.710(5)(a).	Aligning existing rule language with RCW 66.24.710.
	Removed language referring to third-party delivery.	
	Changed written numbers to numeric form.	Improving clarity without changing effect.
WAC 314-03-200 Outside or extended alcohol service. (AMENDED)	Stated that all language referring to outdoor alcohol service applies also to extended indoor alcohol service.	Improving clarity, reducing confusion and the need for licensees and agency staff to reference two separate rules on outdoor alcohol service and implementing RCW 66.24.710(7).
	Rearranged order and flow of subsections to allow consolidation with WAC 314-03-205 to create one single rule for outdoor alcohol service.	
	Copied language verbatim regarding alcohol service in outdoor privately owned spaces from WAC 314-03-205(1), with the following exceptions: <ul style="list-style-type: none"> 1. Added language stating that if interior access is from an area classified by LCB as off limits to any person under age of 21, people under age 21 prohibited from outdoor or extended alcohol service area. 2. Moved language from subsections (6)(f) and (7) regarding the authority of the board to grant limited exceptions from the permanent or moveable barrier requirement. 3. Reworded language on outdoor food service requirement. 	
	Copied language verbatim regarding alcohol service in outdoor public spaces from WAC 314-03-205(2), with the following exceptions: <ul style="list-style-type: none"> 1. Added the word "fence-free" before "permanent demarcation." 2. Added language clarifying that certain 	

	<p>outdoor public spaces must always have permanent or moveable barriers.</p> <p>3. Reworded language on outdoor food service requirement.</p>	
	Copied language verbatim regarding liquor licensees sharing an outdoor service area, being jointly responsible for compliance with the outdoor service rules, and definitions from WAC 314-03-205(3)-(5).	
WAC 314-03-205 Outdoor alcohol service for on-premises licensees. (REPEALED)	REPEALED	Improving clarity, reducing confusion and the need for licensees and agency staff to reference two separate rules on outdoor alcohol service and implementing RCW 66.24.710(7).
WAC 314-03-500 Endorsement for sale of manufacturer sealed alcohol products through takeout or delivery service. (AMENDED)	Replaced citations to chapter 279, Laws of 2023 with citations to RCW 66.24.710.	Improving clarity without changing effect.
	Amending language describing people age 21 and older.	
	Clarifying that alcohol orders that cannot be delivered must be returned to the licensee.	
	Defining "spirits."	
	Removed language referencing domestic wineries, domestic breweries, microbreweries and distilleries.	Aligning rule language with RCW 66.24.710 and preexisting statutes that authorized certain licensees to deliver alcohol.
	Added language stating that licensees authorized to sell spirits are authorized to sell "ready to drink cocktails" through takeout or delivery services.	Providing clarity regarding a frequent subject of questions to agency staff.
	Defining "ready to drink cocktails."	
	Removing language regarding kegs.	Improving clarity because kegs are the subject of a different rule.
	Adding language stating that employees delivering alcohol must have a MAST 12 permit.	Aligning rule language with RCW 66.24.710.
	Adding language that alcohol must be delivered by direct employees of the licensee.	
Adding language that alcohol sold for takeout and delivery must be accompanied by a purchased meal.		
WAC 314-03-505 Endorsement for sale of premixed cocktails, wine by the glass, premixed wine and spirits cocktails, or premixed wine	Replaced citations to chapter 279, Laws of 2023 with citations to RCW 66.24.710.	Improving clarity without changing effect, citing to RCW 66.24.710 where appropriate.
	Copied language from WAC 314-03-500 clarifying that this endorsement is separate from the endorsement authorizing the sale of manufacturer sealed alcohol products at retail, or growlers.	
	Adding citations to RCW 66.24.710.	
	Renumbering subsections to separate different requirements.	

drinks through takeout or delivery service. (AMENDED)	Clarifying that alcohol orders that cannot be delivered must be returned to the licensee.	
WAC 314-03-510 Endorsement for sale of growlers through takeout or delivery service. (AMENDED)	Replaced citations to chapter 279, Laws of 2023 with citations to RCW 66.24.710.	Improved clarity without changing effect, citing to RCW 66.24.710 where appropriate.
	Copied language from WAC 314-03-500 clarifying that this endorsement is separate from the endorsement authorizing the sale of manufacturer sealed alcohol products at retail, and nonmanufacturer or nonfactory sealed premixed cocktails, wine by the glass, premixed wine and spirits cocktails, and premixed wine drinks.	
	Clarifying that alcohol orders that cannot be delivered must be returned to the licensee.	
	Adding language stating that growlers do not need to be accompanied by a purchased meal.	
	Replacing definition of "growler" with a reference to RCW 66.24.710.	
WAC 314-03-600 Takeout/delivery endorsement comparison table. (NEW)	Demonstrates two tables that provide in a Yes/No format whether a meal is required to be sold with the alcohol, or third-party delivery is permitted, depending on the type of liquor licensee and the endorsement under which the alcohol is being sold. Identifies six liquor license types and six endorsements. Uses "n/a" if the liquor licensee cannot hold the endorsement at issue.	Some liquor license types are identified in RCW 66.24.710 as being eligible for the three different endorsements available, but already had endorsements or statutory authority to sell alcohol for takeout, and charts are necessary to provide licensees and agency staff a simple visual tool to enable them to understand what is permitted, prohibited and required depending on the liquor license type and endorsement at issue.

MAST 13 Permit Privilege Rule Revisions			
Rule Section	Current Rule Language	Proposed New Language	Rule Necessity
WAC 314-11-040 What duties can an employee under twenty-one years of age perform on a licensed premises? (AMENDED)	"What duties can an employee under twenty-one years of age perform on a licensed premises?"	"Permissible duties of an employee under 21 years of age on a licensed premises."	Improving clarity without changing effect.
	"Mixing drinks"	"Pouring spirits and mixing cocktails"	
	"Drawing beer or wine from a tap"	"Drawing beer or wine from a tap or spigot"	
	Replacing a comma with "or"		
	Changed written numbers to numeric form		
	Corrected spelling of "speciality" to "specialty"		

	"Pouring beer or wine anywhere except at the patron's table"	"Opening or pouring beer or wine in area classified by the board as off limits to any person under the age of 21."	Amending rule to make what was a temporary allowance during the COVID-19 pandemic a permanent rule change.
WAC 314-17-015 What are the two types of alcohol server training permits? (AMENDED)	"What are the two types of alcohol server training permits?"	"Types of alcohol server training permits."	Improving clarity without changing effect.
	Changing written numbers to numeric form		
	"Opens or pours beer or wine into customer's glass at a customer's table."	"Opens or pours beer or wine into a customer's glass without opening or pouring in an area classified by the board as off limits to any person under the age of 21."	Amending rule to make what was a temporary allowance during the COVID-19 pandemic a permanent rule change.

Variance between proposed rule (CR 102) and final rule:

The following variations between the proposed rule and final rule are noted:

Variations between Proposed and Final Rule Language			
Rule Section	Proposed Rule Language	Final Rule Language	Basis for Change
WAC 314-03-200 Outside or extended alcohol service. (AMENDED)	(2)(f) The same food service offered inside the licensed premises must also be offered in the outdoor alcohol service area;	(2)(f) Any food service requirements by the license type apply to both indoor and outside alcohol service areas;	Removes any possible concern for interpretation that these rules create an outdoor food service requirement where the premises is not required to serve food indoors.
	(3)(f) The same food service offered inside the licensed premises must also be offered in the outdoor alcohol service area;	(3)(f) Any food service requirements by the license type apply to both indoor and outside alcohol service areas;	
	(2)(g) The outdoor alcohol service area must be enclosed with a permanent or movable barrier a minimum of 42 inches in height. However, the board may grant limited exceptions to the required 42 inch high barrier for outdoor alcohol service areas if the licensee has permanent boundaries for the outdoor alcohol service area, but may not grant limited	(2)(g) The outdoor alcohol service area must be enclosed with a permanent or movable barrier a minimum of 42 inches in height. However, the board may grant limited exceptions to the required 42 inch high barrier for outdoor alcohol service areas if the licensee has permanent boundaries for the outdoor alcohol service area, but may not grant limited	Removes "catered events" from list that Board cannot grant limited exceptions to. This was initially added to the original rules as part of the proposed rules and is now being removed based on stakeholder feedback.

	exceptions to beer gardens, standing room only venues, catered events, or permitted special events;	exceptions to beer gardens, standing room only venues, or permitted special events;	
	(3)(c)(iii) The exception identified in (c)(ii) of this subsection does not apply to beer gardens, standing room only venues, catered events, and permitted special events, all of which must always have a permanent or moveable barrier a minimum of 42 inches in height;	(3)(c)(iii) The exception identified in (c)(ii) of this subsection does not apply to beer gardens, standing room only venues, and permitted special events, all of which must always have a permanent or moveable barrier a minimum of 42 inches in height;	Removes “catered events” from the list that must always have permanent or moveable barriers. This was initially added to the original rules as part of the proposed rules and is now being removed based on stakeholder feedback.
WAC 314-03-600 Takeout/delivery endorsement comparison table. (NEW)	Adjusted margins and table layout without changing content.		Desire to make tables clearer and better identify the categories of x and y axis.

Rule Implementation (RCW 34.05.328(3)(a))

Informing and Educating Persons Impacted by the Rule (RCW 34.05.328(3)(b))

To help inform and educate persons impacted by the rule, the LCB will:

- Email notice with the adoption materials to persons who commented on the rules, the rule making and licensee distribution lists, and the general LCB GovDelivery list;
- Post rule adoption materials, including final rule language, response to comments, final analysis (Concise Explanatory Statement), and any other relevant documents on the rulemaking webpage for public access.

Promoting and Assisting Voluntary Compliance (RCW 34.05.328(3)(c))

LCB will promote and assist voluntary compliance through technical assistance.

- LCB staff are available to respond to phone and email inquiries about the rules.
- Agency leadership and staff have actively participated in rule development and revisions and are familiar with the final product. Internal and external education efforts to share knowledge and assure consistent application of rule will be supported.
- Rule and guidance documents will be available on the LCB website.

- LCB will use available and customary resources to disseminate materials and information to all persons impacted by the rules.

These actions are designed to inform and educate all persons impacted by the rules to support and promote voluntary compliance.

Training and Informing LCB Staff

Several LCB staff responsible for implementing these adopted rules work directly with impacted parties and are already familiar with the nuances of the rule changes. Additional internal guidance documents may be prepared as necessary. The LCB will also consider:

- Provision of internal and external training and education, as needed. potentially including webinars, training, and videos if appropriate;
- Coordinating and centrally locating decisions to assure consistency between agency, staff, and industry.

Rule Effectiveness Evaluation (RCW 34.05.328(3)(d))

After the rule becomes effective, the LCB will evaluate the effectiveness of this rule in the following ways, including but not limited to:

- Monitoring questions received after the effective date of this rule, and adjusting training and guidance accordingly;
- Monitoring the number of enforcement actions, including type, resolution, and the outcome;
- Monitoring the number of requests for rule language revisions or changes;
- Monitoring the number of requests for rule interpretation;
- Monitoring licensee feedback including, but not limited to, the number of requests for assistance.



**RULE-MAKING ORDER
PERMANENT RULE ONLY**

**CR-103P (December 2017)
(Implements RCW 34.05.360)**

Agency: Washington State Liquor and Cannabis Board

Effective date of rule:

Permanent Rules

- 31 days after filing.
- Other (specify) _ (If less than 31 days after filing, a specific finding under RCW 34.05.380(3) is required and should be stated below)

Any other findings required by other provisions of law as precondition to adoption or effectiveness of rule?

- Yes No If Yes, explain: .

Purpose: The Washington State Liquor and Cannabis Board (Board) has adopted amendments to the rules below to implement Substitute Senate Bill 5448 (chapter 279, Laws of 2023) and to respond to a petition for rulemaking accepted by the Board in January 2023 to allow MAST 13 permit holders to pour beer and wine away from the customer’s table.:

Citation of rules affected by this order:

New: WAC 314-03-600
 Repealed: WAC 314-03-205
 Amended: WAC 314-03-035; WAC 314-03-200; WAC 314-03-500; WAC 314-03-505; WAC 314-03-510; WAC 314-11-040; WAC 314-17-015
 Suspended:

Statutory authority for adoption: RCW 66.08.030; RCW 66.20.330; RCW 66.24.710(7)

Other authority: None.

PERMANENT RULE (Including Expedited Rule Making)

Adopted under notice filed as WSR 23-24-100 on December 6, 2023_ (date).

Describe any changes other than editing from proposed to adopted version: The changes made are described in the table below

Variations between Proposed and Final Rule Language			
Rule Section	Proposed Rule Language	Final Rule Language	Basis for Change
WAC 314-03-200 Outside or extended alcohol service. (AMENDED)	(2)(f) The same food service offered inside the licensed premises must also be offered in the outdoor alcohol service area;	(2)(f) Any food service requirements by the license type apply to both indoor and outside alcohol service areas;	Removes any possible concern for interpretation that these rules create an outdoor food service requirement where the premises is not required to serve food indoors.
	(3)(f) The same food service offered inside the licensed premises must also be offered in the outdoor alcohol service area;	(3)(f) Any food service requirements by the license type apply to both indoor and outside alcohol service areas;	
	(2)(g) The outdoor alcohol service area must be enclosed with a permanent or movable barrier a minimum of 42 inches in height. However, the board may grant limited exceptions to the required 42 inch high barrier for outdoor alcohol service areas if the licensee has permanent boundaries for the outdoor	(2)(g) The outdoor alcohol service area must be enclosed with a permanent or movable barrier a minimum of 42 inches in height. However, the board may grant limited exceptions to the required 42 inch high barrier for outdoor alcohol service areas if the licensee has permanent boundaries for the outdoor	Removes “catered events” from list that Board cannot grant limited exceptions to. This was initially added to the original rules as part of the proposed rules and is now being removed based on stakeholder feedback.

	alcohol service area, but may not grant limited exceptions to beer gardens, standing room only venues, catered events, or permitted special events;	alcohol service area, but may not grant limited exceptions to beer gardens, standing room only venues, or permitted special events;	
	(3)(c)(iii) The exception identified in (c)(ii) of this subsection does not apply to beer gardens, standing room only venues, catered events, and permitted special events, all of which must always have a permanent or moveable barrier a minimum of 42 inches in height;	(3)(c)(iii) The exception identified in (c)(ii) of this subsection does not apply to beer gardens, standing room only venues, and permitted special events, all of which must always have a permanent or moveable barrier a minimum of 42 inches in height;	Removes “catered events” from the list that must always have permanent or moveable barriers. This was initially added to the original rules as part of the proposed rules and is now being removed based on stakeholder feedback.
WAC 314-03-600 Takeout/delivery endorsement comparison table. (NEW)	Adjusted margins and table layout without changing content.		Desire to make tables clearer and better identify the categories of x and y axis.

If a preliminary cost-benefit analysis was prepared under RCW 34.05.328, a final cost-benefit analysis is available by contacting:

Name: Daniel Jacobs, Rules & Policy Coordinator
Address: 1025 Union Avenue SE, Olympia WA 98501
Phone: 360-480-1238
Fax: 360-664-3208
TTY:
Email: rules@lcb.wa.gov
Web site: www.lcb.wa.gov
Other:

**Note: If any category is left blank, it will be calculated as zero.
No descriptive text.**

**Count by whole WAC sections only, from the WAC number through the history note.
A section may be counted in more than one category.**

The number of sections adopted in order to comply with:

Federal statute:	New	___	Amended	___	Repealed	___
Federal rules or standards:	New	___	Amended	___	Repealed	___
Recently enacted state statutes:	New	<u>1</u>	Amended	5	Repealed	<u>1</u>

The number of sections adopted at the request of a nongovernmental entity:

New	___	Amended	<u>2</u>	Repealed	___
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The number of sections adopted on the agency’s own initiative:

New	___	Amended	2	Repealed	___
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The number of sections adopted in order to clarify, streamline, or reform agency procedures:

New	___	Amended	___	Repealed	___
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The number of sections adopted using:

Negotiated rule making:	New	___	Amended	___	Repealed	___
Pilot rule making:	New	___	Amended	___	Repealed	___
Other alternative rule making:	New	1	Amended	7	Repealed	1

Date Adopted: January 31, 2024

Name: David Postman

Title: Chair

Signature:

Place signature here

WAC 314-03-035 Consumer orders, internet sales, and delivery for on-premises beer and/or wine liquor licensees. An on-premises beer and/or wine licensee may accept orders for beer or wine from, and deliver beer or wine to, customers, if the licensee obtains a delivery endorsement under RCW 66.24.710.

(1) **Resale.** Beer and wine shall not be for resale.

(2) **Stock location.** Beer and wine must come directly from a licensed on-premises retail location.

(3) **How to place an order.** Beer and wine may be ordered in person at a licensed location, by mail, telephone, internet, or by other similar methods.

(4) **Sales and payment.**

(a) Only a licensee or a licensee's direct employees may accept and process orders and payments. A contractor may not do so on behalf of a licensee, except for transmittal of payment through a third-party service. The use of internet or mobile applications for retail customers to purchase alcohol in Washington state (~~are~~) is allowed under the following conditions:

(i) The sale must be made by the licensee;

(ii) The licensee processes the payment; and

(iii) The liquor licensee pays the owner of the mobile application a service fee.

(b) All orders and payments shall be fully processed before liquor transfers ownership (~~or, in the case of delivery, leaves a licensed premises~~).

(c) Payment method. Payment methods include, but are not limited to: Cash, credit or debit card, check or money order, electronic funds transfer, or an existing prepaid account. An existing prepaid account may not have a negative balance.

(d) Internet. To sell beer and wine via the internet, a new license applicant must request internet-sales privileges in his or her application. An existing licensee must notify the board prior to beginning internet sales. A corporate entity representing multiple stores may notify the board in a single letter on behalf of affiliated licensees, as long as the liquor license numbers of all licensee locations utilizing internet sales privileges are clearly identified.

(5) **Delivery location.** Delivery shall be made only to a residence or business that has an address recognized by the United States Postal Service; however, the board may grant an exception to this rule at its discretion. A residence includes a hotel room, a motel room, or other similar lodging that temporarily serves as a residence.

(6) **Hours of delivery.** Beer and wine may be delivered each day of the week between the hours of 6:00 a.m. and 2:00 a.m. Delivery must be fully completed by 2:00 a.m.

(7) **Age requirement.**

(a) Per chapter 66.44 RCW, any person under (~~twenty-one~~) 21 years of age is prohibited from purchasing, delivering, or accepting delivery of beer and wine.

(b) A delivery person must verify the age of the person accepting delivery before handing over beer and wine.

(c) If no person (~~twenty-one~~) 21 years of age or older is present to accept a beer and wine order at the time of delivery, the beer and wine shall be returned to the licensee.

(8) **Intoxication.** Delivery of beer and wine is prohibited to any person who shows signs of intoxication.

(9) **Containers and packaging.**

(a) Individual units of beer and wine must be factory sealed in bottles, cans, or other like packaging. Delivery of growlers, jugs or other similar, nonfactory sealed containers is prohibited. Delivery of malt liquor in kegs or other containers capable of holding four gallons or more of liquid is allowed, provided that kegs or containers are factory sealed and that the keg sales requirements (see WAC 314-02-115) are met prior to delivery. For the purposes of this subsection, "factory sealed" means that a unit is in (~~one hundred~~) 100 percent resalable condition, with all manufacturer's seals intact.

(b) The outermost surface of a beer and wine package (~~, delivered by a third party,~~) must have language stating that:

(i) The package contains liquor;

(ii) The recipient must be (~~twenty-one~~) 21 years of age or older; and

(iii) Delivery to intoxicated persons is prohibited.

(10) **Required information.**

(a) Records and files shall be retained at a licensed premises. Each delivery sales record shall include the following:

(i) Name of the purchaser;

(ii) Name of the person who accepts delivery;

(iii) Street addresses of the purchaser and the delivery location; and

(iv) Times and dates of purchase and delivery.

(b) (~~A private carrier~~) An employee delivering beer or wine must obtain the signature of the person who receives beer and wine upon delivery.

(c) A sales record does not have to include the name of the delivery person, but it is encouraged.

(11) **Website requirements.** When selling over the internet, all website pages associated with the sale of beer and wine must display a licensee's registered trade name.

(12) **Accountability.** A licensee shall be accountable for all deliveries of beer and wine made (~~on its behalf~~) by employees.

(13) **Violations.** The board may impose administrative enforcement action upon a licensee, or suspend or revoke a licensee's delivery privileges, or any combination thereof, should a licensee violate any condition, requirement or restriction.

WAC 314-03-200 Outside or extended alcohol service. (1) A licensee must request approval from the board's licensing division for ongoing outside ((or extended)) alcohol service or extended indoor alcohol service. Any language in this rule referring to outdoor alcohol service applies also to extended indoor alcohol service.

~~((Except as provided in rules for outdoor alcohol service in WAC 314-03-205, the following conditions must be met:~~

~~(1) The area must be enclosed with a permanent or movable barrier a minimum of 42 inches in height.~~

~~(2) There must be an interior access to the licensed premises. If the interior access is from a minor restricted area of the premises, minors are prohibited in the outside or extended alcohol service area.~~

~~(3) There must be an attendant, wait staff, or server dedicated to the outside service area when patrons are present.~~

~~(4) Must have leasehold rights to the area and have and be connected to the licensed premises.~~

~~(5) Openings into and out of the outside area cannot exceed 10 feet. If there is more than one opening along one side, the total combined opening may not exceed 10 feet.~~

~~(6) **Exception.** For sidewalk cafe outside service, the board allows local regulations that, in conjunction with a local sidewalk cafe permit, requires a 42 inch barrier or permanent demarcation of the designated alcohol service areas for continued enforcement of the boundaries.~~

~~(a) The permanent demarcation must be at all boundaries of the outside service area;~~

~~(b) The permanent demarcation must be at least six inches in diameter;~~

~~(c) The permanent demarcation must be placed no more than 10 feet apart;~~

~~(d) There must be an attendant, wait staff, or server dedicated to the outside service area when patrons are present;~~

~~(e) This exception only applies to restaurant liquor licenses with sidewalk cafe service areas contiguous to the liquor licensed premises. "Contiguous" means touching along a boundary or at a point;~~

~~(f) This exception does not apply to beer gardens, standing room only venues, and permitted special events. Board approval is still required with respect to sidewalk cafe barrier requirements.~~

~~(7) **Limited exception.** The board may grant limited exceptions to the required 42 inch high barrier for outside alcohol service areas.~~

~~(a) The licensee must have exclusive leasehold rights to the outside service area.~~

~~(b) There must be permanent demarcations at all boundaries of the outside service area for continued enforcement of the boundaries.))~~

(2) **Outdoor alcohol services in privately owned spaces.** For outdoor alcohol service located in privately owned spaces, a licensee must meet the following requirements:

(a) The licensee must have legal authority to use the outdoor alcohol service area including, but not limited to, ownership or leasehold rights;

(b) The licensee must have a building that provides indoor dining or production in order to qualify for an outdoor alcohol service area;

(c) The outdoor alcohol service area must be contiguous to the licensed business or located on the same property or parcel of land as the licensed business;

(d) The outdoor alcohol service area must have an attendant, wait staff, or server dedicated to the area when patrons are present;

(e)(i) Interior access to the licensed premises from the outdoor alcohol service area is not required. However, unless there is (A) interior access to the licensed premises from the outdoor alcohol service area, or (B) an unobstructed direct line of sight from inside the licensed premises to the outdoor alcohol service area, an employee with a mandatory alcohol server training (MAST) permit under chapter 314-17 WAC must be in the outdoor alcohol service area at all times that patrons are present, in order to monitor alcohol consumption. This requirement is in addition to the requirement in (d) of this subsection that the outdoor alcohol service area must have an attendant, wait staff, or server dedicated to the area when patrons are present;

(ii) If the interior access is from an area classified by the board as off limits to any person under the age of 21, people under the age of 21 are prohibited in the outside or extended alcohol service area;

(f) If there are food service requirements for the licensee, then the required food service must be available in any outdoor or extended alcohol service area;

(g) The outdoor alcohol service area must be enclosed with a permanent or movable barrier a minimum of 42 inches in height. However, the board may grant limited exceptions to the required 42 inch high barrier for outdoor alcohol service areas if the licensee has permanent boundaries for the outdoor alcohol service area, but may not grant limited exceptions to beer gardens, standing room only venues, or permitted special events;

(h) Openings into and out of the outdoor alcohol service area cannot exceed 10 feet. If there is more than one opening along one side, the total combined opening may not exceed 10 feet; and

(i) Licensees must comply with local building codes, local health jurisdiction requirements, department of labor and industries requirements, and any other applicable laws and rules.

(3) **Outdoor alcohol services in public spaces.** For outdoor alcohol service located in public spaces, a licensee must request approval from the board's licensing division and meet the following requirements:

(a) The licensed business must have a permit from their local jurisdiction allowing the business to use the public space as a service area, such as a sidewalk cafe permit or other similar outdoor area permit authorized by local regulation;

(b) The licensee must have a building that provides indoor dining or production in order to qualify for an outdoor alcohol service area;

(c)(i) Except as provided in (c)(ii) of this subsection, the outdoor alcohol service area must be enclosed with a permanent or movable barrier a minimum of 42 inches in height.

(ii) Licensees with outdoor alcohol service areas contiguous to the licensed premises may use a permanent fence-free demarcation of the designated alcohol service area for continued enforcement of the boundaries, instead of a permanent or movable barrier a minimum of 42 inches in height. The permanent fence-free demarcation used must be:

(A) At all boundaries of the outdoor alcohol service area;

(B) At least six inches in diameter; and

(C) Placed no more than 10 feet apart;

(iii) The exception identified in (c)(ii) of this subsection does not apply to beer gardens, standing room only venues, and permitted special events, all of which must always have a permanent or movable barrier a minimum of 42 inches in height;

(d) Openings into and out of the outdoor alcohol service area cannot exceed 10 feet. If there is more than one opening along one side, the total combined opening may not exceed 10 feet;

(e) The outdoor alcohol service area must have an attendant, wait staff, or server dedicated to the area when patrons are present;

(f) If there are food service requirements for the licensee, then the required food service must be available in any outdoor or extended alcohol service area; and

(g) Licensees must comply with local building codes, local health jurisdiction requirements, department of labor and industries requirements, and any other applicable laws and rules.

(4) For multiple licensees to share an outdoor alcohol service area, the licensees must request approval from the board's licensing division and meet the following requirements:

(a) The licensees' property parcels or buildings must be located in direct physical proximity to one another. For the purposes of this subsection, "direct physical proximity" means that the property parcels or buildings are physically connected or touching each other along a boundary or at a point;

(b)(i) If the shared outdoor alcohol service area is located on public space, the licensees sharing the space must meet all of the requirements in subsection (3) of this section and shared use of the outdoor service area must be authorized by the licensees' local jurisdiction permits; or

(ii) If the shared outdoor alcohol service area is located in a privately owned space, the licensees sharing the space must meet all of the requirements in subsection (2) of this section and must have legal authority to share use of the outdoor service area including, but not limited to, ownership or leasehold rights;

(c) The licensees must maintain separate storage of products and separate financial records for the shared outdoor alcohol service area. If licensees share any point of sale system, the licensees must keep complete documentation and records for the shared point of sale system showing clear separation as to what sales items and categories belong to each respective licensee;

(d) The licensees must use distinctly marked glassware or serving containers in the shared outdoor alcohol service area to identify the source of any alcohol product being consumed. The distinctive markings may be either permanent or temporary. Any temporary markings must remain on the glassware or serving containers through the duration of use by the customer;

(e) The licensees must complete an operating plan for the shared outdoor alcohol service area. The operating plan should demonstrate in general how responsibility for the outdoor alcohol service area is shared among the licensees. Licensees are required to submit the operating plan to the board's licensing division at the time of application or alteration and must keep documentation of an up-to-date plan available for inspection on premises; and

(f) Consistent with WAC 314-11-065, a licensee may not permit the removal of alcohol in an open container from the shared outdoor alcohol service area, except to reenter the licensed premises where the alcohol was purchased. Signage prohibiting the removal of alcohol in

an open container must be visible to patrons in the shared outdoor alcohol service area.

(5) If multiple licensees use a shared outdoor alcohol service area as described in subsection (4) of this section, all participating licensees are jointly responsible for any violation or enforcement issues unless it can be demonstrated that the violation or enforcement issue was due to one or more licensee's specific conduct or action, in which case the violation or enforcement action applies only to those identified licensees.

(6) The definitions in this subsection apply throughout this section unless the context clearly requires otherwise.

(a) "Alcohol service" means service of liquor as defined in RCW 66.04.010.

(b) "Contiguous" means touching along a boundary or at a point.

(c) "Sidewalk cafe" means a designated seating area on the sidewalk, curb space, or other public space where a business provides table service and seating for their patrons during business hours.

REPEALER

The following section of the Washington Administrative Code is repealed:

WAC 314-03-205 Outdoor alcohol service for on-premises licensees.

WAC 314-03-500 Endorsement for sale of manufacturer sealed alcohol products through takeout or delivery service. (1) An endorsement for the sale of manufacturer sealed alcohol products is available through takeout and delivery service as set forth in ~~((section 1(5)(d), chapter 279, Laws of 2023))~~ RCW 66.24.710. There is no fee for a licensee to apply for and obtain this endorsement.

(2) (a) (i) An endorsement to sell manufacturer sealed alcohol products at retail through takeout or delivery service is available to the following licensees: Beer and wine restaurants; spirits, beer, and wine restaurants; taverns; ~~((domestic wineries; domestic breweries and microbreweries; distilleries;))~~ snack bars; nonprofit arts licensees; and caterers.

(ii) This endorsement allows licensees authorized to sell spirits to sell ready-to-drink cocktails through takeout or delivery service.

(b) This endorsement is separate from the endorsements in WAC 314-03-505 and 314-03-510 that authorize the sale through takeout or delivery service of nonmanufacturer or nonfactory sealed premixed cocktails, wine by the glass, premixed wine and spirits cocktails, premixed wine drinks, or growlers.

(3) In order to obtain and maintain the endorsement described in this section, licensees must meet the following requirements:

(a) Alcohol products must be sold in closed, factory or manufacturer sealed packages or containers, such as cans ~~((7))~~ and bottles ~~((7 and kegs))~~. Licensees may only sell the types of manufacturer sealed alcohol products under this endorsement that they are authorized to sell under the terms of their license.

~~((b) (i) Except as provided in (b) (ii) of this subsection,))~~ If an alcohol product authorized for sale under this endorsement is enclosed inside a bag, box, or other packaging before the alcohol product is provided to the customer through takeout or delivery service, the exterior of the bag, box, or other packaging must be clearly marked or labeled with the words "CONTAINS ALCOHOL, FOR PERSONS 21+" in a size that is legible and readily visible.

~~(((ii) Brewery, winery, and distillery licensees are not required to mark or label the exterior of the bag, box, or other packaging as described in (b) (i) of this subsection if the alcohol product is provided to the customer through takeout service.))~~

(c) If the alcohol products authorized for sale under this endorsement are sold through delivery service:

(i) Licensees must comply with the requirements in the consumer orders, internet sales, and delivery rules in this title. For these requirements, see WAC 314-03-020 through 314-03-040.

(ii) (A) At the time of delivery, the employee making the delivery must verify that the person receiving the delivery is at least 21 years of age using an acceptable form of identification in WAC 314-11-025. See RCW 66.44.270.

(B) Delivery of an alcohol product must be performed by an employee of an alcohol delivery endorsement holder who is 21 years of age or older and possesses a class 12 permit, in accordance with RCW 66.20.310.

(iii) As set forth in ~~((section 1(8), chapter 279, Laws of 2023))~~ RCW 66.24.710, upon delivery of the alcohol product, the signature of the person ~~((age 21 or over))~~ who is 21 years of age or older receiv-

ing the delivery must be obtained. Delivery sales records must meet the requirements in the consumer orders, internet sales, and delivery rules. For general record retention requirements, see WAC 314-11-095.

(iv) If no person age 21 or over is present to accept the alcohol product at the time of delivery, the alcohol product must be returned to the licensee. An alcohol product may not be left unattended at a delivery location.

(v) Delivery of an alcohol product may not be made to any person who shows signs of intoxication. See RCW 66.44.200.

(vi) Alcohol delivery under this section shall be performed by direct employees of the licensee.

(d) (i) In addition to the signs required by WAC 314-11-060, signs provided electronically by the board regarding public consumption and transportation of any alcohol products sold through takeout or delivery service must be posted in plain view at:

(A) The main entrance to the area of the premises where alcohol products are sold; and

(B) The areas of the premises where alcohol products are picked up for takeout or delivery service.

(ii) The signs will be designed to remind customers purchasing alcohol products through takeout or delivery service that they must comply with applicable laws and rules including, but not limited to, restrictions on consuming alcohol in public in RCW 66.44.100 and restrictions on drinking or having an open container in a vehicle in RCW 46.61.519.

(e) Delivery services conducted and alcohol sold for takeout by beer and wine restaurant licensees and spirits, beer and wine restaurant licensees must be accompanied by a purchased meal prepared and sold by the license holder under RCW 66.24.710.

(4) In addition to the requirements listed in this section, licensees must comply with all applicable requirements in Title 66 RCW, Title 314 WAC, and any other applicable laws and rules including, but not limited to (~~(the Keg sale requirements in WAC 314-02-115 and)~~), restrictions on sales to minors and intoxicated persons in chapter 66.44 RCW and WAC 314-16-150.

(5) The definitions in this subsection apply throughout this section unless the context clearly requires otherwise.

(a) "Alcohol product" means liquor as defined in RCW 66.04.010.

(b) "Factory sealed" or "manufacturer sealed" means that a package or container is in 100 percent resalable condition, with all manufacturer's seals intact.

(c) "Ready-to-drink cocktail" means a drink made by combining spirits with other alcoholic or nonalcoholic beverages and ingredients including, but not limited to, fruit juice, carbonated beverages, flavors, or cream, that is:

(i) Factory sealed or manufacturer sealed;

(ii) No more than 12 percent alcohol per volume; and

(iii) No more than 12 ounces in volume.

(d) "Spirits" has the same meaning as defined in RCW 66.04.010.

(6) The delivery service endorsement described in this section expires July 1, 2025, as set forth in (~~section 1(3), chapter 279, Laws of 2023~~) RCW 66.24.710.

WAC 314-03-505 Endorsement for sale of premixed cocktails, wine by the glass, premixed wine and spirits cocktails, or premixed wine drinks through takeout or delivery service.

(1) An endorsement is available for the sale of premixed cocktails, wine by the glass, premixed wine and spirits cocktails, or premixed wine drinks through takeout and delivery service as set forth in ~~((section 1(3), chapter 279, Laws of 2023))~~ RCW 66.24.710. There is no fee for a licensee to apply for and obtain this endorsement.

(2) As set forth in ~~((section 1 (2) and (3), chapter 279, Laws of 2023))~~ RCW 66.24.710:

(a) An endorsement is available to spirits, beer, and wine restaurants to sell premixed cocktails, wine by the glass, or premixed wine and spirits cocktails through takeout or delivery service. This endorsement does not authorize the sale of full bottles of spirits for off-premises consumption.

(b) An endorsement is also available to beer and wine restaurant licensees to sell wine or premixed wine drinks by the glass through takeout or delivery service.

(3) This endorsement is separate from the endorsements in WAC 314-03-500 and 314-03-510 that authorize the sale through takeout or delivery service of manufacturer sealed alcohol products at retail, or growlers.

(4) In order to obtain and maintain the endorsement described in this section, licensees must meet the following requirements:

(a)(i) For spirits, beer, and wine restaurants, food that qualifies as a complete meal under WAC 314-02-010 must be sold with the premixed cocktails, wine by the glass, or premixed wine and spirits cocktails authorized for sale through takeout or delivery service under this endorsement, as set forth in RCW 66.24.710.

(ii) Spirits, beer, and wine restaurants can sell up to three ounces of spirits per complete meal.

~~((iii))~~ (iii) For beer and wine restaurants, a food item that qualifies as minimum food service under WAC 314-02-010 must be sold with the wine or premixed wine drinks by the glass authorized for sale through takeout or delivery service under this endorsement, as set forth in RCW 66.24.710.

(b) The alcohol products authorized for sale through takeout or delivery service under this endorsement must be prepared the same day they are sold.

(c) The alcohol products authorized for sale through takeout or delivery service under this endorsement must be packaged in a container that has been sealed in a manner designed to prevent consumption without removal of the tamper-evident lid, cap, or seal, as set forth in RCW 66.24.710. For the purposes of this subsection, "tamper-evident" means a lid, cap, or seal that visibly demonstrates when a container has been opened. Tape is not a tamper-evident seal. The following list of examples is not comprehensive and is not intended to capture all of the possible types of allowed or disallowed containers:

(i) Examples of containers that are allowed:

(A) Containers with a screw top cap or lid that breaks apart when the container is opened.

(B) Containers with a plastic heat shrink wrap band, strip, or sleeve extending around the cap or lid to form a seal that must be broken when the container is opened.

(C) Vacuum or heat-sealed pouches without holes or openings for straws.

(ii) Examples of containers that are not allowed:

(A) Containers with lids with sipping holes or openings for straws.

(B) Containers such as styrofoam, paper, or plastic cups that lack a tamper-evident lid, cap, or seal.

(d) The containers that the alcohol products authorized for sale under this endorsement are packaged in must be clearly marked or labeled with the words "CONTAINS ALCOHOL, FOR PERSONS 21+" in a size and manner that is legible and readily visible. If a container of alcohol authorized for sale under this endorsement is enclosed inside a bag, box, or other packaging before it is provided to the customer through takeout or delivery service, the exterior of the bag, box, or other packaging must be clearly marked or labeled with the words "CONTAINS ALCOHOL, FOR PERSONS 21+" in a size and manner that is legible and readily visible.

(e) To deter public consumption or consumption in a vehicle of premixed cocktails, wine by the glass, premixed wine and spirits cocktails, and premixed wine drinks sold through takeout or delivery service, licensees may not put ice directly into the containers that the alcohol products authorized for sale under this endorsement are packaged in, except for frozen or blended drinks. Ice may be provided separately along with the takeout or delivery order.

(f) The premixed cocktails, wine by the glass, premixed wine and spirits cocktails, and premixed wine drinks authorized for sale through takeout or delivery service under this endorsement must be placed in the trunk of the vehicle or beyond the immediate reach of the driver or any passengers in compliance with open container requirements in RCW 46.61.519 before being transported off the licensee's premises.

(g) If the premixed cocktails, wine by the glass, premixed wine and spirits cocktails, and premixed wine drinks authorized for sale under this endorsement are sold through delivery service:

(i) Licensees must comply with the requirements in the consumer orders, internet sales, and delivery rules in this title, except to the extent that those rules prohibit the sale of nonfactory sealed containers. For these requirements, see WAC 314-03-020 through 314-03-040.

(ii) As set forth in RCW 66.24.710, delivery must be made by an employee of the licensed business who is at least 21 years of age and holds a class 12 mandatory alcohol server training (MAST) permit under chapter 314-17 WAC. Delivery may not be made by third-party service providers.

(iii) At the time of delivery, the employee making the delivery must verify that the person receiving the delivery is at least 21 years of age using an acceptable form of identification in WAC 314-11-025. See RCW 66.44.270.

(iv) As set forth in (~~section 1(8), chapter 279, Laws of 2023~~) RCW 66.24.710, upon delivery of the alcohol product, the signature of the person age 21 or over receiving the delivery must be obtained. Delivery sales records must meet the requirements in the consumer orders, internet sales, and delivery rules. For general record retention requirements, see WAC 314-11-095.

(v) If no person age 21 or over is present to accept the alcohol product at the time of delivery, the alcohol product must be returned to the licensee. An alcohol product may not be left unattended at a delivery location.

(vi) Delivery of an alcohol product may not be made to any person who shows signs of intoxication. See RCW 66.44.200.

(h) (i) In addition to the signs required by WAC 314-11-060, signs provided electronically by the board regarding public consumption and transportation of any alcohol products sold through takeout or delivery service must be posted in plain view at:

(A) The main entrance to the area of the premises where alcohol products are sold; and

(B) The areas of the premises where alcohol products are picked up for takeout or delivery service.

(ii) The signs will be designed to remind customers purchasing alcohol products through takeout or delivery service that they must comply with applicable laws and rules including, but not limited to, restrictions on consuming alcohol in public in RCW 66.44.100 and restrictions on drinking or having an open container in a vehicle in RCW 46.61.519.

~~((4))~~ (5) In addition to the requirements listed in this section, licensees must comply with all applicable requirements in Title 66 RCW, Title 314 WAC, and any other applicable laws and rules including, but not limited to, restrictions on sales to minors and intoxicated persons in chapter 66.44 RCW and WAC 314-16-150.

~~((5))~~ (6) The definitions in this subsection apply throughout this section unless the context clearly requires otherwise.

(a) "Alcohol product" or "alcoholic beverage" means liquor as defined in RCW 66.04.010.

(b) "Premixed cocktail" means a drink made by combining spirits with other alcoholic or nonalcoholic beverages and ingredients including, but not limited to, fruit juice, carbonated beverages, flavorings, or cream.

(c) "Premixed wine and spirits cocktail" means a drink made by combining wine and spirits with other alcoholic or nonalcoholic beverages and ingredients including, but not limited to, fruit juice, carbonated beverages, flavorings, or cream.

(d) "Premixed wine drink" means a drink made by combining wine with nonalcoholic beverages and ingredients including, but not limited to, fruit juice, carbonated beverages, flavorings, or cream. A pre-mixed wine drink may not include alcoholic beverages other than wine.

(e) "Spirits" has the same meaning as defined in RCW 66.04.010.

(f) "Wine" has the same meaning as defined in RCW 66.04.010.

~~((6))~~ (7) The delivery service endorsement described in this section expires July 1, 2025, as set forth in ~~((section 1(3), chapter 279, Laws of 2023))~~ RCW 66.24.710.

WAC 314-03-510 Endorsement for sale of growlers through takeout or delivery service. (1) (a) An endorsement is available for the sale of growlers through takeout and delivery service as set forth in ~~((section 1(4), chapter 279, Laws of 2023))~~ RCW 66.24.710. There is no fee for a licensee to apply for and obtain this endorsement.

(b) This endorsement is separate from the endorsements in WAC 314-03-500 and 314-03-505 that authorize the sale through takeout or delivery service of manufacturer sealed alcohol products at retail, or nonmanufacturer or nonfactory sealed premixed cocktails, wine by the glass, premixed wine and spirits cocktails, and premixed wine drinks.

(2) As set forth in ~~((section 1(4), chapter 279, Laws of 2023))~~ RCW 66.24.710, an endorsement to sell growlers for off-premises consumption through takeout or delivery service is available to licensees that were authorized by statute or rule before January 1, 2020, to sell growlers.

(a) Licensees eligible for this endorsement include: Taverns; beer and wine restaurants; spirits, beer, and wine restaurants; grocery stores; beer and wine specialty shops; breweries; microbreweries; wineries; combination spirits, beer, and wine licensees; and hotel licenses.

(b) For a beer and wine specialty shop to be eligible for the endorsement described in this section, the beer and wine specialty shop must meet the requirement in RCW 66.24.371(3), as it existed on December 31, 2019, that the licensee's beer and/or wine sales must be more than 50 percent of the licensee's total sales.

(3) In order to obtain and maintain this endorsement, licensees must meet the following requirements:

(a) Sale of growlers must meet federal alcohol and tobacco tax and trade bureau requirements.

(b) (i) Growlers must be filled at the tap by the licensee at the time of sale, except that beer and wine specialty shops licensed under RCW 66.24.371 and domestic breweries and microbreweries with this endorsement may sell prefilled growlers as set forth in ~~((section 1(4), chapter 279, Laws of 2023))~~ RCW 66.24.710. Prefilled growlers must be sold the same day they are prepared for sale and not stored overnight for sale on future days.

(ii) Brewery and microbrewery products that meet federal alcohol and tobacco tax and trade bureau labeling requirements are not considered prefilled growlers and are not subject to the overnight storage prohibition.

(c) Growlers must be filled with alcohol products, such as beer, wine, or cider, that the licensee was authorized by statute or rule before January 1, 2020, to sell in growlers.

(d) If the growlers authorized for sale under this endorsement are sold through delivery service:

(i) Licensees must comply with the requirements in the consumer orders, internet sales, and delivery rules in this title, except to the extent that those rules allow delivery by third-party service providers and prohibit the delivery of growlers. For these requirements, see WAC 314-03-020 through 314-03-040.

(ii) Delivery must be made by an employee of the licensed business who is at least 21 years of age. Delivery may not be made by third-party service providers.

(iii) At the time of delivery, the employee making the delivery must verify that the person receiving the delivery is at least 21 years of age using an acceptable form of identification in WAC 314-11-025. See RCW 66.44.270.

(iv) As set forth in (~~section 1(8), chapter 279, Laws of 2023~~) RCW 66.24.710, upon delivery of the alcohol product, the signature of the person age 21 or over receiving the delivery must be obtained. Delivery sales records must meet the requirements in the consumer orders, internet sales, and delivery rules. For general record retention requirements, see WAC 314-11-095.

(v) If no person age 21 or over is present to accept the alcohol product at the time of delivery, the alcohol product must be returned to the licensee. An alcohol product may not be left unattended at a delivery location.

(vi) Delivery of an alcohol product may not be made to any person who shows signs of intoxication. See RCW 66.44.200.

(e)(i) In addition to the signs required by WAC 314-11-060, signs provided electronically by the board regarding public consumption and transportation of any alcohol products sold through takeout or delivery service must be posted in plain view at:

(A) The main entrance to the area of the premises where alcohol products are sold; and

(B) The areas of the premises where alcohol products are picked up for takeout or delivery service.

(ii) The signs will be designed to remind customers purchasing alcohol products through takeout or delivery service that they must comply with applicable laws and rules including, but not limited to, restrictions on consuming alcohol in public in RCW 66.44.100 and restrictions on drinking or having an open container in a vehicle in RCW 46.61.519.

(4) In addition to the requirements listed in this section, licensees must comply with all applicable requirements in Title 66 RCW, Title 314 WAC, and any other applicable laws and rules including, but not limited to, restrictions on sales to minors and intoxicated persons in chapter 66.44 RCW and WAC 314-16-150.

(5) Growlers sold under this endorsement do not need to be accompanied by a purchased meal prepared and sold by the license holder under RCW 66.24.710.

(6) The definitions in this subsection apply throughout this section unless the context clearly requires otherwise.

(a) "Alcohol product" means liquor as defined in RCW 66.04.010.

(b) "Beer" has the same meaning as defined in RCW 66.04.010.

(c) "Cider" has the same meaning as defined in RCW 66.24.210.

(d) "Growlers" has the same meaning as defined in (~~section 2(10), chapter 48, Laws of 2021: Sanitary containers brought to the premises by the purchaser or furnished by the licensee and filled by the retailer at the time of sale~~) RCW 66.24.710.

(e) "Wine" has the same meaning as defined in RCW 66.04.010.

(~~(+6)~~) (7) The delivery service endorsement described in this section expires July 1, 2025, as set forth in (~~section 1(4), chapter 279, Laws of 2023~~) RCW 66.24.710.

NEW SECTION

WAC 314-03-600 Takeout/delivery endorsement comparison table.

Meal Required		Endorsement					
		Takeout or Delivery			Takeout Only		
		Takeout/Delivery - Factory Sealed Containers WAC 314-03-500	Takeout/Delivery - Premixed Cocktails/Wine WAC 314-03-505	Growlers Takeout/Delivery WAC 314-03-510	Off premises WAC 314-02-045; 314-02-070	Off premises sale wine WAC 314-02-015	Spirits/beer/wine keg to go WAC 314-02-015
License Type	Beer/wine restaurant	Y	Y*	N	N	n/a	n/a
	Spirits/ beer/wine restaurant	Y	Y	N	n/a	N	N
	Tavern	N	n/a	N	N	n/a	n/a
	Winery	n/a	n/a	N	n/a	n/a	n/a
	Brewery	n/a	n/a	N	n/a	n/a	n/a
	Distillery	n/a	n/a	n/a	n/a	n/a	n/a
Third-Party Delivery Allowed		Endorsement					
		Takeout or Delivery			Takeout Only		
		Takeout/Delivery - Factory Sealed Containers WAC 314-03-500	Takeout/Delivery - Premixed Cocktails/Wine WAC 314-03-505	Growlers Takeout/Delivery WAC 314-03-510	Off premises WAC 314-02-045; 314-02-070	Off premises sale wine WAC 314-02-015	Spirits/beer/wine keg to go WAC 314-02-015
License Type	Beer/wine restaurant	N	N*	N	N	n/a	n/a
	Spirits/ beer/wine restaurant	N	N	N	n/a	N	N
	Tavern	N	n/a	N	N	n/a	n/a
	Winery	n/a**	n/a	N	n/a	n/a	n/a
	Brewery	n/a**	n/a	N	n/a	n/a	n/a
	Distillery	n/a**	n/a	n/a	n/a	n/a	n/a

* Wine drinks only

** Third-party delivery authorized by statute in RCW 66.20.410, 66.24.170, 66.24.240, 66.24.244.

WAC 314-11-040 ((What)) Permissible duties ((can)) of an employee under ((twenty-one)) 21 years of age ((perform)) on a licensed premises ((?)). A person must be ~~((twenty-one))~~ 21 years of age or older to be employed in the sale, handling, or service of liquor, except as provided in this chapter.

(1) Per RCW 66.44.340 and RCW 66.44.350, persons between ~~((eighteen and twenty-one))~~ 18 and 21 years of age may perform the following duties:

	Duties 18, 19, and 20 year old employees may perform, as long as there is a person ((twenty-one)) 21 years of age or older on duty supervising the sale of liquor	Duties 18, 19, and 20 years old employees may not perform
(a) In a grocery store or beer/wine specialty shop:	<ul style="list-style-type: none"> ■ Sell, stock, and handle beer and wine; and ■ Deliver beer and/or wine to a customer's car with the customer (for the purposes of this rule, there is no minimum age requirement for an employee of a grocery store or a beer/wine ((specialty)) <u>specialty</u> shop to deliver beer and/or wine to a customer's car with the customer). 	Supervise employees who sell, stock, or handle beer and/or wine.
(b) In a spirits retail business:	<ul style="list-style-type: none"> ■ As long as there are at least two supervisors at least ((twenty-one)) <u>21</u> years of age on duty, persons 18, 19, and 20 years old may sell, stock, and handle spirits. ■ Deliver spirits to a customer's car with the customer (for purposes of this rule, there is no minimum age requirement for an employee of a spirits retailer to deliver spirits to a customer's car with the customer). 	Supervise employees who sell, stock, or handle spirits.
(c) In an establishment that sells liquor for on-premises consumption:	<ul style="list-style-type: none"> ■ Take orders for, serve, and sell liquor in areas classified as open to persons under ((twenty-one)) <u>21</u> years of age; and ■ Enter areas designated as off-limits to persons under ((twenty-one)) <u>21</u> years of age to perform duties such as picking up liquor for service in other parts of the establishment; cleaning up, setting up, and arranging tables; delivering messages; serving food; and seating patrons; provided the employee does not remain in the area any longer than is necessary to perform the duties. 	Functions of a bartender, including: <ul style="list-style-type: none"> ■ ((Mixing drinks)) <u>Pouring spirits or mixing cocktails;</u> ■ Drawing beer or wine from a tap <u>or spigot;</u> ■ <u>Opening or pouring beer or wine</u> ((anywhere except at the patrons table)) <u>in an area classified by the board as off limits to any person under the age of 21; and</u> ■ Providing an employee spirits(,) or beer by the pitcher or glass, or wine by the carafe or glass for delivery to a customer.
(d) In a spirits retail business:		Supervise employees who sell, stock, or handle spirits.

(2) Per RCW 66.44.316 and 66.44.318, the following persons that are ~~((eighteen, nineteen, or twenty))~~ 18, 19, or 20 years of age may

remain on licensed premises or portions of premises that are restricted from persons under (~~twenty-one~~) 21 years of age, but only during the course of his or her employment:

(a) Persons performing janitorial services during the hours when there is no sale, service, or consumption of liquor on the premises;

(b) Employees of amusement device companies for the purpose of installing, maintaining, repairing, or removing any amusement device;

(c) Security or law enforcement officers and firefighters during the course of their official duties and if they are not the direct employees of the licensee; and

(d) Professional musicians, per WAC 314-11-045.

WAC 314-17-015 ((What are the two)) Types of alcohol server training permits (?). There are two types of permits for persons who serve, mix, sell, or who supervise the sale of, alcohol at a retail licensed premises.

Class 12 permit	Class 13 permit
<p>(1) A class 12 permit holder must be at least ((twenty-one)) <u>21</u> years of age.</p> <p>(2) A class 12 permit is required for any person who:</p> <p>(a) Manages a retail licensed premises licensed to sell alcoholic beverages for on-premises consumption;</p> <p>(b) Sells, mixes or draws from a dispensing device alcoholic beverages for on-premises consumption; or</p> <p>(c) Supervises a class 13 permit holder.</p> <p>(3) A class 12 permit includes all authorities granted under a class 13 permit.</p> <p>(4) See RCW 66.20.310 for exceptions for grocery store employees.</p>	<p>(5) A class 13 permit holder must be at least ((eighteen)) <u>18</u> years of age.</p> <p>(6) A class 13 permit is required for any person who:</p> <p>(a) Takes orders for alcoholic beverages for on-premises consumption;</p> <p>(b) Delivers alcoholic beverages to customers for on-premises consumption; or</p> <p>(c) Opens or pours beer or wine into a customer's glass ((at a customer's table)) <u>without opening or pouring in an area classified by the board as off limits to any person under the age of 21.</u></p> <p>(7) See RCW 66.20.310 for exceptions for grocery store employees.</p>

(8) Upon a temporary absence of a class 12 permit holder, a class 13 permit holder may perform the functions of a class 12 permit holder until a class 12 permit holder arrives to fulfill those duties provided that a class 13 permit holder:

- (a) Is ~~((twenty-one))~~ 21 years of age or older; and
- (b) Functions as a class 12 permit holder for no more than ~~((thirty))~~ 30 calendar days per year.

(9) See RCW 66.44.310, 66.44.316, 66.44.318, and 66.44.350 for additional information about permissions and restrictions for ~~((eighteen to twenty))~~ 18 to 20-year-old persons.



Notice of Permanent Rules

Regarding Implementing Substitute Senate Bill 5448 / MAST 13 Rulemaking

This concise explanatory statement concerns the Washington State Liquor and Cannabis Board's (LCB) adoption of rules that align existing regulations on alcohol delivery with the provisions of Substitute Senate Bill 5448 ([chapter 279, Laws of 2023](#)), primarily codified in [RCW 66.24.710](#), and responds to a petition for rulemaking accepted by LCB in January 2022 to amend rules on MAST 13 permit holders pouring beer or wine away from the table.

The Administrative Procedure Act (RCW 34.05.325(6)) requires agencies to complete a concise explanatory statement before filing adopted rules with the Office of the Code Reviser. The concise explanatory statement must be provided to any person upon request, or from whom the LCB received comment.

The LCB appreciates and encourages your involvement in the rule making process. If you have questions, please e-mail at rules@lcb.wa.gov.

Background and reasons for adopting these rules:

On July 19, 2023, the Washington State Liquor and Cannabis Board (LCB) filed a CR 101 preproposal statement of inquiry ([WSR# 23-15-116](#)) to consider creating new rule sections, amending existing rule sections, and repealing rule sections to implement Substitute Senate Bill (SSB) 5448 ([chapter 279, Laws of 2023](#)) and amending [WAC 314-17-015](#) and other sections of Title 314 WAC as necessary to allow MAST 13 permit holders to open and pour beer or wine in areas where minors are not prohibited.

On December 6, 2023, the proposed rules (CR 102) were filed ([WSR# 23-24-100](#)).

SSB 5448, passed during the 2023 Legislative Session, extended the expiration of delivery privileges for some liquor licensees to July 2025, made what was a temporary takeout endorsement permanent, rescinded some delivery and curbside privileges, and codified certain requirements for deliveries that had previously been only in regulation, such as requiring an accompanying meal for many delivery orders of alcohol and requiring delivery drivers to hold MAST 12 permits. This bill addressed many of the privileges put in place during the height of the COVID-19 pandemic through [Engrossed Second Substitute House Bill 1480](#). Most of these provisions are now codified at [RCW 66.24.710](#).

During most of the COVID-19 pandemic, the LCB [allowed](#) MAST 13 permit holders, employees between 18 and just under 21 years of age who can pour beer and wine at the customer's table, as well as take orders for spirits, to pour beer and wine away from

the customer's table. After this allowance expired in September 2022, the LCB received a petition for rulemaking that sought to amend WAC 314-17-015 and make this a permanent part of rule – allowing MAST 13 permit holders to pour beer and wine away from the customer's table. In January 2023, the LCB [accepted](#) this petition for rulemaking. This rulemaking project began in March 2023, and was later combined with the SSB 5448 rulemaking.

To develop potential rule language, a set of conceptual draft rules was shared publicly through GovDelivery in early October 2023 in anticipation of two stakeholder engagement sessions held October 16 and 18, 2023. The stakeholder engagement sessions produced a modest turnout with the only written follow up comments received from the petitioner.

Following internal rules team discussions after the stakeholder engagement sessions, some of the draft rule language was revised to reflect a more measured approach towards leaving delivery and takeout privileges for certain liquor licensees that preexisted the COVID-19 pandemic as is, as the language of SSB 5448 did not specifically supersede other statutes that provided for certain delivery and takeout privileges. Additional issues that are the subject of frequent questions, such as “ready to drink” cocktails, were identified and explanatory language has been added to rule to address these issues.

Lastly, a new rule was created, WAC 314-03-600, to display a table of whether accompanying meals are required and third-party delivery prohibited for various liquor licensees depending on the endorsement used.

Rulemaking history for this adopted rule:

CR 101 – filed July 19, 2023 as WSR #23-15-116
CR 102 – filed December 6, 2023, as WSR #23-24-100
Public hearing held January 17, 2024

The effective date of these rules is March 2, 2024.

Public comment received on the rule proposal:

1. Written Letter from Josh McDonald, Executive Director of the Washington Wine Institute, submitted January 16, 2024.

To: Washington State Liquor and Cannabis Board Chair and Board Members
From: Josh McDonald, Executive Director, Washington Wine Institute (WWI)
Re: SB 5448 Implementation and WAC 314 MAST 13 rules changes: CR 102 Rules Comments

Dear Washington State Liquor and Cannabis Board,

Thank you for the opportunity to comment on this CR 102. We divided up our comments into the two major sections of work taking place that most directly impact Washington Wine Institute members.

Continued on next page

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SB 5448 Implementation Rules: Outdoor Seating Modernization

We appreciate the WSLCB's work so far on this rulemaking effort. We also want to recognize and thank LCB Board and staff for taking time to meet with us and discuss this rulemaking and their willingness to work with us on potential ways to make technical fixes to WAC 314-03-205 that will improve the rulemaking and allow us to have flexible outdoor service rules helping small businesses like wineries find success in 2024 and for years to come.

For this CR 102, we respectfully recommend the following changes to WAC 314-03-205:

- ✓ Not all on premise licensees require food service, so we ask the LCB to improve this rule language to bring consistency to this WAC in this regard. We are grateful for LCB staff's willingness to work with us to help clarify the intent of this WAC for future use by licensees and the agency. One approach discussed in our meetings, and that we would support, is making a technical fix to this WAC that would do something to the effect of recognizing the "if" food is required by the license holder. For example, language such as "if food service is required by the licensee, then food service must take place in the outdoor service area."
- ✓ We ask the LCB to streamline rules for privately owned and publicly owned spaces creating one set of rules to follow for the licensee and LCB licensing and enforcement. Let's take this opportunity with this WAC open for rulemaking improvements to make the process easier to understand for all parties involved. Additionally, this is an ideal time to modernize the rules through a technical fix for the purposes of use of demarcations instead of permanent barriers if the fence-free approach to defining the service area is more suitable to the licensee and space. Since this WAC is designed for on-premises alcohol service, the proposed changes will not impact special occasion licensed events and other one-time situations not taking place on licensed premises. A winery tasting room utilizing demarcations for on-premises outdoor alcohol service on their wholly owned or leased private property is in practice minimally different than similar outdoor alcohol service on a publicly owned space. Making this important improvement to the outdoor service area by an on-premises licensee will support small business throughout Washington State, improve how the licensee understands outdoor service options, and help WSLCB licensing and enforcement implement and enforce them as needed.

MAST 13 Rules Changes:

Thank you for the opportunity to submit written testimony in support of modifying WAC 314-17-015 to allow for MAST 13 holders to continue being allowed to provide additional levels of beer and wine service in a licensed establishment as was allowed by a temporary COVID allowance rule between 2020-2022 and expired on September 30th, 2022.

Under WAC 314-17-015, current MAST 13 permit holders can carry wine and beer to a customer's table, then open the container, and pour the beverage for the customer. The intent of this rule making is to have the class 13 permit holder be able to conduct the same activities they can now, just away from the table and as they have done successfully without incident or violation when this temporary allowance was in place during the pandemic-era operations from 2020-2022.

We are supportive of the current rulemaking language changes for MAST 13 holders being proposed in this CR 102 and believe they achieve our desired goal while also maintaining a responsible working environment for MAST 13 holders. We thank staff and the Board for recognizing our request, agreeing to move forward with rulemaking on this subject, and finding a great win-win approach.

LCB response: The LCB appreciates this comment, and because the oral testimony described below reflects these comments almost verbatim, the LCB's response is described to both the oral testimony and written comments below.

Was the comment reflected in the adopted rule? See below after transcription of oral testimony.

Oral testimony was received during the public hearing.

The following oral testimony of Josh McDonald, Executive Director of the Washington Wine Institute, was received during the public hearing held on January 17, 2024.

Good morning Chair Postman, chair members Garrett and Vollendroff, uh, thank you so much for the opportunity to speak to you today, my name is Josh McDonald, I'm the executive director of the Washington wine institute, um, and I will first want to thank Daniel, Daniel and his staff's great work so far on this CR, CR 101 and CR 102 and being able to be very open and engaging with us, and working with us and talking to us throughout the process. I'm going to divide my comments into two sections, one around outdoor service rules and one around MAST 13, this is where our focus was as stakeholders during the 2023 legislative process, helped work 5448 through the process to into law, these parts at least the outdoor service parts are very important to us, so we want to focus down on that, there are some things we think can continue to be worked on during that, I also want to thank LCB policy staff, licensing staff, the Board for meeting with us, taking the time to walk through our comments, our suggestions, our ways we think we can improve this, we hope that work can continue.

First on the outdoor service rules, we agree that consolidating into one WAC is a great, great move so we have one thing to look at, so thank you for doing that for all on-premises licensees. To that point, I think there could be an easy technical fix here, to make sure for future interpretations of this WAC its not confusing for both licensees, enforcement and licensing itself, and that's around making sure that when we talk about food, food service, that we're recognizing what the licensees are required to do. So, not all licensees are required to serve food, so making sure that the WACs reflect that so all on-premises licensees in the future there's no confusion on interpretation of that. I want to thank staff and others for coming through with some I think are really good solutions on that. One is looking at it from a technical fix of if your license requires you to serve food, then food service is required indoors and outdoors. That means if food is not required for your license, it's very simple and straight-forward. I think we can all understand the change there. And if you're a winery or a brewery that doesn't require it, that's your option. You're still welcome to use this, use outdoor service areas in this way. If you're licensed as a restaurant, you already know you have food requirements. It fits really well, so we thank that's a great solution to this, so thanks to staff and everyone for working with us on that. So hoping we can implement that when this goes into 103.

Second, is we do strongly believe that this, there's a great opportunity to streamline how we look at public space versus private space when it comes to outdoor service areas. Right now there are two different sets of standards of what's allowed to be done in a privately owned or leased area about outdoor service versus publicly owned indoor outdoor service. Based on limited time I'm happy offline to talk about why the history of that, but what I'll say, why that happened and where we are today, umm but but I think this is a great opportunity to bring those together, make it very simple, give the same set of opportunities for whether its your own private space, umm, or it's a space you're on a public setting, whether you want to use barriers, whether you want to use movable barriers, or whether you want to use demarcations, demarcate [sic] your space where you are going to serve. I think any of those options for licensees is flexible, it helps small businesses, it helps us be able to continue to be successful in our spaces, but I think it also streamlines how licensing and enforcement can look at [and] see, Okay, we know that this is your space, this is your service space however you want to identify that, it's up to the licensee to do that, we'll work with you on that to make sure it makes sense, but we think that option there is a modernizing way to look at it, but also, honestly, we have more of a technical fix to this, bringing together and something that we hope can be incorporated into as move towards the CR 103. Umm, and again, we're happy to work with, we would love to work with everyone on that, getting to that conclusion.

Finally, on MAST 13, I just want to say a very big thank you, and we brought this forward and we've been working with the Board and staff on these changes, very positive changes, to allow for our MAST 13 holders to be able to do a few more things like they did in the pandemic, zero violations, zero concerns that we hear from all around, so we think we've handled those responsibilities very well, and we look forward to moving to the 103 with the language intact and we think it's a great win-win solution. With that, thank you so much for your time.

LCB response: The LCB appreciates this comment, and participation in the rulemaking process. The LCB looks forward to your participation in future policy and rule development projects.

Was the comment reflected in the adopted rule? This comment was partially reflected in the final rule in that the suggested change to language regarding the food service requirement was made.

However, the proposal regarding removing the distinction between the use of barriers in public vs. private spaces falls beyond the scope of this rulemaking, which is limited to implementation of Substitute Senate Bill 5448 and the MAST 13 petition. The distinction between public and private spaces regarding the use of barriers has existed since the rules were created in 2021, and revisiting this distinction would be a policy discussion that, if desired and determined to be appropriate, should be the topic of separate rulemaking.

The **following changes** were made between the Proposed Rules as filed in the CR 102 and the Rules as Adopted:

Variations between Proposed and Final Rule Language			
Rule Section	Proposed Rule Language	Final Rule Language	Basis for Change
WAC 314-03-200 Outside or extended alcohol service. (AMENDED)	(2)(f) The same food service offered inside the licensed premises must also be offered in the outdoor alcohol service area;	(2)(f) Any food service requirements by the license type apply to both indoor and outside alcohol service areas;	Removes any possible concern for interpretation that these rules create an outdoor food service requirement where the premises is not required to serve food indoors.
	(3)(f) The same food service offered inside the licensed premises must also be offered in the outdoor alcohol service area;	(3)(f) Any food service requirements by the license type apply to both indoor and outside alcohol service areas;	
	(2)(g) The outdoor alcohol service area must be enclosed with a permanent or movable barrier a minimum of 42 inches in height. However, the board may grant limited exceptions to the required 42 inch high barrier for outdoor alcohol service areas if the licensee has permanent boundaries for the outdoor alcohol service area, but may not grant limited exceptions to beer gardens, standing room only venues, catered events, or permitted special events;	(2)(g) The outdoor alcohol service area must be enclosed with a permanent or movable barrier a minimum of 42 inches in height. However, the board may grant limited exceptions to the required 42 inch high barrier for outdoor alcohol service areas if the licensee has permanent boundaries for the outdoor alcohol service area, but may not grant limited exceptions to beer gardens, standing room only venues, or permitted special events;	Removes “catered events” from list that Board cannot grant limited exceptions to. This was initially added to the original rules as part of the proposed rules and is now being removed based on stakeholder feedback received.
	(3)(c)(iii) The exception identified in (c)(ii) of this subsection does not apply to beer gardens, standing room only venues, catered events, and permitted special events, all of which must always have a permanent or moveable barrier a minimum of 42 inches in height;	(3)(c)(iii) The exception identified in (c)(ii) of this subsection does not apply to beer gardens, standing room only venues, and permitted special events, all of which must always have a permanent or moveable barrier a minimum of 42 inches in height;	Removes “catered events” from the list that must always have permanent or moveable barriers. This was initially added to the original rules as part of the proposed rules and is now being removed based on stakeholder feedback.
WAC 314-03-600 Takeout/delivery endorsement comparison table. (NEW)	Adjusted margins and table layout without changing content.		Desire to make tables clearer and better identify the categories of x and y axis.