



Washington State Liquor and Cannabis Board

Topic: Petition for Adoption, Amendment, or Repeal of a State Administrative Rule – Mandatory Alcohol Health Warning

Date: November 6, 2024

Presented by: Daniel Jacobs, Policy & Rules Coordinator

DISCLAIMER

This response to a petition for adoption, repeal or amendment of a state administrative rule is drafted pursuant to [RCW 34.05.330](#) and [chapter 82.05 WAC](#). This is for general information purposes only and should not be construed as legal advice or individual advice for specific problems.

Background

On September 18, 2024, Lucy Wight submitted a petition for rulemaking to the Washington State Liquor and Cannabis Board (Board) requesting the Board initiate rulemaking to add a health warning to alcohol bottles sold in Washington State.

The petition states as follows:

Hi. My name is Lucy Wight, and together with my child, [name of minor child], I would like to inquire if there is an existing law requiring all alcohol bottles sold in Washington State to contain a warning that says something like....

Patients who receive adequate medical support have a lower risk of death from AWS ... [Minor Child] and I are not affiliated with any organization. We are just voters in Snohomish County. We live in Lake Stevens at [address].

The rationale is according to 2010 statistics, which are pretty consistent since 1990, percentage of alcohol related deaths from AWS is around 6.6 to 7 percent amount people with DTs , cirrhosis, and other chronic conditions.

5 % materiality rate of alcohol related deaths, from AWS amo[ng] normal healthy individuals.

I could talk more about this statistic, and I'm not sure if current statistics remain true to this course, but historically Washington's alcohol statistics according to the CDC and prevention are pretty consistent.

I gave you my address, I'm not sure what authorized means, but is it needed? Absolutely! Alcohol related deaths in 2010 were 2457. Five percent of that represents AWS deaths of I understand correctly, that is 123 people died in 2010 because they were trying to stop drinking and didn't have the appropriate information to do it in a safe manner, I assume. Actually it's not an assumption. I had a near death experience from quitting drinking after my dependence on alcohol became so severe I was experiencing DTs. So I will violate my own anonymity here, but only because I have the luxury of having returned from dying to explain to you I had no idea withdrawals from alcohol could be fatal. Let the consumer have the opportunity to know this, please.

I feel this warning is super needed, although I am unaware of it conflicts or duplicates existing State or Federal rules.

Statistics also show preventive measures could cut the AWS mortality rate in half. So while I believe we are offering some rally against this statistic, according to the CDC, Behavioral Health and school education. Going back to the 2010 statistic of 123 Alcohol Withdrawal Syndrome deaths, if half of those could have been prevented by going

upstream and warning the consumer. Wouldn't that be 61 grateful families in 2010 alone that may be didn't have to lose a loved one who was trying to get right on such a horrible way. In fact, if it could save a single life, I don't understand why we aren't doing this. This rule would apply to all alcohol sold in Washington, I[']m sure it imposes less unreasonable cost than a class action lawsuit suit. Not that a class action lawsuit suit is an unreasonable cost, I don't feel a humane warning is an unreasonable cost. The suggested warning seems simply stated. I'm not a lawyer who could tell you the perfect verbage. I don't believe it differs without justification from a Federal law. Levi and I would request a new rule or amendment to existing rule as those who know the process seems fit. For our states alcohol bottles to include the warning. Alcohol can cause DTs and withdrawals from it at that point has 1.5 times higher mortality rate. Or simply PATIENTS WHO RECEIVE ADEQUATE MEDICAL SUPPORT HAVE A LOWER RISK OF DEATH FROM AWS.

Issue

Whether the Board should accept the petition to initiate the rulemaking process to consider adding a mandatory health warning to alcohol bottles sold in Washington.

Statutes & Regulations

Statutes

[27 USC § 214\(2\)](#) defines the term “bottle” as meaning to fill a container with an alcoholic beverage and to seal such a container.

[27 USC § 214\(5\)](#) defines the term “container” as meaning the inner-most sealed container irrespective of the material from which made, in which an alcoholic beverage is placed by the bottler and in which such beverage is offered for sale to members of the general public.

[27 USC § 215\(a\)](#) states that it shall not be lawful for any person to manufacture, import, or bottle for sale or distribution in the United States any alcoholic beverage unless the container of such beverage bears the following statement:

“GOVERNMENT WARNING: (1) According to the Surgeon General, woman should not drink alcoholic beverages during pregnancy because the risk of birth defects. (2) Consumption of alcoholic beverages impairs your ability to drive a car or operate machinery, and may cause health problems.”

[27 USC § 216](#) states that no statement relating to alcoholic beverages and health, other than the statement required by section 215 of this title, shall be required under State law to be placed on any container of an alcoholic beverage, or on any box, carton, or other package, irrespective of the materials from which made, that contains such a container.

[RCW 66.08.030](#) identifies the Board’s rulemaking authority over alcohol.

Regulations

[27 CFR § 16.10](#) defines “bottle” as “to fill a container with an alcoholic beverage and seal such container.

[27 CFR § 16.10](#) defines a container as “[t]he innermost sealed container, irrespective of the material from which made, in which an alcoholic beverage is placed by the bottler and in which such beverage is offered for sale to members of the general public.”

[27 CFR § 16.21](#) states that [t]here shall be stated on the brand label or separate front label, or on a back or side label, separate and apart from all other information, the following statement:

GOVERNMENT WARNING: (1) According to the Surgeon General, women should not drink alcoholic beverages during pregnancy because of the risk of birth defects.

(2) Consumption of alcoholic beverages impairs your ability to drive a car or operate machinery, and may cause health problems.

[27 CFR § 16.32](#) states that [n]o statement relating to alcoholic beverages and health, other than the statement required by § 16.21, shall be required under State law to be placed on any container of an alcoholic beverage, or on any box, carton, or other package, irrespective of the material from which made, that contains such a container.

Analysis

RCW 34.05.330(4) states that when petitioning for repeal or amendment of a rule, a person is encouraged to address whether the rule is authorized, whether it conflicts or duplicates other federal, state, or local laws, and whether the rule is different from a federal law applicable to the same activity or subject matter without adequate justification. See [RCW 34.05.330\(4\)\(a\), \(c\), and \(i\)](#). These factors are repeated in WAC 82-05-220(1)(c). See [WAC 82-05-220\(1\)\(c\)\(i\), \(iii\), and \(i\)\(x\)](#).

Here, federal law states that “no statement relating to alcoholic beverages and health, other than the statement required by section 215 of this title, shall be required under State law to be placed on any container of an alcoholic beverage, or any box, carton, or other package, irrespective of the materials from which made, that contains such a container.” [27 USC § 216](#).

Because a bottle of alcohol, as described in the petition, would qualify as a container of alcohol, as defined in Federal statute ([27 USC § 214\(5\)](#)) and regulation ([27 CFR § 16.10](#)), the preemption provisions in both Federal statute ([27 USC § 216](#)) and regulation ([27 CFR § 16.32](#)) apply and prohibit any state law that requires any health statement other than the government warning required at [27 USC § 215](#) and [27 CFR § 16.21](#).

Additionally, there are existing advisories issued by the U.S. Department of the Treasury, Alcohol and Tobacco, Tax and Trade Bureau (TTB) on the label requirements for health

warnings for malt beverages ([TTB-G 2023-4](#)), distilled spirits ([TTB-G 2021-6](#)) and wine ([TTB-G 2019-5](#)).

As such, even if the Board were to accept this petition and create a new section of Title 314 WAC that required an additional health statement on alcohol bottles sold in Washington like the statement described by the petitioner, such a requirement would be preempted by Federal law, and would likely be invalidated by a court on review.

Given the additional cost that such a state rule would place on local alcohol manufacturers and national or international alcohol manufacturers wishing to sell alcohol in Washington, the likelihood of a legal challenge to such a rule would be very high and given that the further likelihood of such a legal challenge being eventually successful in invalidating such a rule, it does not seem worthwhile to engage in such rulemaking.

Divisional Coordination

Licensing – Current Licensing rules are consistent with the federal requirement that labels state: GOVERNMENT WARNING: (1) According to the Surgeon General, women should not drink alcoholic beverages during pregnancy because of the risk of birth defects. (2) Consumption of alcoholic beverages impairs your ability to drive a car or operate machinery and may cause health problems. If the petition is denied, the label requirement remains unchanged. Potential impacts if the rule petition is accepted include process changes in the division to incorporate new rules, including communications to affected licensees, new label review standards, increased costs to licensees.

Enforcement & Education – no additional feedback provided.

Finance – no additional feedback provided.

IT – no additional feedback provided.

Public Health – While the Board recognizes the importance of this issue, especially from a public health standpoint, the preemption identified above prevents the Board from deviating from the health warning via rulemaking.

Interagency Coordination

Department of Labor & Industries – no immediate impact identified.

Department of Health - no immediate impact identified.

Sovereign to Sovereign Consultations

There has not been an immediate impact identified that may impact Tribal governments any more so than any other licensee.

Recommendation

The Director’s Office recommends the Board deny the petition for rulemaking submitted on September 18, 2024 because, based on staff understanding of the relevant Federal statute and regulations, any rule that the Board may create as a result of rulemaking on this topic would likely be preempted by Federal law and would be invalidated by a court in a legal challenged, which in turn would be very likely given the strong industry stakes and increased costs to alcohol manufacturers that such a rule would entail.

Board Action

After considering the recommendation of Director’s Office staff, the Board accepts/denies the petition for rulemaking submitted by Lucy Wight on September 18, 2024.

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

Attachments:

- 1) Petition email from Petitioner
- 2) Laws and Rules related to Petition Analysis

From: [Lucy Wight](#)
To: [LCB DL Rules](#)
Subject: Alcohol withdrawals syndrome warning label
Date: Wednesday, September 18, 2024 3:10:50 PM

External Email

Hi. My name is Lucy Wight, and together with my child, Levi Stribling, I would like to inquire if there is an existing law requiring all alcohol bottles sold in Washington State to contain a warning that says something like....

Patients who receive adequate medical support have a lower risk of death from AWS ... Levi and I are not affiliated with any organization. We are just voters in Snohomish County. We live in Lake Stevens at 13930 44th st NE. Zip code 98258.

The rationale is according to 2010 statistics, which are pretty consistent since 1990, percentage of alcohol related deaths from AWS is around 6.6 to 7 percent amount people with DTs , cirrhosis, and other chronic conditions.

5 % materiality rate of alcohol related deaths, from AWS among normal healthy individuals. I could talk more about this statistic, and I'm not sure if current statistics remain true to this course, but historically Washington's alcohol statistics according to the CDC and prevention are pretty consistent.

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Actually it's not an assumption. I had a near death experience from quitting drinking after my dependence on alcohol became so severe I was experiencing DTs. So I will violate my own anonymity here, but only because I have the luxury of having returned from dying to explain to you I had no idea withdrawals from alcohol could be fatal. Let the consumer have the opportunity to know this, please.

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PATIENTS WHO RECEIVE ADEQUATE MEDICAL SUPPORT HAVE A LOWER RISK OF DEATH FROM AWS.

(2) The term “interstate or foreign commerce” means commerce between any State and any place outside thereof, or commerce within any Territory or the District of Columbia, or between points within the same State but through any place outside thereof.

(3) The term “person” means individual, partnership, joint stock company, business trust, association, corporation, or other form of business enterprise, including a receiver, trustee, or liquidating agent and including an officer or employee of any agency of a State or political subdivision thereof; and the term “trade buyer” means any person who is a wholesaler or retailer.

(4) The term “affiliate” means any one of two or more persons if one of such persons has actual or legal control, directly or indirectly, whether by stock ownership or otherwise, of the other or others of such persons; and any one of two or more persons subject to common control, actual or legal, directly or indirectly, whether by stock ownership or otherwise.

(5) The term “distilled spirits” means ethyl alcohol, hydrated oxide of ethyl, spirits of wine, whiskey, rum, brandy, gin, and other distilled spirits, including all dilutions and mixtures thereof, for non-industrial use.

(6) The term “wine” means (1) wine as defined in section 610 and section 617 of the Revenue Act of 1918 as now in force or hereafter amended, and (2) other alcoholic beverages not so defined, but made in the manner of wine, including sparkling and carbonated wine, wine made from condensed grape must, wine made from other agricultural products than the juice of sound, ripe grapes, imitation wine, compounds sold as wine, vermouth, cider, perry and sake; in each instance only if containing not less than 7 per centum and not more than 24 per centum of alcohol by volume, and if for non-industrial use.

(7) The term “malt beverage” means a beverage made by the alcoholic fermentation of an infusion or decoction, or combination of both, in potable brewing water, of malted barley with hops, or their parts, or their products, and with or without other malted cereals, and with or without the addition of unmalted or prepared cereals, other carbohydrates or products prepared therefrom, and with or without the addition of carbon dioxide, and with or without other wholesome products suitable for human food consumption.

(8) The term “bottle” means any container, irrespective of the material from which made, for use for the sale of distilled spirits, wine, or malt beverages at retail.

(b) Right to amend or repeal

The right to amend or repeal the provisions of this subchapter is expressly reserved.

(c) Separability

If any provision of this subchapter, or the application of such provision to any person or circumstance, is held invalid, the remainder of the chapter and the application of such provision to persons or circumstances other than those as to which it is held invalid, shall not be affected thereby.

(Aug. 29, 1935, ch. 814, title I, § 117, formerly § 17, 49 Stat. 989; 1940 Reorg. Plan No. III, § 2, eff. June

30, 1940, 5 F.R. 2108, 54 Stat. 1232; renumbered title I, § 117, and amended Pub. L. 100-690, title VIII, § 8001(a)(1), (2), (b)(2), Nov. 18, 1988, 102 Stat. 4517, 4521.)

REFERENCES IN TEXT

The Revenue Act of 1918, referred to in subsec. (a)(6), is act Feb. 24, 1919, ch. 18, 40 Stat. 1057. Sections 610 and 617 of the Revenue Act of 1918, relating to the definition of “wine”, were originally classified to sections 441 and 444 of former Title 26, and were thereafter included as sections 3036, 3044 and 3045 of the Internal Revenue Code of 1939. Provisions of the Internal Revenue Code of 1986 relating to the definition and classification of wine appear in sections 5373(a), 5381 to 5388, and 5392 of Title 26, Internal Revenue Code.

CODIFICATION

As originally enacted subsection (a)(1) of this section defined the term “Administrator” whose appointment was authorized under section 202 of this title. This definition is no longer effective since Reorg. Plan No. III of 1940, set out in the Appendix to Title 5, Government Organization and Employees, abolished the Federal Alcohol Administration and provided that its functions, funds, personnel, and property should be transferred to the Secretary of the Treasury to be administered through the Bureau of Internal Revenue [now Internal Revenue Service]. See, also, Transfer of Functions note set out under section 201 of this title.

AMENDMENTS

1988—Pub. L. 100-690, § 8001(b)(2), substituted “this subchapter” for “this chapter” wherever appearing.

ADMISSION OF ALASKA AND HAWAII TO STATEHOOD

Alaska was admitted into the Union on Jan. 3, 1959, on issuance of Proc. No. 3269, Jan. 3, 1959, 24 F.R. 81, 73 Stat. c16, and Hawaii was admitted into the Union on Aug. 21, 1959, on issuance of Proc. No. 3309, Aug. 21, 1959, 24 F.R. 6868, 73 Stat. c74. For Alaska Statehood Law, see Pub. L. 85-508, July 7, 1958, 72 Stat. 339, set out as a note preceding section 21 of Title 48, Territories and Insular Possessions. For Hawaii Statehood Law, see Pub. L. 86-3, Mar. 18, 1959, 73 Stat. 4, set out as a note preceding section 491 of Title 48.

§ 212. Omitted

CODIFICATION

Section, act June 26, 1936, ch. 830, title V, § 504, 49 Stat. 1965, proposed a transfer of the appropriations authorized for the Federal Alcohol Administration created by section 202 of this title to the Administration created by section 202b of this title. It was to have taken effect when a majority of the members authorized to be appointed under section 202b of this title took office. The members, however, were never appointed.

SUBCHAPTER II—ALCOHOLIC BEVERAGE LABELING

§ 213. Declaration of policy and purpose

The Congress finds that the American public should be informed about the health hazards that may result from the consumption or abuse of alcoholic beverages, and has determined that it would be beneficial to provide a clear, non-confusing reminder of such hazards, and that there is a need for national uniformity in such reminders in order to avoid the promulgation of incorrect or misleading information and to minimize burdens on interstate commerce. The Congress finds that requiring such reminders on all containers of alcoholic beverages is appropriate

and necessary in view of the substantial role of the Federal Government in promoting the health and safety of the Nation's population. It is therefore the policy of the Congress, and the purpose of this subchapter, to exercise the full reach of the Federal Government's constitutional powers in order to establish a comprehensive Federal program, in connection with the manufacture and sale of alcoholic beverages in or affecting interstate commerce, to deal with the provision of warning or other information with respect to any relationship between the consumption or abuse of alcoholic beverages and health, so that—

- (1) the public may be adequately reminded about any health hazards that may be associated with the consumption or abuse of alcoholic beverages through a nationally uniform, nonconfusing warning notice on each container of such beverages; and
- (2) commerce and the national economy may be—

(A) protected to the maximum extent consistent with this declared policy,

(B) not impeded by diverse, nonuniform, and confusing requirements for warnings or other information on alcoholic beverage containers with respect to any relationship between the consumption or abuse of alcoholic beverages and health, and

(C) protected from the adverse effects that would result from a noncomprehensive program covering alcoholic beverage containers sold in interstate commerce, but not alcoholic beverage containers manufactured and sold within a single State.

(Aug. 29, 1935, ch. 814, title II, § 202, as added Pub. L. 100-690, title VIII, § 8001(a)(3), Nov. 18, 1988, 102 Stat. 4518.)

EFFECTIVE DATE

Act Aug. 29, 1935, ch. 814, title II, § 210, as added Nov. 18, 1988, Pub. L. 100-690, title VIII, § 8001(a)(3), 102 Stat. 4521, provided that: "Except as provided in section 204(a) [27 U.S.C. 215(a)], this title [enacting this subchapter] shall take effect on the date of its enactment into law [Nov. 18, 1988]."

SHORT TITLE

For short title of title II of act Aug. 29, 1935, which is classified to this subchapter, as the "Alcoholic Beverage Labeling Act of 1988", see section 201 of act Aug. 29, 1935, set out as a note under section 201 of this title.

§ 214. Definitions

As used in this subchapter—

(1) The term "alcoholic beverage" includes any beverage in liquid form which contains not less than one-half of one percent of alcohol by volume and is intended for human consumption.

(2) The term "bottle" means to fill a container with an alcoholic beverage and to seal such container.

(3) The term "bottler" means a person who bottles an alcoholic beverage.

(4) The term "commerce" means—

(A) commerce between any State, the District of Columbia, the Commonwealth of Puerto Rico, the Commonwealth of the Northern Mariana Islands, Guam, the Virgin

Islands, American Samoa, Wake Island, the Midway Islands, Kingman Reef, or Johnston Island and any place outside thereof;

(B) commerce between points in any State, the District of Columbia, the Commonwealth of Puerto Rico, the Commonwealth of the Northern Mariana Islands, Guam, the Virgin Islands, American Samoa, Wake Island, the Midway Islands, Kingman Reef, or Johnston Island, but through any place outside thereof; or

(C) commerce wholly within the District of Columbia, the Commonwealth of Puerto Rico, the Commonwealth of the Northern Mariana Islands, Guam, the Virgin Islands, American Samoa, Wake Island, the Midway Islands, Kingman Reef, or Johnston Island.

(5) The term "container" means the innermost sealed container irrespective of the material from which made, in which an alcoholic beverage is placed by the bottler and in which such beverage is offered for sale to members of the general public.

(6) The term "health" includes, but is not limited to, the prevention of accidents.

(7) The term "person" means an individual, partnership, joint stock company, business trust, association, corporation, or any other business or legal entity, including a receiver, trustee, or liquidating agent, and also includes any State, any State agency, or any officer or employee thereof.

(8) The term¹ "sale" and "distribution" include sampling or any other distribution not for sale.

(9) The term "Secretary" means the Secretary of the Treasury.

(10) The term "State" includes any political subdivision of any State, the District of Columbia, the Commonwealth of Puerto Rico, the Commonwealth of the Northern Mariana Islands, Guam, the Virgin Islands, American Samoa, Wake Island, the Midway Islands, Kingman Reef, or Johnston Island.

(11) The term "State law" includes State statutes, regulations, and principles and rules having the force of law.

(12) The term "United States", when used in geographical sense, includes the several States, the District of Columbia, the Commonwealth of Puerto Rico, the Commonwealth of the Northern Mariana Islands, Guam, the Virgin Islands, American Samoa, Wake Island, the Midway Islands, Kingman Reef, and Johnston Island.

(Aug. 29, 1935, ch. 814, title II, § 203, as added Pub. L. 100-690, title VIII, § 8001(a)(3), Nov. 18, 1988, 102 Stat. 4518.)

§ 215. Labeling requirement

(a) Statement required on container

On and after the expiration of the 12-month period following November 18, 1988, it shall be unlawful for any person to manufacture, import, or bottle for sale or distribution in the United States any alcoholic beverage unless the container of such beverage bears the following statement:

¹ So in original. Probably should be "terms".

“GOVERNMENT WARNING: (1) According to the Surgeon General, women should not drink alcoholic beverages during pregnancy because of the risk of birth defects. (2) Consumption of alcoholic beverages impairs your ability to drive a car or operate machinery, and may cause health problems.”.

(b) Conspicuous and prominent location of statement on container

The statement required by subsection (a) of this section shall be located in a conspicuous and prominent place on the container of such beverage, as determined by the Secretary, shall be in type of a size determined by the Secretary, and shall appear on a contrasting background. The Secretary shall make such determinations within 90 days after November 18, 1988.

(c) Alcoholic beverages intended for export; beverages intended for Armed Forces of the United States

Subsection (a) of this section shall not apply with respect to alcoholic beverages that are manufactured, imported, bottled, or labeled for export from the United States, or for delivery to a vessel or aircraft, as supplies, for consumption beyond the jurisdiction of the internal revenue laws of the United States: *Provided*, That this exemption shall not apply with respect to alcoholic beverages that are manufactured, imported, bottled, or labeled for sale, distribution, or shipment to members or units of the Armed Forces of the United States, including those located outside the United States.

(d) Powers of Secretary; rules and regulations; consultation and coordination with Surgeon General

The Secretary shall—

(1) have the power to—

(A) ensure the enforcement of the provisions of this subchapter, and

(B) issue regulations to carry out this subchapter, and

(2) consult and coordinate the health awareness efforts of the labeling requirements of this subchapter with the Surgeon General of the United States.

(Aug. 29, 1935, ch. 814, title II, § 204, as added Pub. L. 100-690, title VIII, § 8001(a)(3), Nov. 18, 1988, 102 Stat. 4519.)

REFERENCES IN TEXT

The internal revenue laws of the United States, referred to in subsec. (c), are classified generally to Title 26, Internal Revenue Code.

§ 216. Preemption

No statement relating to alcoholic beverages and health, other than the statement required by section 215 of this title, shall be required under State law to be placed on any container of an alcoholic beverage, or on any box, carton, or other package, irrespective of the material from which made, that contains such a container.

(Aug. 29, 1935, ch. 814, title II, § 205, as added Pub. L. 100-690, title VIII, § 8001(a)(3), Nov. 18, 1988, 102 Stat. 4520.)

§ 217. Report to Congress

If, after appropriate investigation and consultation with the Surgeon General carried out

after the expiration of the 24-month period following November 18, 1988, the Secretary finds that available scientific information would justify a change in, addition to, or deletion of the statement, or any part thereof, set forth in section 215(a) of this title, the Secretary shall promptly report such information to the Congress together with specific recommendations for such amendments to this subchapter as the Secretary determines to be appropriate and in the public interest.

(Aug. 29, 1935, ch. 814, title II, § 206, as added Pub. L. 100-690, title VIII, § 8001(a)(3), Nov. 18, 1988, 102 Stat. 4520.)

§ 218. Civil penalties

Any person who violates the provisions of this subchapter shall be subject to a civil penalty of not more than \$10,000, and each day shall constitute a separate offense.

(Aug. 29, 1935, ch. 814, title II, § 207, as added Pub. L. 100-690, title VIII, § 8001(a)(3), Nov. 18, 1988, 102 Stat. 4520.)

§ 219. Injunction proceedings; compromise of liability

(a) The several district courts of the United States are vested with jurisdiction, for cause shown, to prevent and restrain violations of this subchapter upon the application of the Attorney General of the United States acting through the several United States attorneys in their several districts.

(b) The Secretary is authorized, with respect to any violation of this subchapter, to compromise the liability arising with respect to such violation upon payment of a sum for each offense, to be collected by the Secretary and to be paid into the Treasury as miscellaneous receipts.

(Aug. 29, 1935, ch. 814, title II, § 208, as added Pub. L. 100-690, title VIII, § 8001(a)(3), Nov. 18, 1988, 102 Stat. 4520.)

§ 219a. Severability

If any provision of this subchapter or the application thereof to any person or circumstance is held invalid, the validity of the remainder of this subchapter and this chapter and of the application of such provision to other persons and circumstances shall not be affected thereby.

(Aug. 29, 1935, ch. 814, title II, § 209, as added Pub. L. 100-690, title VIII, § 8001(a)(3), Nov. 18, 1988, 102 Stat. 4521.)

CHAPTER 9—LIQUOR ENFORCEMENT ACT OF 1936

§§ 221 to 228. Repealed. June 25, 1948, ch. 645, § 21, 62 Stat. 862

Section 221, act June 25, 1936, ch. 815, § 1, 49 Stat. 1928, related to citation of this chapter.

Section 222, act June 25, 1936, ch. 815, § 2, 49 Stat. 1928, related to definitions. See sections 1262 and 3615 of Title 18, Crimes and Criminal Procedure.

Section 223, act June 25, 1936, ch. 815, § 3, 49 Stat. 1928, related to transportation of liquor into States where sale is prohibited. See section 1262 of Title 18.

Section 224, act June 25, 1936, ch. 815, § 4, 49 Stat. 1928, related to searches and seizures. See section 3615 of Title 18.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

This content is from the eCFR and is authoritative but unofficial.

Title 27 – Alcohol, Tobacco Products and Firearms

Chapter I – Alcohol and Tobacco Tax and Trade Bureau, Department of the Treasury

Subchapter A – Alcohol

Part 16 Alcoholic Beverage Health Warning Statement

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PART 16—ALCOHOLIC BEVERAGE HEALTH WARNING STATEMENT

Authority: 27 U.S.C. 205, 215, 218; 28 U.S.C. 2461 note.

Source: T.D. ATF-294, 55 FR 5421, Feb. 14, 1990, unless otherwise noted.

Subpart A—Scope

§ 16.1 General.

The regulations in this part relate to a health warning statement on labels of containers of alcoholic beverages.

§ 16.2 Territorial extent.

This part applies to the several States of the United States, the District of Columbia, and the territories and possessions of the United States.

Subpart B—Definitions

§ 16.10 Meaning of terms.

As used in this part, unless the context otherwise requires, terms shall have the meaning ascribed in this section.

Act. The Alcoholic Beverage Labeling Act of 1988.

Alcoholic beverage. Includes any beverage in liquid form which contains not less than one-half of one percent (.5%) of alcohol by volume and is intended for human consumption.

Bottle. To fill a container with an alcoholic beverage and to seal such container.

Bottler. A person who bottles an alcoholic beverage.

Brand label. The label carrying, in the usual distinctive design, the brand name of the alcoholic beverage.

Container. The innermost sealed container, irrespective of the material from which made, in which an alcoholic beverage is placed by the bottler and in which such beverage is offered for sale to members of the general public.

Health. Includes, but is not limited to, the prevention of accidents.

Person. Any individual, partnership, joint-stock company, business trust, association, corporation, or any other business or legal entity, including a receiver, trustee, or liquidating agent, and also includes any State, any State agency, or any officer or employee thereof.

Sale and distribution. Includes sampling or any other distribution not for sale.

State. Includes any political subdivision of any State, the District of Columbia, the Commonwealth of Puerto Rico, the Commonwealth of the Northern Mariana Islands, Guam, the Virgin Islands, American Samoa, Wake Island, the Midway Islands, Kingman Reef, or Johnston Island.

State law. Includes State statutes, regulations and principles and rules having the force of law.

TTB. The Alcohol and Tobacco Tax and Trade Bureau, Department of the Treasury, Washington, DC.

United States. The several States, the District of Columbia, the Commonwealth of Puerto Rico, the Commonwealth of the Northern Mariana Islands, Guam, the Virgin Islands, American Samoa, Wake Island, the Midway Islands, Kingman Reef, and Johnston Island.

Use of other terms. Any other term defined in the Alcoholic Beverage Labeling Act and used in this part shall have the same meaning as assigned to it by the Act.

[T.D. ATF-294, 55 FR 5421, Feb. 14, 1990, as amended by T.D. ATF-425, 65 FR 11892, Mar. 7, 2000; T.D. TTB-44, 71 FR 16925, Apr. 4, 2006]

Subpart C—Health Warning Statement Requirements for Alcoholic Beverages

§ 16.20 General.

- (a) **Domestic products.** On and after November 18, 1989, no person shall bottle for sale or distribution in the United States any alcoholic beverage unless the container of such beverage bears the health warning statement required by § 16.21. It is the responsibility of the bottler to provide, upon request, sufficient evidence to establish that the alcoholic beverage was bottled prior to November 18, 1989.
- (b) **Imported products.** On and after November 18, 1989, no person shall import for sale or distribution in the United States any alcoholic beverage unless the container of such beverage bears the health warning statement required by § 16.21. This requirement does not apply to alcoholic beverages that were bottled in the foreign country prior to November 18, 1989. It is the responsibility of the importer to provide, upon request, sufficient evidence to establish that the alcoholic beverage was bottled prior to such date.

§ 16.21 Mandatory label information.

There shall be stated on the brand label or separate front label, or on a back or side label, separate and apart from all other information, the following statement:

GOVERNMENT WARNING: (1) According to the Surgeon General, women should not drink alcoholic beverages during pregnancy because of the risk of birth defects.

(2) Consumption of alcoholic beverages impairs your ability to drive a car or operate machinery, and may cause health problems.

(Authority: Sec. 8001, Pub. L. 100-690, 102 Stat. 4181, 27 U.S.C. 215)

§ 16.22 General requirements.

(a) **Legibility.**

- (1) All labels shall be so designed that the statement required by § 16.21 is readily legible under ordinary conditions, and such statement shall be on a contrasting background.
- (2) The first two words of the statement required by § 16.21, i.e., "GOVERNMENT WARNING," shall appear in capital letters and in bold type. The remainder of the warning statement may not appear in bold type.
- (3) The letters and/or words of the statement required by § 16.21 shall not be compressed in such a manner that the warning statement is not readily legible.
- (4) The warning statement required by § 16.21 shall appear in a maximum number of characters (i.e., letters, numbers, marks) per inch, as follows:

Minimum required type size for warning statement	Maximum number of characters per inch
1 millimeter	40
2 millimeters	25
3 millimeters	12

(b) **Size of type.**

- (1) Containers of 237 milliliters (8 fl. oz.) or less. The mandatory statement required by § 16.21 shall be in script, type, or printing not smaller than 1 millimeter.
- (2) Containers of more than 237 milliliters (8 fl. oz.) up to 3 liters (101 fl. oz.). The mandatory statement required by § 16.21 shall be in script, type, or printing not smaller than 2 millimeters.
- (3) Containers of more than 3 liters (101 fl. oz.). The mandatory statement required by § 16.21 shall be in script, type, or printing not smaller than 3 millimeters.

- (c) **Labels firmly affixed.** Labels bearing the statement required by § 16.21 which are not an integral part of the container shall be affixed to containers of alcoholic beverages in such manner that they cannot be removed without thorough application of water or other solvents.

[T.D. ATF-294, 55 FR 5421, Feb. 14, 1990, as amended by T.D. 372, 61 FR 20723, May 8, 1996; T.D. TTB-91, 76 FR 5477, Feb. 1, 2011]

Subpart D—General Provisions

§ 16.30 Certificates of label approval.

Certificates of label/bottle approval or certificates of exemption from label approval on TTB Form 5100.31, issued pursuant to parts 4, 5, and 7 of this chapter for imported and domestically bottled wine, distilled spirits, and malt beverages, shall not be approved with respect to such beverage bottled on and after November 18, 1989, unless the label for the container of such beverage bears the health warning statement required.

[T.D. ATF-294, 55 FR 5421, Feb. 14, 1990, as amended by T.D. ATF-425, 65 FR 11892, Mar. 7, 2000]

§ 16.31 Exports.

The regulations in this part shall not apply with respect to alcoholic beverages that are produced, imported, bottled, or labeled for export from the United States, or for delivery to a vessel or aircraft, as supplies, for consumption beyond the jurisdiction of the internal revenue laws of the United States: *Provided*, That this exemption shall not apply with respect to alcoholic beverages that are produced, imported, bottled, or labeled for sale, distribution, or shipment to members or units of the Armed Forces of the United States, including those located outside the United States.

§ 16.32 Preemption.

No statement relating to alcoholic beverages and health, other than the statement required by § 16.21, shall be required under State law to be placed on any container of an alcoholic beverage, or on any box, carton, or other package, irrespective of the material from which made, that contains such a container.

§ 16.33 Civil penalties; adjustments.

- (a) **General.** The Act provides that any person who violates the provisions of this part shall be subject to a civil penalty of not more than \$10,000. However, pursuant to the provisions of the Federal Civil Penalties Inflation Adjustment Act of 1990, as amended, this civil penalty is subject to periodic cost-of-living adjustment. Accordingly, any person who violates the provisions of this part shall be subject to a civil penalty of not more than the amount listed at https://www.ttb.gov/regulation_guidance/ablapenalty.html. Each day shall constitute a separate offense.
- (b) **Notice of cost-of-living adjustment.** TTB will provide notice in the FEDERAL REGISTER and at the Web site referenced in paragraph (a) of this section of cost-of-living adjustments to the civil penalty for violations of this part.

- (c) ***Applicability of increases in penalty.*** Any increase in the penalty described in paragraph (a) of this section shall apply only to penalties, including those whose associated violation predated such an increase, which are assessed after the date the increase takes effect. An increase will take effect on the date a notice is published in the FEDERAL REGISTER announcing the increase. The effective date of the increase also will be listed at the Web site in paragraph (a) of this section.

[T.D.TTB-138, 81 FR 43065, July 1, 2016]

RCW 34.05.330 Petition for adoption, amendment, repeal—Agency action—Appeal. (1) Any person may petition an agency requesting the adoption, amendment, or repeal of any rule. The office of financial management shall prescribe by rule the format for such petitions and the procedure for their submission, consideration, and disposition and provide a standard form that may be used to petition any agency. Within sixty days after submission of a petition, the agency shall either (a) deny the petition in writing, stating (i) its reasons for the denial, specifically addressing the concerns raised by the petitioner, and, where appropriate, (ii) the alternative means by which it will address the concerns raised by the petitioner, or (b) initiate rule-making proceedings in accordance with RCW 34.05.320.

(2) If an agency denies a petition to repeal or amend a rule submitted under subsection (1) of this section, and the petition alleges that the rule is not within the intent of the legislature or was not adopted in accordance with all applicable provisions of law, the person may petition for review of the rule by the joint administrative rules review committee under RCW 34.05.655.

(3) If an agency denies a petition to repeal or amend a rule submitted under subsection (1) of this section, the petitioner, within thirty days of the denial, may appeal the denial to the governor. The governor shall immediately file notice of the appeal with the code reviser for publication in the Washington state register. Within forty-five days after receiving the appeal, the governor shall either (a) deny the petition in writing, stating (i) his or her reasons for the denial, specifically addressing the concerns raised by the petitioner, and, (ii) where appropriate, the alternative means by which he or she will address the concerns raised by the petitioner; (b) for agencies listed in RCW 43.17.010, direct the agency to initiate rule-making proceedings in accordance with this chapter; or (c) for agencies not listed in RCW 43.17.010, recommend that the agency initiate rule-making proceedings in accordance with this chapter. The governor's response to the appeal shall be published in the Washington state register and copies shall be submitted to the chief clerk of the house of representatives and the secretary of the senate.

(4) In petitioning for repeal or amendment of a rule under this section, a person is encouraged to address, among other concerns:

- (a) Whether the rule is authorized;
- (b) Whether the rule is needed;
- (c) Whether the rule conflicts with or duplicates other federal, state, or local laws;
- (d) Whether alternatives to the rule exist that will serve the same purpose at less cost;
- (e) Whether the rule applies differently to public and private entities;
- (f) Whether the rule serves the purposes for which it was adopted;
- (g) Whether the costs imposed by the rule are unreasonable;
- (h) Whether the rule is clearly and simply stated;
- (i) Whether the rule is different than a federal law applicable to the same activity or subject matter without adequate justification; and
- (j) Whether the rule was adopted according to all applicable provisions of law.

(5) The department of commerce and the office of financial management shall coordinate efforts among agencies to inform the public about the existence of this rules review process.

(6) The office of financial management shall initiate the rule making required by subsection (1) of this section by September 1, 1995. [2023 c 470 s 2013; 1998 c 280 s 5; 1996 c 318 s 1; 1995 c 403 s 703; 1988 c 288 s 305; 1967 c 237 s 5; 1959 c 234 s 6. Formerly RCW 34.04.060.]

Explanatory statement—2023 c 470: See note following RCW 10.99.030.

Findings—Short title—Intent—1995 c 403: See note following RCW 34.05.328.

WAC 82-05-020 What information must I include in a petition?

(1) Every petition for adoption, repeal, or amendment of a rule must include the following:

(a) The name of the agency responsible for administering the rule, and

(b) The rationale for adoption of a new rule or amendment or repeal of an existing rule.

(c) In addition to any other concerns, you, the petitioner, are encouraged to address whether:

(i) The rule is authorized

(ii) The rule is needed

(iii) The rule conflicts with or duplicates other federal, state, or local laws

(iv) Alternatives to the rule exist that will serve the same purpose at less cost

(v) The rule applies differently to public and private entities

(vi) The rule serves the purposes for which it was adopted

(vii) The rule imposes unreasonable costs

(viii) The rule is clearly and simply stated, and

(ix) The rule differs, without adequate justification, from a federal law which applies to the same activity or subject matter.

(2)

When you are:	Petition should include:
Proposing a new rule	Text of proposed rule or description of its provisions
Requesting amendment of existing agency rule	Name, title, number of rule, and text or description of amendment
Requesting repeal of existing agency rule	Name, title, number of rule, and description of effects of repeal

The petition should contain sufficient information so that the agency and public can understand the proposal.

(3) You, the petitioner, can obtain a standard petition form from the office of financial management or any state agency involved in rule making. Agencies must accept petitions submitted using the standard form or in any other format that provides the information described in (1) or (2) of this section.

[Statutory Authority: 1995 c 403 § 703. WSR 96-03-048, § 82-05-020, filed 1/12/96, effective 2/12/96.]