

**AGENDA
BOARD MEETING
WA STATE LIQUOR CONTROL BOARD
Wednesday, February 24, 2010
Headquarter Building
3000 Pacific Ave, Olympia WA 98504**

10:00 a.m.

Roll Call

1. Potential Size Extension, Potential Proof Change, Potential Wine Listings.....Steve Burnell

2. Approval to file CR 102 – ID Requirements.....Karen McCall
The purpose of this Issue Paper is to request approval from the Board to file the proposed rule (CR 102) to revise **WAC 314-11-025 - What are the forms of acceptable identification.**

If our rules are changed to require any purchase of liquor requires a horizontal driver's license or identicard, easily identified as such, sales to minors would be drastically reduced or eliminated. Without this change, there will continue to be sales made to persons under 21 years of age.

3. Public Hearing on proposed rules review of WAC 314-52 – Advertising Rules.....Karen McCall

In 2008, a comparison was conducted on the LCB's advertising rules based on a 2003 Center on Alcohol Marketing and Youth (CAMY) report. It was determined the LCB needed to update their alcohol advertising rules to reflect the agency's focus on public safety by minimizing youth access and exposure to alcohol advertising.

In addition, the following bills enacted during the 2006 and 2007 legislative sessions require the advertising rules to be revised:

- **SHB 3150 / 2006 session** – Allows joint advertising by wineries and retailers to promote tourism
- **SSB 5721 / 2007 session** – Allows financial arrangements between sports/entertainment facility licensees and liquor manufacturers or distributors
- **HB 2240 / 2007** – For wineries only, allows “personal services” to be performed by wineries, including COA holders, when these services are conducted at a licensed retail premises and are intended to inform, educate, or enhance a customer's knowledge or experience of the manufacturer's product. For wineries and breweries, retailer and manufacturer listings and links are allowed on each other's Web sites.

4. New Business.....Board Members

5. Old Business.....Board Members

Recess/Adjourn

**OFFICE OF THE
WASHINGTON STATE LIQUOR CONTROL BOARD
Board Meeting Minutes – February 24, 2010**

Board Chair Sharon Foster called the regular meeting of the Washington State Liquor Control Board to order at 10:00 a.m., on Wednesday, February 24 in the Boardroom, 3000 Pacific Avenue SE, Olympia, Washington. Board Member Ruthann Kurose was present.

Potential Size Extension, Potential Proof Change and Potential Wine Listings – Steve Burnell
Steve made recommendations as explained in the February 24, 2010 memo. The Board members unanimously approved the recommendations (see attachment).

Approval for filing proposed rule (CR 102) for WAC 314-11-025 - What are the forms of acceptable identification – Karen McCall

Karen McCall requested that the Board approve the filing of notice of proposed rule-making (CR 102) for WAC 314-11-025 What are the forms of acceptable identification. The Retail division's is focused on public safety, to protect the citizens of the state from the dangers of alcohol and to maintain 90% or better compliance for all store types and is tracking compliance failures. They have determined one of the most problematic areas is with the current vertical minor driver license format.

Minors are being sold alcohol at our retail outlets and by liquor licensees in the state due to confusion with the vertical driver's license and identicard. Numerous citizens and stakeholders are affected by this problem; alcohol beverage servers, liquor and law enforcement officers, liquor retailers, under-aged drinkers and their victims. If our rules are changed, it would require any purchaser of liquor to hold a horizontal driver's license or identicard (see attachments).

Public Hearing on Advertising – Karen McCall

In 2008, a comparison was conducted on the LCB's advertising rules based on a 2003 Center on Alcohol Marketing and Youth (CAMY) report. It was determined the LCB needed to update their alcohol advertising rules to reflect the agency's focus on public safety by minimizing youth access and exposure to alcohol advertising.

In addition, the following bills enacted during the 2006 and 2007 legislative sessions require the advertising rules to be revised:

- **SHB 3150 / 2006 session** – Allows joint advertising by wineries and retailers to promote tourism
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The following Board Policies and Guidelines were also incorporated in this rulemaking:

- Policy Number 1-02: Use of licensed sports team name and trademark;
- Policy Number 1-05: Advertising events held at sports/entertainment facilities licensed under RCW 66.24.570;

- Interim Policy dated March 1, 2000, regarding criteria for approval of alcohol advertising;
- Interim Policy on advertising vs. information for the purpose of determining the extension of money's worth;
- Board Guidelines on coupon offers

The following are comments made by those testifying at the meeting regarding changes to the Advertising Rules.

Rollin Fatland – One Reel WAC 314-52-130: Public and civic events. One Reel has been operating with sponsorships from manufacturers and distributors since 1995.

Erica Austin – Professor at WSU WAC 314-52-015, WAC 314-52-070, and WAC 314-52-113: Your rules are extremely important to protect youth.

Katie Borgess- TOGETHER! Youth Assistance Program WAC 314-52-070: Alcohol advertising signage restrictions - supports the proposed rule.

Heidi Dupree – TOGETHER! Youth Assistance Program WAC 314-52-070: Alcohol advertising signage restrictions - supports the proposed rule.

Tony Reid – Attorney for One Reel WAC 314-52-130: Public and civic events. Special occasion licenses and retail licenses are different and should be treated differently.

Chris Jury – Family Policy Council (Snohomish County) WAC 314-52-070: Alcohol advertising signage restrictions - supports the proposed rule.

Angel Lynch and Brianna Wollard – 7th grade students in Central Kitsap WAC 314-52-070: Alcohol advertising signage restrictions. Would like to see the size restriction on signs be 800 square inches.

Lance Hastings – MillerCoors WAC 314-52-070: Alcohol advertising signage restrictions. Would like the proposed rule changed to limit the signs to no more than one sign per brand.
WAC 314-52-040: Coupons. There is no reference to mail-in rebates.

Chase Foster – Naches Valley High School student and member of SADD WAC 314-52-070: Alcohol advertising signage restrictions - supports the proposed rule.

Dustin Shattack – Naches Valley School District (SPIF-SIG) WAC 314-52-070: Alcohol advertising signage restrictions - supports the proposed rule.

Michael Kissinger – Bravo! Vancouver WAC 314-52-130: Public and civic events. Would like to see legislation to allow industry members to give money to special occasion licensees.

Raelynn Masters– Olympic High School student WAC 314-52-070: Alcohol advertising signage restrictions – supports proposed rule.
WAC 314-52-130: Public and civic events – supports proposed rule.

Jim Cooper – WASAVP WAC 314-52-070: Alcohol advertising signage restrictions – would like the language removed that states “where the administrative body objects” in (5).

Liz Wilhelm – President WASAVP

WAC 314-52-070: Alcohol advertising signage restrictions – would like the size restriction to be 800 square inches. Support the proposed advertising rules.

Cassandra Tuttle – RuAD

314-52-070: Alcohol advertising signage restrictions – supports proposed rule.

Mary Garcia – White Swan Community Coalition

Support proposed advertising rules.

Eric Hansen – White Swan Community Coalition

Support proposed advertising rules.

Michael Mitchell – Breast Cancer Research Center

WAC 314-52-130: Public and civic events. This statute is inconsistent with the Governor’s message of “Pro-Business”. The money and money’s prohibition hasn’t been enforced up to this point.

John Guadnola – WBWWA

WAC 314-52-130: Public and civic events. The distributors thought that giving money to non-profit organizations holding a special event was legal for many years. John is happy to work with non-profit organizations to make their events a success. He is also willing to help work on legislation to change the law to allow an exception for industry members to give money to special occasion licensees.

David E. Wojnar – DISCUS (letter received)

WAC 314-52-070 and WAC 314-52-130: The Board should not impose any size limits for signs. There is no evidentiary basis for any size limits.

WAC 324-52-113(1): The Board should eliminate the prohibition against brand signs and point-of-sale material furnished to retailers from having any value to the retailer except as brand advertising. The Board should permit a retailer’s name and address to appear on brand signs and point of sale material. The Board should retail section (2) which sets forth an illustrative list of permitted POS material and should add other commonly-utilized items to the list. The Board should eliminate the prohibition against costumed individuals purchasing a customer a drink from the retailer.

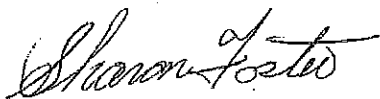
WAC 314-52-130: We feel this proposed rule as drafted will have a detrimental impact on Washington nonprofit organizations and public and civic events. The Board should not limit the acknowledgement of a name and/or brand of a sponsor of a public or civic event in a media advertisement to a size not exceeding the event name size. We urge the Board to allow industry members to provide monetary support to special occasion licensees. We urge the Board to reject the proposal restricting brand advertising to inside the event area where alcohol sales and consumption occur.

Michael Transue – Washington Restaurant Association (letter received) WAC 314-52-015:

General. The proposed rule changes use vague and subjective terms that will result in varying interpretations and inconsistent enforcement.

WAC 314-52-070(2): Alcohol advertising signage restrictions. We continue to disagree that a sign limitation on restaurant is appropriate policy. Local governments should not be allowed to exempt themselves for these rules. We strongly encourage the Board to adopt performance measures that ensure the proposed rules are achieving the stated goals of reducing underage drinking.

The Board Meeting was adjourned at 11:50 AM.



Sharon Foster
Board Chair



Ruthann Kurose
Board Member

**WASHINGTON STATE LIQUOR CONTROL BOARD
INTEROFFICE CORRESPONDENCE**


Date: February 24, 2010
 To: Chairman Sharon Foster
 Board Member Ruthann Kurose
 From: Steve Burnell, Marketing Manager
 Subject: POTENTIAL WINE LISTINGS

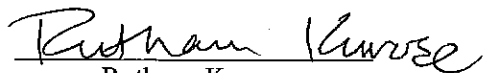
The Purchasing Division and I recommend the Board approve the following listing actions. These recommendations are based on a blind tasting review by the Wine Advisory Committee, successful sell thru on a previous purchase or current market demand.

Wine	Region	Vntg	Retail	Recommendation
Sutter Home Moscato 1.5L	CA	NV	\$ 8.99	Regular Listing
Fetzer Chardonnay	CA	2008	\$ 6.99	Regular Listing

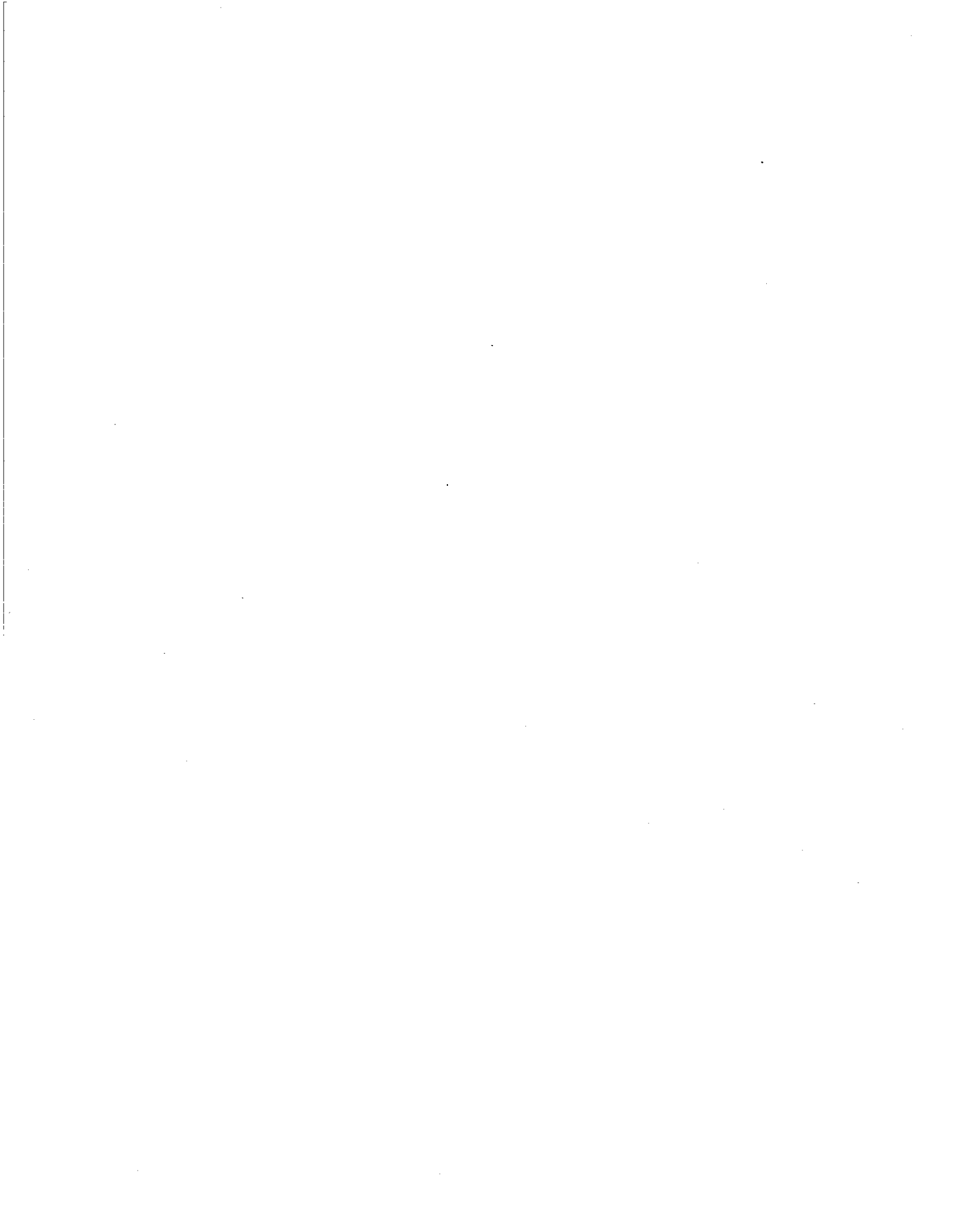
The following wines are offered as a One-Time-Only purchase. The Purchasing Division and I recommend the Board approve the following *One-Time-Only listings*.

Wine	Region	Vintage	Retail
Yellow Tail Sauvignon Blanc	Australia	2009	\$ 3.99
Yellow Tail Cab-Merlot	Australia	2008	\$ 3.99
Yellow Tail Riesling	Australia	2009	\$ 3.99
Yellow Tail Shiraz-Grenache	Australia	2008	\$ 3.99
Yellow Tail Pinot Gris	Australia	2009	\$ 3.99
Liberty School Chardonnay	CA	2008	\$ 6.99
Liberty School Cabernet Sauvignon	CA	2007	\$ 6.99
Liberty School Syrah	CA	2007	\$ 6.99
Coppola Rosso	CA	2007	\$ 4.99
Coppola Bianco	CA	2008	\$ 4.99


 Sharon Foster
 Chairman

FOR BOARD CONCURRENCE: 2/24/10 DATE

 Ruthann Kurose
 Board Member

- cc: Pat Kohler
 Pat McLaughlin
 Debi Besser
 John Redal
 Randy Simmons
 Meagan Renick
 Kelly Higbee
 Cindy Doughty
 Robin Hall
 Kim Ward
 Casey Walker
 Lacinda Thomas
 Frances Munez-Carter
 Shayna Burmeister



WASHINGTON STATE LIQUOR CONTROL BOARD

INTEROFFICE CORRESPONDENCE

February 24, 2010

To: Chairman Sharon Foster
Board Member Ruthann Kurose

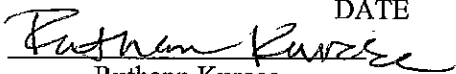
From: Steve Burnell, Marketing Manager

Subject: POTENTIAL SIZE EXTENSION

In accordance with the criteria set forth in Agency Policy #915 Listing and Delisting Liquor Products. I recommend that the Board approve listing the following size extension.

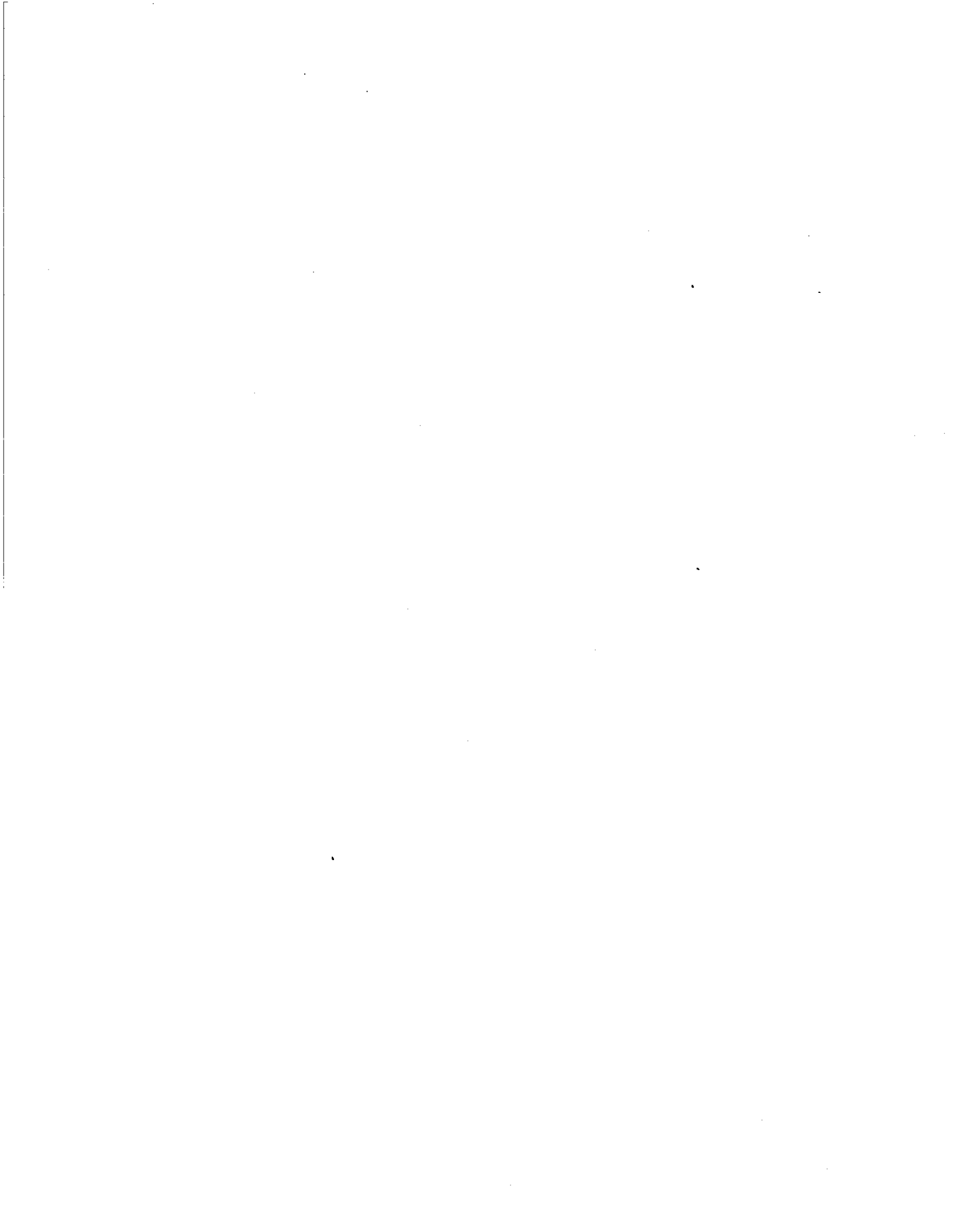
Requested Size Extensions	Size	Retail Price	Current Average Monthly Case Sales of the 750 ml Size	Current Monthly Gross Profit	Rank in Category
Platinum 7X Vodka	750 liter PET	\$12.95	1,413	\$60,395	#13


Sharon Foster
Chairman

FOR BOARD APPROVAL: 2/24/10
DATE

Ruthann Kurose
Board Member

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cc: Pat Kohler
Pat McLaughlin
John Redal
Randy Simmons
Debi Besser
Meagan Renick
Kelly Higbee
Cindy Doughty
Robin Hall
Kim Ward
Casey Walker
Lacinda Thomas
Frances Munez-Carter
Shayna Burmeister



WASHINGTON STATE LIQUOR CONTROL BOARD

INTEROFFICE CORRESPONDENCE

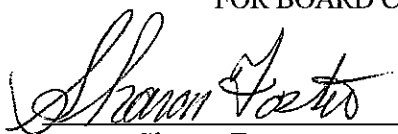
Date: February 24, 2010
To: Chairman Sharon Foster
Board Member Ruthann Kurose
From: Steve Burnell, Marketing Manager
Subject: POTENTIAL PROOF CHANGE

The supplier of the following product is requesting that the Board approve their proof change. The supplier will no longer be producing the original proof of this product.

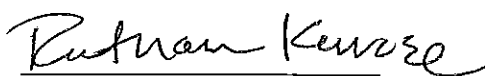
<u>Brand</u>	<u>Description</u>	<u>Original Proof</u>	<u>New Proof</u>	<u>Current Retail</u>	<u>Average Monthly Case Sales</u>
034202	42 Below Vodka, 750 ml	84	80	\$19.95	91

I recommend that the Board approve the supplier's request for the proof change. We will post signage in our retail outlets notifying customers of the proof change.

FOR BOARD CONCURRENCE: 2/24/10 DATE



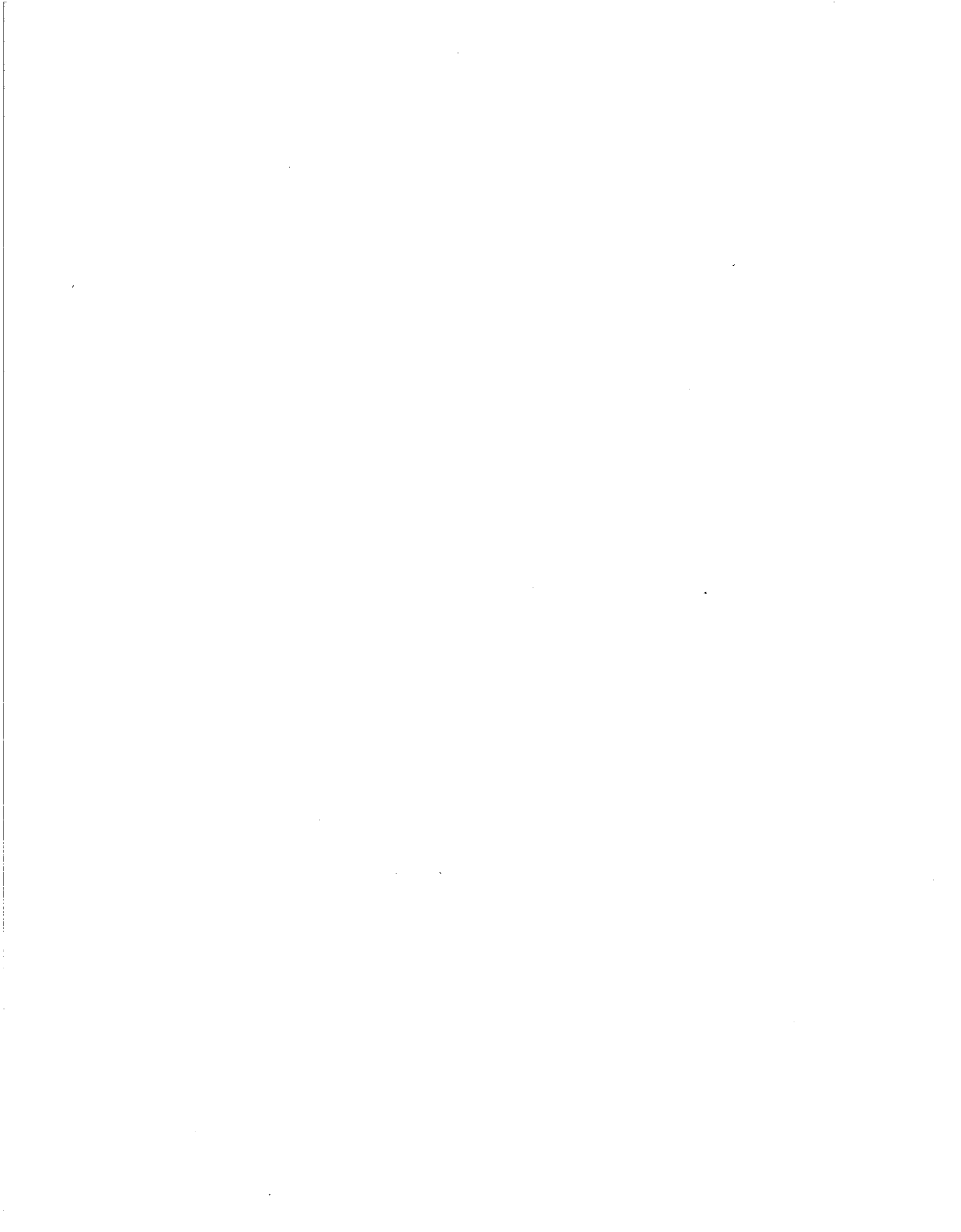
Sharon Foster
Chairman



Ruthann Kurose
Board Member

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cc: Pat Kohler
Pat McLaughlin
John Redal
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Cindy Doughty
Robin Hall
Kim Ward
Casey Walker
Lacinda Thomas
Frances Munez-Carter
Shayna Burmeister





Washington State Liquor Control Board

Date: February 24, 2010

To: Sharon Foster, Board Chair
Ruthann Kurose, Board Member

From: Karen McCall, Agency Rules Coordinator

Copy: Pat Kohler, Administrative Director
Rick Garza, Deputy Administrator
John Redal, Director, Retail Services

Subject: Approval for filing proposed rule (CR 102) for WAC 314-11-025 What are the forms of acceptable identification.

At the Board meeting on February 24, 2010, the rules coordinator requests that the Liquor Control Board approve the filing of notice of proposed rule-making (CR 102) for WAC 314-11-025 What are the forms of acceptable identification. An issue paper on the proposed rules is attached.

Process

The Rules Coordinator requests approval to file the notice of proposed rulemaking (CR 102) for the rule making described above. If approved for filing, the tentative timeline for the rule making process is outlined below:

February 24, 2010	Board is asked to approve filing the proposed rule making (CR 102 filing). LCB sends notice to rules distribution list.
March 3, 2010	Code Reviser publishes notice,
April 7, 2010	Public hearing held
April 7, 2010	End of written comment period
April 14, 2010	Board is asked to adopt rules
April 14, 2010	Agency sends notice to those who commented both at the public hearing and in writing.
April 14, 2010	Agency files adopted rules with the Code Reviser
May 15, 2010	Rules are effective.

Approve Disapprove

Sharon Foster 2/24/10
Sharon Foster, Chair Date

Approve Disapprove

Ruthann Kurose 2/24/10
Ruthann Kurose, Board Member Date

Attachment: Issue Paper

Washington State Liquor Control Board

Issue Paper

Rule Making WAC 314-11-025

Date: February 24, 2010

Presented by: Karen McCall, Agency Rules Coordinator

Description of the Issue

The purpose of this Issue Paper is to request approval from the Board to file the proposed rule (CR 102) to revise **WAC 314-11-025 - What are the forms of acceptable identification.**

Why is rule making necessary?

The Retail division's number one compliance objective is focused on public safety, to protect the citizens of the state from the dangers of alcohol and to maintain 90% or better compliance for all store types across the entire sales network by not selling to minors or intoxicated persons. The Retail division is tracking compliance failures and determined one of the most problematic areas is with the current vertical minor driver license format.

Minors are being sold alcohol at our retail outlets and by liquor licensees in the state due to confusion with the vertical driver's license and identicard. The vertical card has been problematic since its inception. Numerous citizens and stakeholders are affected by this problem; alcohol beverage servers, liquor and law enforcement officers, liquor retailers, under-aged drinkers and their victims.

If our rules are changed to require any purchase of liquor requires a horizontal driver's license or identicard, easily identified as such, sales to minors would be drastically reduced or eliminated. Without this change, there will continue to be sales made to persons under 21 years of age.

What changes are being proposed?

Amended WAC 314-11-025 What are the forms of acceptable identification? Added the following language: "For the purpose of purchasing liquor, a horizontal driver's license or identicard is required."

Proposed Rules

AMENDATORY SECTION (Amending WSR 08-03-081, filed 1/16/08, effective 2/16/08)

WAC 314-11-025 What are the forms of acceptable identification? (1) Per RCW 66.16.040, following are the forms of identification that are acceptable to verify a person's age for the purpose of selling, serving, or allowing a person to possess or consume alcohol:

(a) Driver's license, instruction permit, or identification card of any state or province of Canada, or "identocard" issued by the Washington state department of licensing per RCW 46.20.117;

For the purpose of purchasing liquor, a horizontal driver's license or identocard is required.

(b) United States armed forces identification card issued to active duty, reserve, and retired personnel and the personnel's dependents, which may include an embedded, digital signature in lieu of a visible signature;

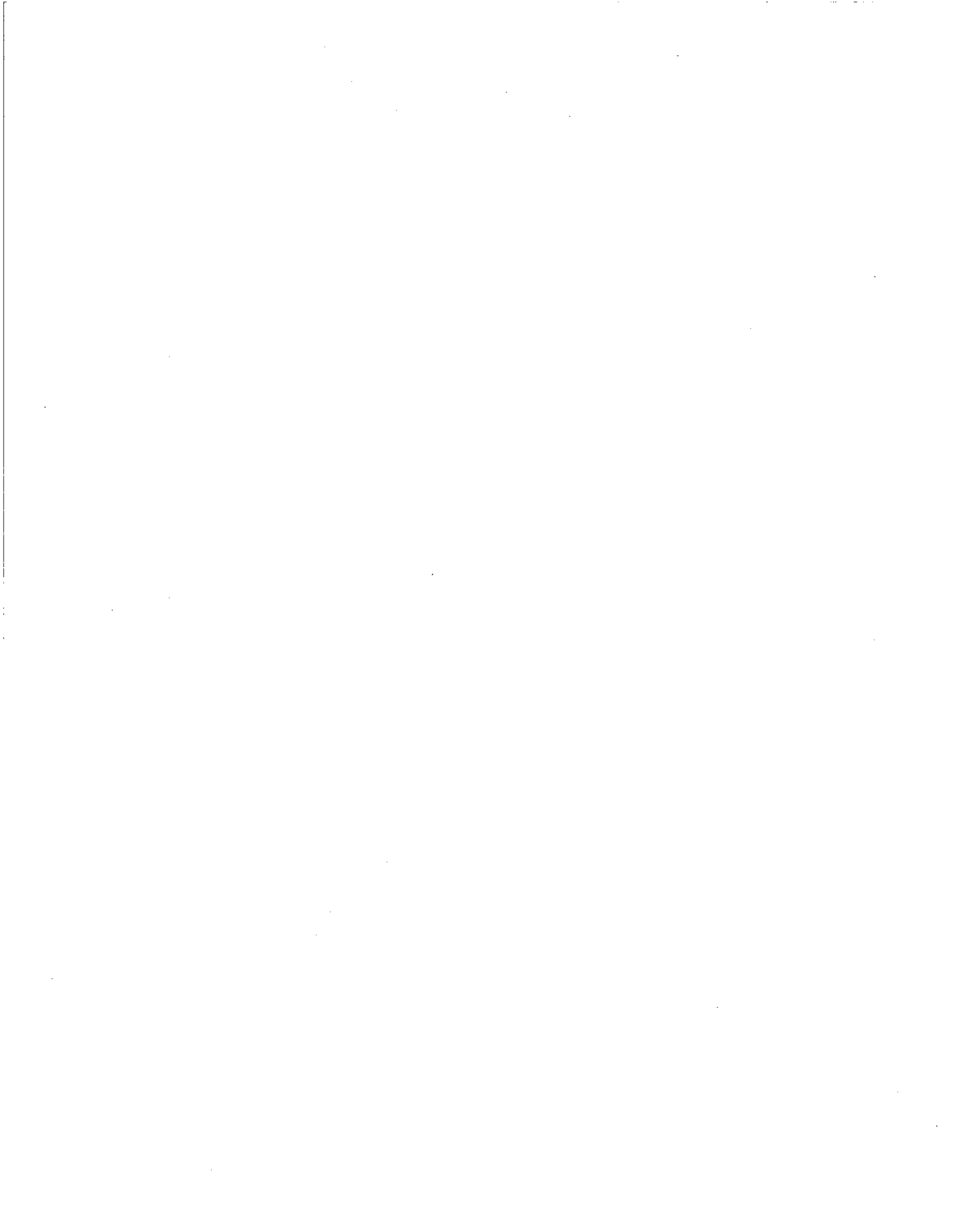
(c) Passport;

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

(e) Enrollment card issued by the governing authority of a federally recognized Indian tribe located in Washington, if the enrollment card incorporates security features comparable to those implemented by the department of licensing for Washington driver's licenses.

(2) If the identification document has an expiration date, a person may not use the document after the expiration date to verify his or her age.

[Statutory Authority: RCW 66.16.040. 08-03-081, § 314-11-025, filed 1/16/08, effective 2/16/08. Statutory Authority: RCW 66.08.030, 66.28.100, 66.28.040, 66.28.090, 66.44.010, 66.44.070, 66.44.200, 66.44.270, 66.44.291, 66.44.292, 66.44.310, 66.44.316, 66.44.318, 66.44.340, 66.44.350, and chapter 66.44 RCW. 01-06-014, § 314-11-025, filed 2/26/01, effective 3/29/01.]



Issue Paper

Rule Making on Advertising

Date: January 13, 2010

Presented by: Karen McCall, Agency Rules Coordinator

Description of the Issue

The purpose of this issue paper is to recommend that the Board proceed with proposed rule changes (CR 102) supplemental resulting from revisions to the proposed rules for WAC 314-52 since the original CR 102 was filed on July 29, 2009.

Why is rule making necessary?

The Liquor Control Board (LCB) continues to review existing rules for timeliness, clarity, and necessity complying with Executive Order 06-02 issued by Governor Gregoire. As part of the Liquor Control Board's on-going rules review process, rules regarding advertising are being reviewed for relevance, clarity, and accuracy.

Background

In 2008, a comparison was conducted on the LCB's advertising rules based on a 2003 Center on Alcohol Marketing and Youth (CAMY) report. It was determined the LCB needed to update their alcohol advertising rules to reflect the agency's focus on public safety by minimizing youth access and exposure to alcohol advertising.

In addition, the following bills enacted during the 2006 and 2007 legislative sessions require the advertising rules to be revised:

- **SHB 3150 / 2006 session** – Allows joint advertising by wineries and retailers to promote tourism
- **SSB 5721 / 2007 session** – Allows financial arrangements between sports/entertainment facility licensees and liquor manufacturers or distributors
- **HB 2240 / 2007** – For wineries only, allows "personal services" to be performed by wineries, including COA holders, when these services are conducted at a licensed retail premises and are intended to inform, educate, or enhance a customer's knowledge or experience of the manufacturer's product. For wineries and breweries, retailer and manufacturer listings and links are allowed on each other's Web sites.

The following Board Policies and Guidelines were also incorporated in this rulemaking:

- Policy Number 1-02: Use of licensed sports team name and trademark;
- Policy Number 1-05: Advertising events held at sports/entertainment facilities licensed under RCW 66.24.570;

- Interim Policy dated March 1, 2000, regarding criteria for approval of alcohol advertising;
- Interim Policy on advertising vs. information for the purpose of determining the extension of money's worth;
- Board Guidelines on coupon offers.

What changes are being proposed?

Amended Section WAC 314-52-005 – Purpose and application of rules.

Replaced the preamble with more of an "intent". Plain talked.

Amended Section WAC 314-52-010 – Mandatory statements.

Amended section (1)(c) to conform with federal guidelines (alcoholic content of distilled spirits). Deleted section (4) (displays of beer based on alcohol content).

Amended Section 314-52-015 – General.

Amended to add language to implement LCB interim policy dated March 1, 2000, added additional advertising content restrictions, plain-talked. Deleted two sub-sections that were added in proposed rules filed July 29, 2009.

Repealed Section WAC 314-52-020 – Use of insignia or reference to liquor control board prohibited – exception.

Added language from this section to 314-52-015.

Amended Section WAC 314-52-030 – Liquor advertising prohibited in school publication.

Amended to refer to advertising in any media. Plain-talked.

Amended Section WAC 314-52-040 – Contests, competitive events, premiums and coupons.

Added language to implement Board Guidelines on coupon offers. Corrected RCW reference for gambling, and plain-talked.

Amended Section WAC 314-52-070 – Outdoor Advertising.

Amended language to restrict the number of signs advertising alcohol, brand names, and/or manufacturers that are visible from the public right of way on the outside of a retail premises to a total of four. The size of the signs are limited to 1600 square inches. Amended language to restrict outdoor advertising within 500 feet of places of worship, schools, public playgrounds, or athletic fields used primarily by children. Added back language "where the administrative body of said church, school, public playground or athletic field object to such placement". The 500 feet is measured from the property line of the place of worship, school, public playground or athletic field to the outdoor sign. "Tourist Oriented Designation Signs" pre RCW 47.36.320 are exempt from this requirement.

Amended Section WAC 314-52-085 – Programs and program folders.

Specified sporting arenas are premises holding a sports entertainment facility liquor license.

Amended Section WAC 314-52-090 – Advertising sponsored jointly by retailers and manufacturers, importers, or distributors.

Added language to implement SHB 3150, HB 2240, Board policy 1-02, and LCB interim policy on advertising vs. information. Plain-talked.

New Section WAC 314-52-095 – Financial arrangements between sports/entertainment facility licensees and liquor manufacturers and distributors.

The new section was created to implement SSB 5751 and LCB policy 1-05.

Amended Section 314-52-110 – Advertising by retail licensees.

Moved language from 314-52-114 to this rule. Added language to clarify that alcohol can't be advertised, offered for sale, or sold by the retail licensee at less than acquisition cost except under listed exceptions. Plain-talked.

Amended Section WAC 314-52-113 – Brand signs and point-of-sale displays on retail licensed premises.

Removed the reference to "animal" inflatables and "animal mascot" costumed individuals. Added a restriction that inflatables and costumed individuals may not be targeted or appealing principally to children or persons under 21 years of age. Plain-talked.

Repealed Section WAC 314-52-114 – Advertising by retail licensees, offering for sale, or selling beer, wine, or spirituous liquor at less than cost—Prohibited—Exceptions.

Added language to 314-52-110.

Amended Section WAC 314-52-115 – Advertising by clubs—Signs.

Plain-talked.

New Section – WAC 314-52-120 – Sponsorship of public and civic events.

Created a rule to address sponsorship of public and civic events by industry members. Industry members may provide the following:

- Signage with the industry members name or brand name of their products; and
- Programs or flyers to be disseminated at the event.

Acknowledgement of the industry member is allowed in any media advertisement where the function recognizes the sponsors of the event. The size of the alcohol industry member sponsor acknowledgement may not exceed the size of the event name. Inflatables are not allowed inside the event area.

There may be no giveaways of alcohol promotional items of any kind to persons under 21 years of age.

Industry members may not sponsor a special occasion license at public and civic events. Money may not be given directly to the special occasion licensee or employees thereof, but industry members may provide the following advertising for a special occasion licensed event:

- Signage with the industry members name or brand name of their products;
- Media coverage of the event; and
- Programs or flyers to be disseminated at the event.

Inflatables are not allowed inside special occasion license areas.

There may be no giveaways of alcohol promotional items of any kind in the special occasion license areas.

Special occasion licensed premises are limited to a total of four signs referring to alcoholic beverages, brand names, or industry members that are affixed or hanging in the windows and on the outside of the special occasion licensed premises that are visible to the general public from the public right of way.

Brand advertising is allowed inside the special occasion license event area where alcohol sales and consumption occur.

AMENDATORY SECTION (Amending WSR 98-18-097, filed 9/2/98, effective 10/3/98)

WAC 314-52-005 Purpose and application of rules. (1)

~~((PREAMBLE: The purpose of this title is to))~~ The liquor control board regulates alcohol advertising to promote public safety, prevent the misuse of alcohol and reduce youth exposure to alcohol advertising and marketing. These rules provide reasonable regulations as to the kind, character, size, and location of advertising of liquor, as authorized by RCW 66.08.060.

(2) No person engaged in business as a ~~((producer,))~~ manufacturer, ~~((bottler,))~~ importer, distributor, or retailer of liquor ~~((, directly or indirectly, or through an affiliate,))~~ shall publish or disseminate ~~((or cause to be published or disseminated))~~ in any media any advertisement of liquor, unless such advertisement is in conformance with these rules ~~((: Provided, That these provisions shall not apply to the publisher of any newspaper, magazine or similar publication, nor to the operator of any radio or television station unless such publisher or operator is engaged in business as a producer, manufacturer, bottler, importer, distributor, or retailer of liquor, directly or indirectly, or through an affiliate))~~.

(3) The board holds each ~~((producer,))~~ manufacturer, ~~((bottler,))~~ importer, distributor, or retailer of liquor responsible for complying with the advertising rules of the Washington state liquor control board in any advertising material placed by them or on their behalf by their agents. If desired, advertising may be submitted prior to publication for an advisory opinion by the ~~((advertising coordinator of the))~~ Washington state liquor control board, but advisory opinions will be restricted to advertising material submitted by ~~((said producers,))~~ manufacturers, ~~((bottlers,))~~ importers, distributors, or retailers of liquor, or their agents.

(4) Liquor advertising materials, defined as institutional or educational advertising in WAC 314-52-015, intended for placement in retail outlets of the Washington state liquor control board shall be presented to the ~~((advertising coordinator of the))~~ Washington state liquor control board for prior approval before placement ~~((: Provided, however, That))~~. All other forms of advertising approved and accepted by the board ~~((advertising coordinator and which are acceptable to the board merchandising committee under the provisions of WAC 314-52-040))~~ shall not be prohibited under this rule.

AMENDATORY SECTION (Amending WSR 98-18-097, filed 9/2/98, effective 10/3/98)

WAC 314-52-010 Mandatory statements. (1) Brand advertising of spirituous liquor by any manufacturer shall contain the following information:

(a) The name and address of the manufacturer responsible for its publication. (Street ((number)) may be omitted.)

(b) A conspicuous statement of the class to which the product belongs and the type ((thereof)) corresponding with the statement of class and type which is required by federal regulations to appear on the label of the product.

(c) A statement of the alcoholic content ((by proof, except that for cordials and liqueurs, gin fizzes, cocktails, highballs, bitters and other specialties, the alcoholic content may)) for distilled spirits shall be stated in ((percent age by volume or by proof)) percent alcohol by volume.

(d) In the case of distilled spirits ((other than cordials, liqueurs and specialties)) produced by blending or rectification, if neutral spirits have been used in the production thereof, there shall be stated the percentage of neutral spirits so used and the name of the commodity from which such neutral spirits have been distilled.

(e) In the case of neutral spirits or of gin produced by a process of continuous distillation, there shall be stated the name of the commodity from which such neutral spirits or gin has been distilled.

(2) Brand advertising of wine by any manufacturer or distributor shall contain the following information:

(a) The name and address of the manufacturer or distributor responsible for its publication. (Street ((number)) may be omitted.)

(b) A conspicuous statement of the class, type or distinctive designation to which the product belongs, corresponding with the statement of class, type, or distinctive designation which is required by federal regulation to appear on the label of the product.

(3) Brand advertising of malt beverages by any manufacturer, importer, or distributor shall contain the following information:

(a) The name and address of the manufacturer, importer or distributor responsible for publication of the advertisement. (Street ((number)) may be omitted.)

(b) A conspicuous statement of the class to which the product belongs, corresponding to the statement of class which is required by federal regulations to appear on the label of the product.

~~((4) Alcoholic content of beer. Retail licensees who choose to offer beer for sale at both less than four percent by weight and more than four percent by weight, alcoholic content, packaged in identical packages, shall be required to separate the two strengths of beer in their displays, and shall be required to identify by point-of-sale advertising which is the higher strength and which is the lower strength beer. Manufacturers, importers and distributors~~

~~of such beer shall supply such shelf tickets free of charge to retail licensees. Provided, however, That no promotion of the higher alcoholic content shall be included in such advertising.)~~

AMENDATORY SECTION (Amending Order 108, Resolution No. 117, filed 8/11/82)

WAC 314-52-015 General. (1) Institutional advertising shall mean advertising which promotes company or brand name identification, but does not directly solicit purchase or consumption of liquor. Educational advertising shall mean factual information on liquor, its manufacture, history, consumption and methods of ascertaining the quality of various types of liquors ((such as German wines, French cognacs, or other classifiable types of product. All liquor advertising shall be modest, dignified and in good taste and shall not contain:

(1) Any statement or illustration that)). All liquor advertising on products sold in the state of Washington may not contain any statement, picture, or illustration that:

(a) Is false or misleading ((in any material particular.

(2) Any statement, picture, or illustration which));

(b) Promotes over consumption((-

(3) Any statement, picture, illustration, design, device, or representation which is undignified, obscene, indecent, or in bad taste.

(4) Any statement, design, device, or representation of or relating to analyses, standards, or tests, irrespective of falsity, which is likely to mislead the consumer.

(5) Any statement, design, device, or representation of or relating to any guaranty, irrespective of falsity, which is likely to mislead the consumer.

Nothing in this section shall prohibit the use of any enforceable guaranty in substantially the following form: "We will refund the purchase price to the purchaser if he is in any manner dissatisfied with the contents of this package."

(6) Any statement that the product is produced, blended, made, bottled, packed or sold under, or in accordance with, any authorization, law, or regulation of any municipality, county, or state, federal or foreign government unless such statement is required or specifically authorized by the laws or regulations of such government, and if municipal, state or federal permit number is stated, such permit number shall not be accompanied by any additional statement relating thereto.

(7) Any statement, design or device representing that));

(c) Uses the Washington state liquor control board's seal or refers to Washington state liquor control board, except where required by law;

(d) Represents the use of liquor has curative or therapeutic

effects, if such statement is untrue (~~in any particular,~~) or tends to create a misleading impression(~~;~~

~~(8) Any statement, picture, or illustration implying that);~~

(e) Implies the consumption of liquor enhances athletic prowess, or any statement, picture, or illustration ((referring)) that refers to any known athlete, if such statement, picture, or illustration implies, or if the reader may reasonably infer, that the use of liquor contributed to ((such)) any known athlete's athletic achievements((;

~~(9) Any depiction of));~~

(f) Depicts a child or other person under legal age to consume liquor((; any depiction of)), or includes:

(i) Objects, such as toys or characters, ((suggestive of)) suggesting the presence of a child, ((nor)) or any other depiction designed in any manner ((as)) to be especially appealing to children or other persons under legal age to consume liquor((;

~~(10) Any reference to any religious character, sign or symbol, except in relation to kosher wines or where such are a part of an approved label)); or~~

(ii) Is designed in any manner that would be especially appealing to children or other persons under twenty-one years of age.

(g) Is targeted principally to minors by implying that the consumption of alcoholic beverages is fashionable or the accepted course of behavior for persons under twenty-one years of age; or

(h) Uses subliminal or similar techniques. "Subliminal or similar techniques" as used in this section, refers to any device or technique that is used to convey, or attempts to convey, a message to a person by means of images or sounds of a very brief nature that cannot be perceived at a normal level of awareness.

(2) If advertising claims the alcohol product has a curative or therapeutic effect or enhances health or performance, the licensee must:

(a) Cite the name of the author and date of the research or study supporting the claim; and

(b) Provide a copy of this research or study to the board.

AMENDATORY SECTION (Amending Order 108, Resolution No. 117, filed 8/11/82)

WAC 314-52-030 Liquor advertising prohibited in school publications. No liquor advertising shall:

(1) Be carried in any publication connected or affiliated with any elementary or secondary schools; ((nor shall any liquor advertising)) or

(2) Be connected with such schools ((when broadcast over radio or television: Provided, That institutional advertising, as defined in WAC 314-52-015, may be carried, if the board advertising

~~coordinator interposes no objection))~~ in any media.

AMENDATORY SECTION (Amending WSR 98-18-097, filed 9/2/98, effective 10/3/98)

WAC 314-52-040 Contests, competitive events, premiums and coupons. (1) Liquor advertisements may offer consumers premiums or prizes, upon completion of any coupon, contest, or competitive event, which may or may not require proof of purchase of the advertised product(~~(-)~~). Provided, ((however,)) that:

(a) No one under twenty-one years of age is allowed to participate, and no premiums, prizes, coupons, contests, or competitive events are targeted to persons under twenty-one years of age;

(b) Contests or sweepstakes that offer prizes or premiums to consumers through a game of chance or random drawing, shall not require proof of purchase, and must comply with the requirements of RCW ((9.46.020(14))) 9.46.0356 regarding ((lotteries: And provided further, That no)) gambling.

(2) Liquor advertisements are prohibited by manufacturers, importers, or distributors ((may)) that:

(a) Offer any premium or prize redeemable through a Washington state liquor store or any retail liquor outlet licensed by the state of Washington, such as "instant" or "in-store" redeemable offers;

(b) Offer an "instant rebate" on either liquor or nonliquor items; or

(c) Offer any premium redeemable through retail outlets prohibited by the advancement of "money or money's worth" from a nonretail licensee to a retail licensee in chapter 66.28 RCW.

(3) A retailer may have its own coupon offers, provided the "after rebate" price does not put the product below cost, and provided there is no undue influence by a nonretail licensee, the coupon is at the retailer's free initiative and the retailer is covering the entire cost.

AMENDATORY SECTION (Amending WSR 98-18-097, filed 9/2/98, effective 10/3/98)

WAC 314-52-070 Outdoor advertising. (1) "Outdoor advertising" by manufacturers, importers, distributors, and retail licensees for these purposes shall include all signs affixed or hanging in the windows and on the outside of the premises visible to the general public(~~(, whether permanent or temporary))~~ from the

public right of way, advertising the sale and/or service of liquor ~~((excluding point-of-sale brand signs, which are defined and governed as otherwise provided in WAC 314-52-113) as well as)),~~ excluding trade name and room name signs.

(2) The board limits each retail licensed premises to a total of four signs referring to alcoholic beverages, brand names, or manufacturers that are affixed or hanging in the windows and on the outside of the premises that are visible to the general public from the public right of way. The board also limits the size of a sign advertising alcohol, brand names, or manufacturers that are affixed or hanging in the windows and on the outside of the premises that are visible to the general public from the public right of way to sixteen hundred square inches.

"Sign" is defined as a board, poster, neon, or placard displayed to advertise.

A local jurisdiction has the option to exempt liquor licenses in their jurisdiction from the outdoor advertising restrictions in this section through a local ordinance.

(3) Outdoor signs shall be designed, installed, and ~~((used in a manner not offensive to the public, and shall comply))~~ in compliance with all liquor advertising rules. These rules include, but are not limited to:

(a) WAC 314-52-015 ~~((1)), which:~~

~~(i) Prohibits any statement or illustration that is false or misleading in any material particular;~~

~~(ii) Prohibits any statement, picture or illustration which promotes overconsumption;~~

~~(iii) Prohibits any statement, picture, illustration, design, device, or representation which is undignified, obscene, indecent, or in bad taste;))~~ which contains advertising prohibitions; and

(b) WAC 314-52-110 ~~((1)), which requires that every advertisement by a retail licensee shall carry the licensed trade name or the registered franchise name or the trademark name. The term "trade name" shall mean the "licensed trade name" as it appears on the issued license))~~ which contains advertising requirements by a retail licensee.

~~((3))~~ (4) Prior board approval is not required before installation and use of outdoor ~~((signs/))~~ advertising; however, outdoor ~~((signs/))~~ advertising ~~((excluding outdoor readerboard messages and/or interior signs visible through a window of a premises))~~ not in compliance with board rules will be required to be altered or removed at the licensee's expense. If prior approval is desired, the licensee, applicant or their agent may submit ~~((three copies))~~ a copy to the board ~~((advertising coordinator))~~ for approval.

~~((4))~~ (5) No outdoor advertising of liquor except in subsection (2) of this section, shall be placed ~~((in proximity to))~~ within five hundred feet of schools, ~~((churches))~~ places of worship, ~~((or playfields))~~ public playgrounds, or athletic fields used primarily by minors ~~((7))~~ where the administrative body of said schools, churches, ~~((playfields, object to such placement, nor))~~ public playgrounds or athletic fields object to such placement, or

any place which the board in its discretion finds contrary to the public interest. "Tourist Oriented Directional Signs" per RCW 47.36.320, are exempt from this requirement.

The five hundred foot distance for outdoor advertising is measured from the property line of the school, place of worship, public playground or athletic field to the outdoor advertising.

AMENDATORY SECTION (Amending WSR 98-18-097, filed 9/2/98, effective 10/3/98)

WAC 314-52-085 Programs and program folders. Programs and program folders, for the purpose of this section, shall mean brochures for use at sporting arenas which have, as a part of their operations, whether directly or indirectly, a retail licensed premises. No manufacturer, importer, distributor, or their agent, shall provide, without cost, directly or indirectly, programs or program folders for retail licensees(~~(:— Provided, however, That sporting arenas as described above, or their agents)~~), however:

(1) A premises holding a sports entertainment facility liquor license may accept bona fide liquor advertising from manufacturers, importers, distributors or their agents, for publication in the program or program folder of the ((sporting arena:— Provided further, That such)) sports entertainment facility liquor licensee; and

(2) Advertising is paid for by said manufacturer, importer, distributor or their agent at the published advertising rate for all program or program folder advertisers, including nonliquor advertisers(~~(:— And also provided, That such advertising shall carry with it no express or implied offer on the part of the manufacturer, importer, distributor or their agent, or promise on the part of the retail licensee whose operation is directly or indirectly part of the sporting arena, to stock or list any particular brand of liquor to the total or partial exclusion of any other brand)~~).

AMENDATORY SECTION (Amending WSR 98-18-097, filed 9/2/98, effective 10/3/98)

WAC 314-52-090 Advertising sponsored jointly by retailers and manufacturers, importers, or distributors (~~(, prohibited)~~). (1) The name of a retail licensee shall not appear in, or as a part of, or supplementary to, any advertising of a manufacturer, importer or distributor(~~(-)~~), except:

(a) To produce brochures and materials promoting tourism in

Washington state;

(b) A manufacturer, importer, or distributor may list on their web sites information related to retailers who sell or promote their products.

(2) The brand name of liquor may appear in or as a part of advertising by a retail licensee: Provided, ~~((That))~~ such advertising is upon the retail licensee's free initiative and no moneys or moneys' worth has been offered ~~((the retail licensee))~~ or solicited as an inducement to secure such mention ~~((by))~~ of any manufacturer, importer, or ~~((distributor or their agent, or solicited by the retail licensee or his agent.~~

~~(2) RCW 66.28.010 shall also apply to joint advertising insofar as it is relevant)~~ distributor's product.

(3) A professional sports team who holds a liquor license may accept liquor advertisements from manufacturers, importers, or distributors for use in sports entertainment facilities and may allow a manufacturer, importer, or distributor to use the name and trademark of the professional sports team in their advertising and promotions, if such advertising:

(a) Is paid for by the manufacturer, importer, or distributor at reasonable fair market value; and

(b) Carries no express or implied offer by the manufacturer, importer, or distributor on the part of the retail licensee to stock or list any particular brand of liquor to the total or partial exclusion of any other brand.

NEW SECTION

WAC 314-52-097 Financial arrangements between sports entertainment facility licensees and liquor manufacturers, importers, and distributors. A sports entertainment facility licensee and affiliated business may enter into arrangements with a manufacturer, importer, or distributor for brand advertising or promotional events at the sports entertainment facility under the following conditions:

(1) The facility has a capacity of five thousand or more;

(2) Entities required by WAC 314-12-030 placed on the sports entertainment facility license due to financial interest, may receive advertising from liquor manufacturers, importers, or distributors;

(3) The advertising agreement under the provisions of this section must be made by written agreement;

(4) The license must stock and offer for sale other competitive brands of liquor in addition to those of the advertising manufacturer, importer, or distributor;

(5) The agreement may not contain credit or money's worth to be provided by the manufacturer, importer, distributor, or sports entertainment facility licensee;

(6) There will be no exclusionary contracts between a sports entertainment facility licensee and manufacturer, importer, or distributor; and

(7) The advertising manufacturer, importer, or distributor may not exercise undue influence in any manner over the sports entertainment facility licensee's liquor purchasing and sales operations.

AMENDATORY SECTION (Amending WSR 98-18-097, filed 9/2/98, effective 10/3/98)

WAC 314-52-110 Advertising by retail licensees. (1) Every advertisement by a retail licensee shall carry the licensed trade name or the registered franchise name or the trademark name. The term "trade name" shall be defined as the (~~"licensed trade~~) name(~~"~~) as it appears on the license issued to the licensee: (~~Provided, however, That such~~)

(a) Words such as tavern, cafe, grocery, market, (~~food store, food center, delicatessen,~~) wine shop, (~~beer parlor~~) and other similar words used to identify the type of business licensed, and numbers used to identify chain licensees (~~of the same trade name~~), shall neither be required nor prohibited as part of the trade name in advertisements (~~: And provided further, That~~).

(b) Advertisements by (~~public~~) a spirit, beer and wine restaurant licensee(~~s~~) may also refer to cocktails, bar, lounge and/or the "room name." The term "room name" shall be defined as the name of the room designated as the cocktail lounge and/or the dining room (~~if both are in the same room~~).

(2) No retail licensee shall offer for sale any liquor for on premises consumption under advertising slogans where the expressed or implied meaning is that a customer, in order to receive a reduced price, would be required to purchase more than one drink at a time, such as "two for the price of one," (~~"two for one drinks,"~~) "buy one--get one free," or "two for \$ _____" (~~," nor any similar phrase or slogan where the express or implied meaning is that a customer, in order to receive a reduced price, would be required to purchase more than one drink or quantity of liquor at one time~~).

(3) Beer, wine, or spirituous liquor shall not be advertised, offered for sale, or sold by retail licensees at less than acquisition cost. The provisions of this section shall not apply to any sales made:

(a) For the purpose of discontinuing the trade of any product or disposing of seasonal goods after the season has passed;

(b) When the goods are damaged or deteriorated in quality, or to the bona fide sale of perishable goods to prevent loss to the vendor by spoilage or depreciation provided notice is given to the public;

(c) By an officer acting under the orders of any court; or
(d) In an endeavor to meet the prices of a competitor selling the same article or product in the same locality or trade area and in the ordinary channels of trade.

(4) Specialty shops, wineries, breweries, and craft distilleries acting as a retail licensee, providing free tastings to the public, are prohibited from using any term that implies the product is free in their advertising for such events.

AMENDATORY SECTION (Amending WSR 98-18-097, filed 9/2/98, effective 10/3/98)

WAC 314-52-113 Brand signs and point-of-sale displays on retail licensed premises. Manufacturers, importers or distributors may furnish brand signs and point-of-sale material to retailers under the following conditions:

(1) The brand signs and point-of-sale material shall have no value to the retailer except as brand advertisement; such signs as those ~~((which))~~ that provide illumination for cash registers, pool tables, and other parts of the premises, have a functional value and are not authorized. The brand signs and point-of-sale material shall remain the property of, and be the responsibility of, the manufacturers, importers or distributors.

(2) ~~((The term "point-of-sale material" as used herein, shall include such manufacturer, importer or distributor-supplied items as display cards, placards, table tents, recipes, display bins, decalcomanias, price cards, shelf strips, product information pamphlets, bottle hangers, matches, scorecards, calendars, and other such brand advertising material for display at the point of sale.~~

~~(3))~~ Giant inflatables, such as inflated beer cans, bottles, ~~((animals,))~~ and banners may be provided as point-of-sale ~~((by manufacturers, importers, or distributors))~~ to retailers for display purposes ~~((on their property))~~ inside the licensed premises, provided the following conditions are met:

(a) ~~((All retail licensees are afforded equal opportunity to display item,~~

~~(b))~~ Novelty items as defined in WAC 314-52-080 are not provided by manufacturers, importers, or distributors to customers in conjunction with the display;

(b) Inflatables are not targeted or appeal principally to youth; and

(c) The display shall be removed if objected to by local officials, or if the board~~((, in its discretion,))~~ finds it contrary to the public interest.

~~((4) Animal mascots and))~~ (3) Costumed individuals representing beer, wine, or liquor manufacturers may be provided as point-of-sale ~~((by manufacturers, importers, or distributors))~~ to

retailers for display and promotion purposes on their property, provided the following conditions are met:

(a) The costumed individual is limited to the manufacturer, importer, distributor, or employee thereof and the costumed individual's activities on-premises are limited to socializing with customers and not conducting any activity that the retail licensee would otherwise have to assign employees to;

~~(b) ((All retail licensees are afforded equal opportunity for such displays;~~

~~(c))~~ Novelty items as defined in WAC 314-52-080 and ~~((including))~~ the purchase of drinks, are not to be provided to customers by the costumed individual in conjunction with such displays;

~~((d))~~ (c) The costumed individual must comply with the regulations regarding lewd and obscene conduct (WAC ~~((314-16-125))~~ 314-11-050);

(d) The costumed individual may not be targeted or appeal principally to youth; and

~~((If the board finds it contrary to the public interest, it may prohibit the use of the above-mentioned activities.))~~ The board may prohibit the use of costumed individuals if the use is contrary to the public interest.

AMENDATORY SECTION (Amending WSR 98-18-097, filed 9/2/98, effective 10/3/98)

WAC 314-52-115 Advertising by clubs--Signs. (1) Clubs shall not engage in any form of soliciting or advertising which may be construed as implying that the club operates a ~~((public spirit, beer and wine restaurant))~~ premises ~~((, a tavern))~~ open to the public, or that social functions at which club liquor may be consumed, are open to the public ~~((: Provided, however, Circularizing membership shall not be considered advertising, and where)).~~ Clubs that provide lunch or dinner to the public ~~((, this))~~ may ~~((be advertised: Provided further, Such advertising))~~ advertise but must specify no liquor service is available.

(2) Clubs and/or their auxiliary organizations may advertise social or other club events to their membership through the public media under the following conditions: ~~((Provided, Such))~~

(a) Advertising ~~((is))~~ must be clearly directed to their membership only ~~((and));~~

(b) Advertising cannot be construed as implying that the general public is welcome to attend ~~((, this))~~

~~((3) Advertising of the club functions by means of placards placed for public viewing shall be governed by the provisions of subsection (2) of this section.~~

~~((4));~~ and

(c) Advertising club functions with placards placed for public

viewing shall be governed by (a) and (b) of this subsection.

(3) Advertising may be directed to the public generally in connection with events of special public interest ((such as Flag Day, Memorial Day, Veterans Day or such other occasions,)) under provisions set forth in WAC 314-40-080(3).

((+5+)) (4) A private club may hold a public membership function as outlined in WAC 314-40-040(6). The function must be advertised as a membership drive.

(5) Clubs shall not advertise the events held with the nonclub event endorsement per RCW 66.24.425(3).

(6) Clubs desiring to have radio or television broadcasts originating from their licensed premises may do so((+)) provided((,+ That)):

(a) Such broadcasts consist only of entertainment or other matter which is in the public interest and may not contain:

(i) Any announcement of opening or closing hours((+));

(ii) Any invitation to visit the club((+)); or

(iii) Any statement which may be construed as advertising or any implication that the club is operated as a public place.

(b) The only reference to the club during such broadcasts shall be limited to a statement at the opening and closing of the program as originating from the club quarters.

NEW SECTION

WAC 314-52-130 Public and civic events. (1) Industry members may sponsor public and civic events and provide the following:

(a) Signage with the industry members name or brand name of their products; and

(b) Programs or flyers to be disseminated at the event.

(2) Acknowledgment of the sponsor, either by name, brand, or both, is allowed in any media advertisement where the function recognizes the sponsors of the event. The size of the alcohol industry sponsor acknowledgment may not exceed the size of the event name.

(3) Inflatables are not allowed inside the event areas.

(4) There may be no giveaways of alcohol promotional items of any kind to persons under twenty-one years of age at events held in public areas including, but not limited to, street fairs, parks, and government buildings.

(5) Industry members may not sponsor a special occasion license at public and civic events. Money may not be given directly to the special occasion licensee, or employees thereof, but industry members may provide the following advertising for a special occasion licensed event:

(a) Signage with the industry members name or brand name of their products;

(b) Media coverage of the event; and

(c) Programs or flyers to be disseminated at the event.

(6) Inflatables are not allowed inside special occasion license areas unless the area is completely enclosed with no view to the inside from the public right of way.

(7) There may be no giveaways of alcohol promotional items of any kind in special occasion license areas.

(8) The board limits each special occasion licensed premises to a total of four signs referring to alcoholic beverages, brand names, or manufacturers that are affixed or hanging in the windows and on the outside of the special occasion licensed premises that are visible to the general public from the public right of way. The board also limits the size of a sign advertising alcohol, brand names, or manufacturers that are affixed or hanging in the windows and on the outside of the special occasion premises that are visible to the general public from the public right of way to sixteen hundred square inches.

(9) Brand advertising is allowed inside the special occasion license event area where alcohol sales and consumption occur.

REPEALER

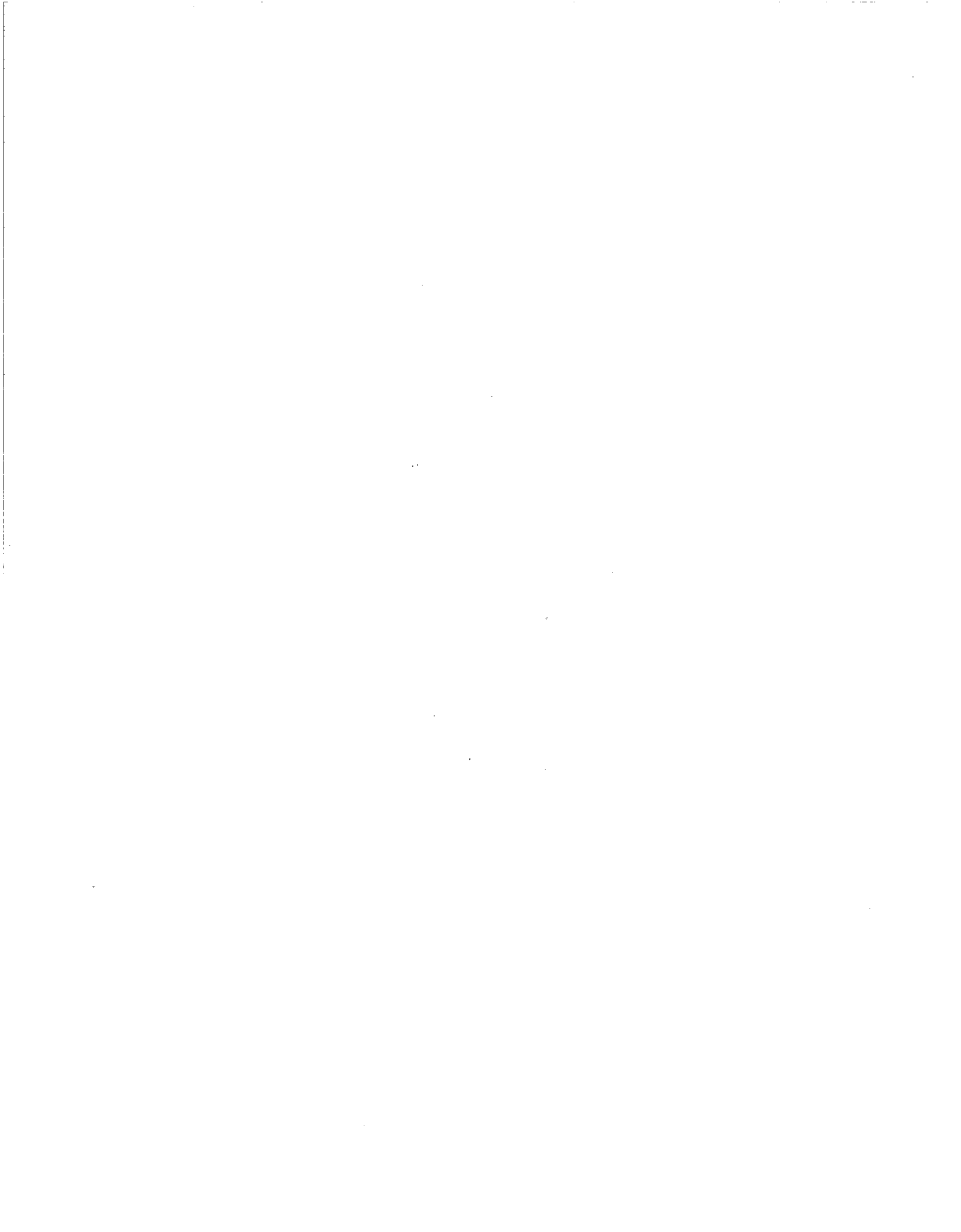
The following sections of the Washington Administrative Code are repealed:

WAC 314-52-020

Use of insignia or reference to liquor control board prohibited--Exception.

WAC 314-52-114

Advertising by retail licensees, offering for sale, or selling beer, wine or spirituous liquor at less than cost--Prohibited--Exceptions.





Washington State
Liquor Control Board

Comments Received on the CR 102 Supplemental for Advertising

Katie Jacoy –Wine Institute

WAC 314-52-010 (1)(a), (2)(a), and (3)(a), all state the street number may be omitted on advertising. This is not new language, but the language should be revised for clarity. Katie suggests the word "number" be removed. Federal law does not require the street address, only the city and state. The Liquor Control Board has never enforced street name, which is why the language was originally added; "street number may be omitted".

Response: To further clarify that the street address is not required, the rulemaking team agrees we should remove the word "number" from the rule. The change is reflected in the proposed rules.

In General: Throughout this rulemaking process, WSLCB staff has described the effort primarily as an attempt to draft new advertising rules to align with best practices identified by the Center on Alcohol Marketing and Youth (CAMY). We remain concerned that the WSLCB is basing significant advertising restrictions on the research which has not been independently verified and policy positions of CAMY, an advocacy group with a clear and stated bias against advertising of legal alcoholic beverages.

Before adopting CAMY's conclusion that alcohol advertising causes underage drinking, we urge the WSLCB to conduct an independent review of all the scientific research relating to alcohol advertising and underage drinking.

Response: A comparison was conducted on the LCB's advertising rules based on a 2003 CAMY report on Alcohol Advertising and Youth. LCB also reviewed the 2007 Surgeon General's Call to Action to Prevent and Reduce Underage Drinking. It was determined the LCB needed to revise their alcohol advertising rules to reflect the agency's focus on public safety by minimizing youth access and exposure to alcohol advertising.

WAC 314-52-070 (2): The size and number on outside signs should be removed. The Wine Institute doesn't believe the board has the authority to restrict the size and number alcohol advertising signs on a retail liquor licensed premises. We urge you to eliminate this proposed restriction on size and number of signs unless the Legislature grants the WSLCB additional statutory authority. Failure to eliminate this proposed restriction invites a legal challenge.

Response: Several other states also restrict the number and size of outside signs advertising alcohol. We believe the Board has the authority to restrict the size and number of alcohol advertising signs on a retail liquor licensed premises.

WAC 314-52-015 (f): The Wine Institute would like this proposed rule changed to. The proposed rule reads, (All liquor advertising on products sold in the state of Washington may not contain any statement, picture, or illustration that :) "Depicts a child or other person under legal age to consume liquor."

The wine Institute would like the language to read, "Depicts a child or other person under legal age to consume liquor except in wine advertising in which the child or other person under legal age to consume liquor is not consuming wine and is incidental to the primary subject of the advertising."

Response: This language is in current rule. Changes to allow minors or persons under legal age to consume liquor are contrary to our focus in this rulemaking.

John Guadnola – Washington Beer and Wine Wholesaler Association:

WAC 314-52-070(2): The size limit on signs should be larger. Several distributors stated that the standard sign size is 3 feet by 4 feet, which would equal 1728 square inches.

John also had questions about the four "outside" signs that this section refers to. His question was does this section refer only to signs affixed and/or hanging in the windows and affixed to the outside of the premises?

Response: The information the board received from the distributors is that 32 inches by 48 inches is the standard sign size, which equals 1536 square inches. The proposed rules states 1600 square inches is the maximum sign size allowed.

The reference to the four signs refers to any signs "that are affixed or hanging in the windows and on the outside of the premises that are visible to the general public from the public right of way". This is any signs outside the premises, whether they are affixed to the premises or not.

WAC 314-52-130: Public and civic events. John states "The proposed rule on public and civic events, as I read it, says that a manufacturer or distributor can sponsor a public or civic event but cannot sponsor a special occasion licensee affiliated with the event. Are there circumstances where the entity putting on the event is also the special occasion licensee? Or is the special occasion licensee always a separate entity. If they are always separate, this rule is no problem but if it is the same entity the rule simultaneously permits and prohibits sponsorship."

Response: If sponsorship dollars are given to the event organizer, the special occasion licensee must be a different entity than the event organizer. Even before the new rule on sponsorship, a non-profit organization wouldn't be allowed to accept money from a manufacturer or distributor if they were a retail liquor licensee (special occasion licensee). RCW 66.28.010 and RCW 66.28.305 prohibit an industry member from providing money or money's worth to a retail licensee.

Jesse Lyons – Davis Wright Tremaine, LLP

WAC 314-52-130: Public and civic events. The Board's proposed new rule prohibiting industry members from providing money to special occasion licensees will impact countless nonprofit organizations across the state. The result will be:

- Fewer and smaller events;
- Decreased civic and public activity;
- Reduced funds for nonprofit organizations to maintain the existence and fulfill their mission; and
- Reduced exposure for these organizations in their outreach efforts.

Response: Industry members have always been prohibited from giving money to special occasion licensees. This is a money's worth issue and prohibited in RCW 66.28.010 (1) and RCW 66.28.305.

Limits on signage: The Board's proposed rule also places an absolute limit on the number of signs, irrespective of the size or nature of the event. This rule has a disproportionate impact on large events which raise funds for some of the state's most significant charitable organizations.

Response: The restriction on signs is only for the special occasion license area, not the entire event. There is no restriction on the number of signs at the actual event, only the special occasion license area.

Shelley Sieveking – Anheuser Busch

WAC 314-52-130 (8): There should be additional language to clarify that the four sign limit doesn't include signs inside the special occasion license area.

Response: The language is clear that the four sign limit only applies to those signs affixed or hanging in the windows and on the outside of the special occasion licensed premises.

WAC 314-52-130: Public and civic events. Shelley had concerns that this proposed rule included events held at sports/entertainment facilities.

Response: The proposed rule only refers to those events not put on by a liquor licensee at a liquor licensed premises. There are other rules that address what type of advertising is allowed at a retail liquor licensed premises, and sports/entertainment facilities and industry members are given specific exemptions under current law.

Dave Sandona – Pioneer Beverage Inc.

WAC 314-52-130: Public and civic events. Dave states “this proposed rule would put an end to any sponsorship of civic and/or special event programs. Rarely are there two separate entities involved in this type of event.”

Response: If sponsorship dollars are given to the event organizer, the special occasion licensee must be a different entity than the event organizer. Even before the new rule on sponsorship, a non-profit organization wouldn't be allowed to accept money from a manufacturer or distributor if they were a retail liquor licensee (special occasion licensee). RCW 66.28.010 and RCW 66.28.305 both prohibit an industry member from providing money or money's worth to a retail licensee.

Rollin Fatland – One Reel

WAC 314-52-130: Public and civic events. Rollin states “the rule regarding sponsorship imposes an outright ban on industry members providing any monetary support to special occasion licensees and restricts signage at events such as Bumbershoot. This restriction will have a significant impact on One Reel and other non-profit organizations across the state – and especially so at a time we are struggling to survive this horrible recession.”

Response: Industry members have always been prohibited from giving money to special occasion licensees. This is a money's worth issue and prohibited in RCW 66.28.010 (1) and RCW 66.28.305.

Vicky Webb – Silverdale Whaling Days, Inc.

WAC 314-52-130: Public and civic events. Vicky called because she is concerned the proposed rule will prohibit their organization from receiving sponsorship dollars from the distributor that has been providing sponsorship dollars for several years. The event organizer and the special occasion licensee are one and the same.

Response: If sponsorship dollars are given to the event organizer, the special occasion licensee must be a different entity than the event organizer. Even before the new rule on sponsorship, a non-profit organization wouldn't be allowed to accept money from a manufacturer or distributor if they were a retail liquor licensee (special occasion licensee). RCW 66.28.010 and RCW 66.28.305 both prohibit an industry member from providing money or money's worth to a retail licensee.

Corey Hewitt – Walla Walla County Fairgrounds

WAC 314-52-130: Public and civic events. Corey called because she is concerned the proposed rule will prohibit their organization from receiving sponsorship dollars from the distributor that has been providing sponsorship dollars for several years. The event organizer and the special occasion licensee are different entities.

Response: The proposed rule will not have an effect on the sponsorship dollars the event organizer receives. The special occasion licensee is a different entity; therefore the event organizer is allowed to receive sponsorship dollars from an industry member.

Marlys Erickson – Pike Place Market Foundation

WAC 314-52-130: Public and civic events. The Pike Place Market Foundation (PPMF) produces two annual events that would be severely impacted by this rule. The PPMF also obtains a special occasion license for these events. For the past 15 years, manufacturers and distributors donations have funded both events marketing. This rule will prohibit the PPMF from receiving sponsorship dollars.

Response: The proposed rule does prohibit sponsorship dollars for the event since the same entity is organizing the event is obtaining a special occasion license for the event. If the PPMF finds another non-profit organization to obtain the special occasion license, the PPMF can still receive sponsorship dollars from manufacturers and distributors.

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Response: Central Washington Fair Association holds a sports/entertainment facility license; therefore they are prohibited from obtaining a special occasion license. They most likely have an agreement for brand advertising with Budweiser at their licensed location, which includes the “Budweiser Stage”. Another non-profit organization is obtaining the special occasion license. This proposed rule does not effect this arrangement.

Billie McKibben – Parent, Training Coordinator RAYS Family Support & Prevention Services

WAC 314-52-130: Public and civic events. Billie suggests the size of the alcohol industry sponsor name should be 1/4 to 1/3 the size of the event name.

Response: No other comments have been received on this issue. The proposed language sufficiently addresses the concerns of the board – to ensure the event name is dominant in any signs acknowledging the sponsors of the event.

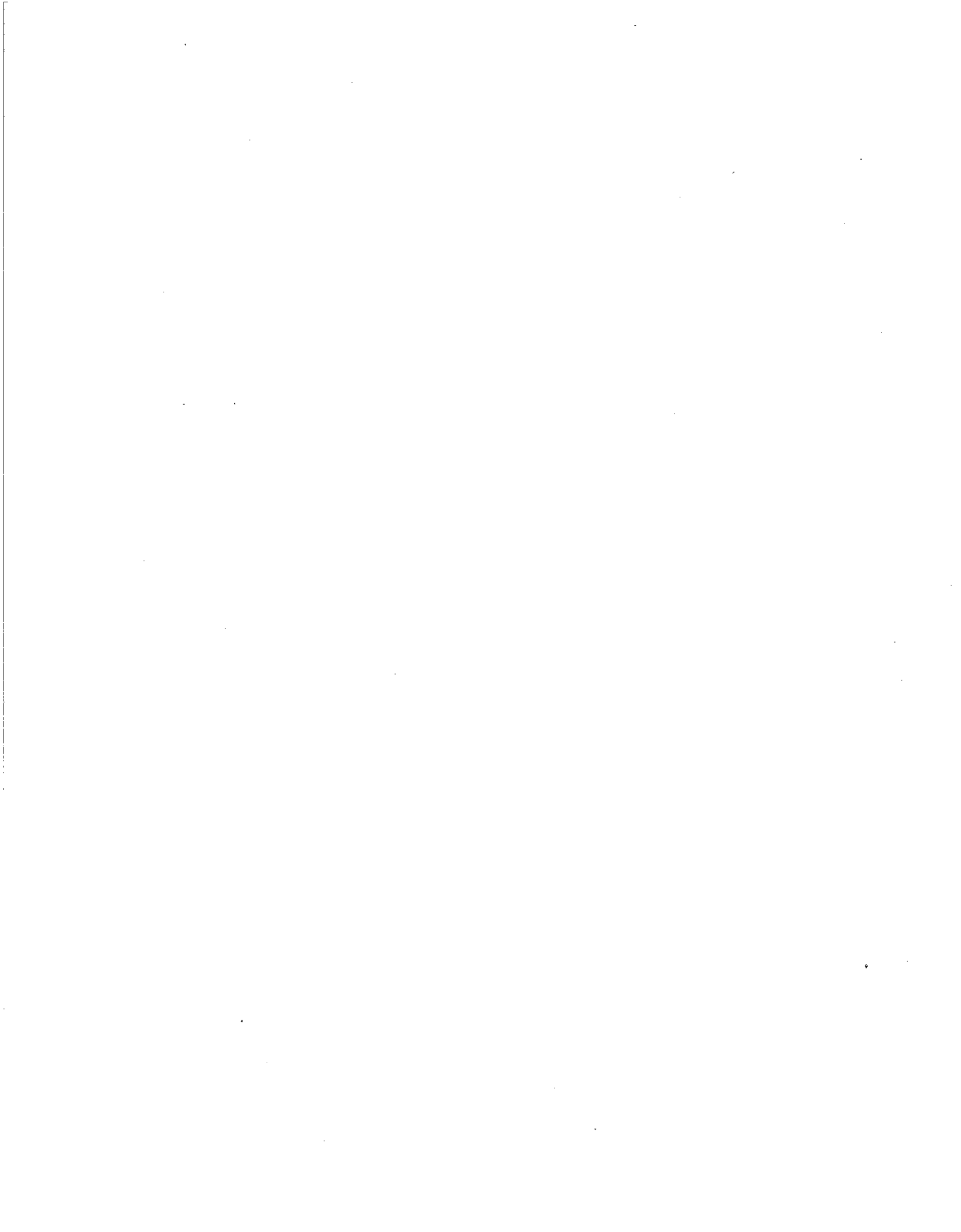
Washington State Liquor Control Board Public Hearing Sign-Up Sheet

Subject of hearing: Rulemaking (CR 102) Advertising **Date of hearing:** February 24, 2010

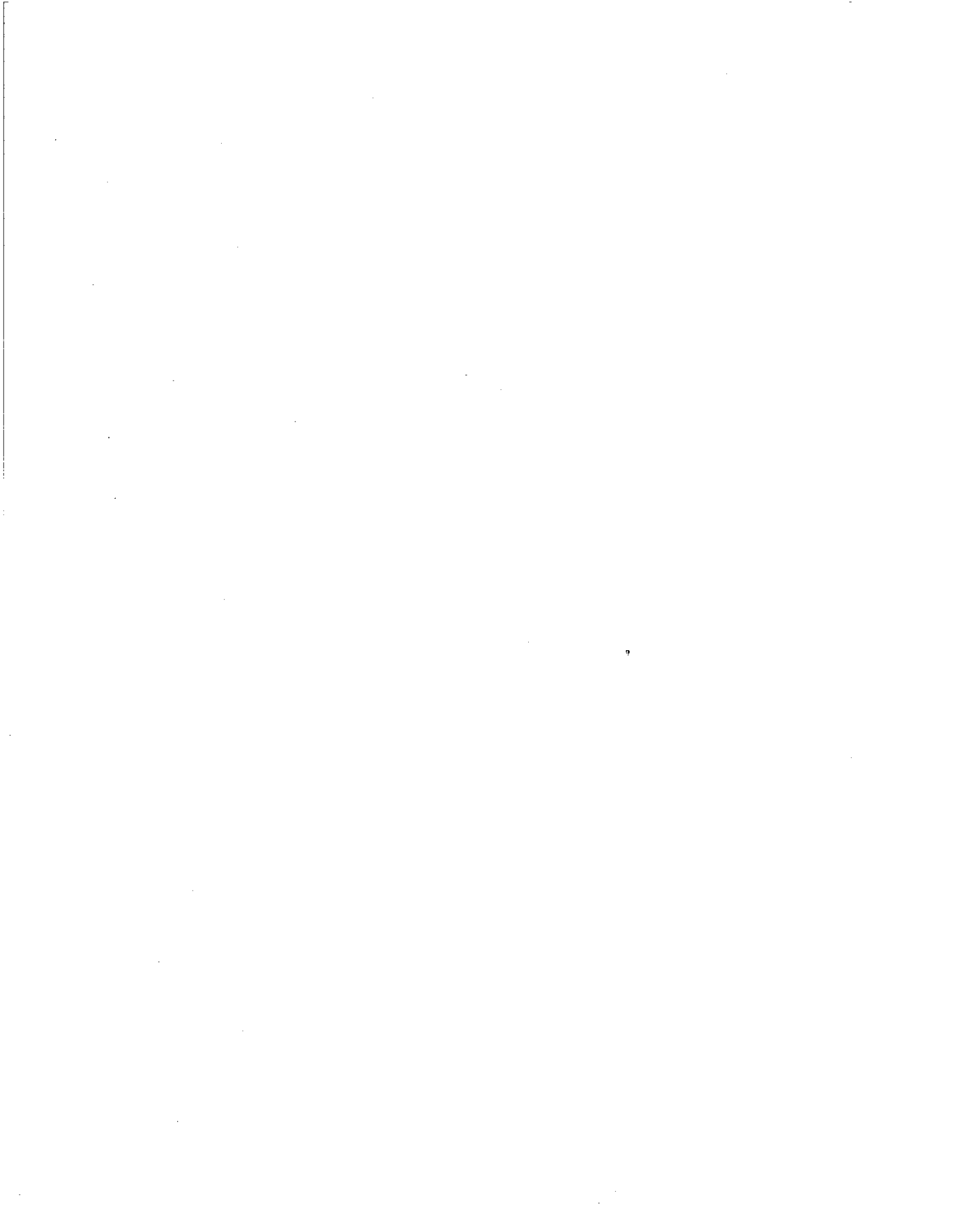
If you wish to speak at this public hearing, please sign-up below. Your mailing or e-mail address will allow us to communicate with you in the future regarding this issue. Thank you.

Please Print

	Name	Indicate Pro or Con	Organization/Affiliation	Mailing Address OR e-mail
1	Rollin Fattano ✓	Con	ONE REEL	Rollin Fattano P. WASH. CO.
2	Erica Austin ✓	Pro	WSU	eaustine@wsu.edu
3	Caitie Borges ✓	Pro	TOGETHER!	
4	Heidi Duprey ✓	Pro	TOGETHER!	
5	Tony Aspin ^{RESID} ✓	CON	ONE REEL	tony @ one reel. org
6	Chris Jury ✓	Pro	Family Policy Council	cjury@ snocnetwork.org
7	Lance Hastings ✓	Conced	Miller Coors	
8	Angel Lynch ✓	Pro	RUAD (Kitsap)	
9	Breanna Woolard ✓	Pro	RUAD (Kitsap)	
10	JAY ZATZMAN ✓	Con	Breast Cancer Resource ^{Center}	
11	D. Chase Foster ✓	Pro	Naches SADD	Fosterchase@qumail.com
12	Dustin Shatteruck ✓	Pro	Naches Community Coalition	dshatteruck@naches westnet.org
13	Eric Hansen ✓	Pro	White Swan Comm. Coalition	
14	Mary Garcia ✓	Pro	White Swan Com. Center	
15	Mark Mitchell ✓	Con	Old Town Place Festival Breast Cancer Resource Cent.	
16	Grady Hotli ✓	Pro	Prevention	



	Name	Indicate Pro or Con	Organization/Affiliation	Mailing Address OR e-mail
17	Rhelyn Masters ✓	Pro	RUAD	
18	Jim. Cooper ✓	Pro	WASAVP	action@ wasavp.org
19	Liz Wilhelm ✓	Pro	WASAVP/KTAS	wilhee@kthp.co. wa.us
20	Cassandra Tuttle ✓	Pro	RUAD	
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	Name	Indicate Pro or Con	Organization/Affiliation	Mailing Address OR e-mail
37	DR. MICHAEL KISSINGER		VANCOUVER WINE & JAZZ FESTIVAL	
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Stakeholder Comment Summary from Public Hearing held February 24, 2010

Rollin Fatland – One Reel

WAC 314-52-130: Public and civic events. One Reel has been operating with sponsorships from manufacturers and distributors since 1995.

Erica Austin – Professor at WSU

WAC 314-52-015, WAC 314-52-070, and WAC 314-52-113: Your rules are extremely important to protect youth.

Katie Borgess- TOGETHER! Youth Assistance Program

WAC 314-52-070: Alcohol advertising signage restrictions - supports the proposed rule.

Heidi Dupree – TOGETHER! Youth Assistance Program

WAC 314-52-070: Alcohol advertising signage restrictions - supports the proposed rule.

Tony Reid – Attorney for One Reel

WAC 314-52-130: Public and civic events. Special occasion licenses and retail licenses are different and should be treated differently.

Chris Jury – Family Policy Council (Snohomish County)

WAC 314-52-070: Alcohol advertising signage restrictions - supports the proposed rule.

Angel Lynch and Brianna Wollard – 7th grade students in Central Kitsap

WAC 314-52-070: Alcohol advertising signage restrictions. Would like to see the size restriction on signs be 800 square inches.

Lance Hastings – MillerCoors

WAC 314-52-070: Alcohol advertising signage restrictions. Would like the proposed rule changed to limit the signs to no more than one sign per brand.

WAC 314-52-040: Coupons. There is no reference to mail-in rebates.

Chase Foster – Naches Valley High School student and member of SADD

WAC 314-52-070: Alcohol advertising signage restrictions - supports the proposed rule.

Dustin Shattack – Naches Valley School District (SPIF-SIG)

WAC 314-52-070: Alcohol advertising signage restrictions - supports the proposed rule.

Michael Kissinger – Bravo! Vancouver

WAC 314-52-130: Public and civic events. Would like to see legislation to allow industry members to give money to special occasion licensees.

Raelynn Masters– Olympic High School student

WAC 314-52-070: Alcohol advertising signage restrictions – supports proposed rule.

WAC 314-52-130: Public and civic events – supports proposed rule.

Jim Cooper – WASAVP

WAC 314-52-070: Alcohol advertising signage restrictions – would like the language removed that states “where the administrative body objects” in (5).

Liz Wilhelm – President WASAVP

WAC 314-52-070: Alcohol advertising signage restrictions – would like the size restriction to be 800 square inches. Support the proposed advertising rules.

Cassandra Tuttle – RuAD

314-52-070: Alcohol advertising signage restrictions – supports proposed rule.

Mary Garcia – White Swan Community Coalition

Support proposed advertising rules.

Eric Hansen – White Swan Community Coalition

Support proposed advertising rules.

Michael Mitchell – Breast Cancer Research Center

WAC 314-52-130: Public and civic events. This statute is inconsistent with the Governor’s message of “Pro-Business”. The money and money’s prohibition hasn’t been enforced up to this point.

John Guadnola – WBWWA

WAC 314-52-130: Public and civic events. The distributors thought that giving money to non-profit organizations holding a special event was legal for many years. John is happy to work with non-profit organizations to make their events a success. He is also willing to help work on legislation to change the law to allow an exception for industry members to give money to special occasion licensees.

David E. Wojnar – DISCUS (letter received)

WAC 314-52-070 and WAC 314-52-130: The Board should not impose any size limits for signs. There is no evidentiary basis for any size limits.

WAC 324-52-113(1): The Board should eliminate the prohibition against brand signs and point-of-sale material furnished to retailers from having any value to the retailer

except as brand advertising. The Board should permit a retailer's name and address to appear on brand signs and point of sale material. The Board should retail section (2) which sets forth an illustrative list of permitted POS material and should add other commonly-utilized items to the list. The Board should eliminate the prohibition against costumed individuals purchasing a customer a drink from the retailer.

WAC 314-52-130: We feel this proposed rule as drafted will have a detrimental impact on Washington nonprofit organizations and public and civic events. The Board should not limit the acknowledgement of a name and/or brand of a sponsor of a public or civic event in a media advertisement to a size not exceeding the event name size. We urge the Board to allow industry members to provide monetary support to special occasion licensees. We urge the Board to reject the proposal restricting brand advertising to inside the event area where alcohol sales and consumption occur.

Michael Transue – Washington Restaurant Association (letter received)

WAC 314-52-015: General. The proposed rule changes use vague and subjective terms that will result in varying interpretations and inconsistent enforcement.

WAC 314-52-070(2): Alcohol advertising signage restrictions. We continue to disagree that a sign limitation on restaurant is appropriate policy. Local governments should not be allowed to exempt themselves for these rules. We strongly encourage the Board to adopt performance measures that ensure the proposed rules are achieving the stated goals of reducing underage drinking.

Written Comments Received

Katie Jacoy –Wine Institute

In General: Throughout this rulemaking process, WSLCB staff has described the effort primarily as an attempt to draft new advertising rules to align with best practices identified by the Center on Alcohol Marketing and Youth (CAMY). We remain concerned that the WSLCB is basing significant advertising restrictions on the research which has not been independently verified and policy positions of CAMY, an advocacy group with a clear and stated bias against advertising of legal alcoholic beverages.

Before adopting CAMY's conclusion that alcohol advertising causes underage drinking, we urge the WSLCB to conduct an independent review of all the scientific research relating to alcohol advertising and underage drinking.

Response: A comparison was conducted on the LCB's advertising rules based on a 2003 CAMY report on Alcohol Advertising and Youth. LCB also reviewed the 2007 Surgeon General's Call to Action to Prevent and Reduce Underage Drinking. It was determined the LCB needed to revise their alcohol advertising rules to reflect the agency's focus on public safety by minimizing youth access and exposure to alcohol advertising.

WAC 314-52-070 (2): The size and number on outside signs should be removed. The Wine Institute doesn't believe the board has the authority to restrict the size and number alcohol advertising signs on a retail liquor licensed premises. We urge you to eliminate this proposed restriction on size and number of signs unless the Legislature grants the WSLCB additional statutory authority. Failure to eliminate this proposed restriction invites a legal challenge.

Response: Several other states also restrict the number and size of outside signs advertising alcohol. We believe the Board has the authority to restrict the size and number of alcohol advertising signs on a retail liquor licensed premises.

WAC 314-52-015 (f): The Wine Institute would like this proposed rule changed to. The proposed rule reads, (All liquor advertising on products sold in the state of Washington may not contain any statement, picture, or illustration that :) "Depicts a child or other person under legal age to consume liquor."

The wine Institute would like the language to read, "Depicts a child or other person under legal age to consume liquor except in wine advertising in which the child or other person under legal age to consume liquor is not consuming wine and is incidental to the primary subject of the advertising."

Response: This language is in current rule. Changes to allow minors or persons under legal age to consume liquor in advertising on products sold in the state are contrary to our focus in this rulemaking.

Michael Transue – Washington Restaurant Association

WAC 314-52-015: General. The proposed rule changes use vague and subjective terms that will result in varying interpretations and inconsistent enforcement.

Response: The Board believes enforcement will be consistent.

WAC 314-52-070(2): Alcohol advertising signage restrictions. We continue to disagree that a sign limitation on restaurant is appropriate policy. Local governments should not be allowed to exempt themselves for these rules. We strongly encourage the Board to adopt performance measures that ensure the proposed rules are achieving the stated goals of reducing underage drinking.

Response: The alcohol signage restriction applies to all retail liquor licensed premises. Youth is exposed to excessive signage at retail liquor licensed premises of all types.

David E. Wojnar – Distilled Spirits Council of the United States (DISCUS)

WAC 314-52-070 and WAC 314-52-130: The Board should not impose any size limits for signs. There is no evidentiary basis for any size limits.

Response: The agency's focus on public safety includes minimizing youth access and exposure to alcohol advertising. Several other states also restrict the number and size of outside signs advertising alcohol.

WAC 324-52-113(1): The Board should eliminate the prohibition against brand signs and point-of-sale material furnished to retailers from having any value to the retailer except as brand advertising. The Board should permit a retailer's name and address to appear on brand signs and point of sale material. The Board should retail section (2) which sets forth an illustrative list of permitted POS material and should add other commonly-utilized items to the list. The Board should eliminate the prohibition against costumed individuals purchasing a customer a drink from the retailer.

Response: Furnishing items of value to a retail liquor licensee is prohibited under RCW 66.28.010 and RCW 66.28.305 – prohibition against industry members giving money or money's worth to a retail liquor licensee. Any exceptions to law must be done through legislation.

WAC 314-52-130: We feel this proposed rule as drafted will have a detrimental impact on Washington nonprofit organizations and public and civic events. The Board should not limit the acknowledgement of a name and/or brand of a sponsor of a public or civic event in a media advertisement to a size not exceeding the event name size. We urge the Board to allow industry members to provide monetary support to special occasion licensees. We urge the Board to reject the proposal restricting brand advertising to inside the event area where alcohol sales and consumption occur.

Response: The proposed rule is to clarify RCW 66.29.010 and RCW 66.28.305, which prohibit an industry member from providing money or money's worth to a retail liquor licensee. The law will need to be changed to provide an exemption for this activity.

Shelley Sieveking – Anheuser Busch

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WAC 314-52-130: Public and civic events. Shelley has concerns that this proposed rule included events held at sports/entertainment facilities.

Response: The proposed rule only refers to those events not put on by a liquor licensee at a liquor licensed premises. There are other rules that address what type of advertising is allowed at a retail liquor licensed premises, and sports/entertainment facilities and industry members are given specific exemptions under current law.

Jesse Lyons – Davis Wright Tremaine, LLP

WAC 314-52-130: Public and civic events. The Board's proposed new rule prohibiting industry members from providing money to special occasion licensees will impact countless nonprofit organizations across the state. The result will be:

- Fewer and smaller events;
- Decreased civic and public activity;
- Reduced funds for nonprofit organizations to maintain the existence and fulfill their mission; and
- Reduced exposure for these organizations in their outreach efforts.

Response: Industry members have always been prohibited from giving money to special occasion licensees. This is a money's worth issue and prohibited in RCW 66.28.010 (1) and RCW 66.28.305.

Limits on signage: The Board's proposed rule also places an absolute limit on the number of signs, irrespective of the size or nature of the event. This rule has a disproportionate impact on large events which raise funds for some of the state's most significant charitable organizations.

Response: The restriction on signs is only for the special occasion license area, not the entire event. There is no restriction on the number of signs at the actual event, only the special occasion license area.

Dave Sandona – Pioneer Beverage Inc.

WAC 314-52-130: Public and civic events. Dave states "this proposed rule would put an end to any sponsorship of civic and/or special event programs. Rarely are there two separate entities involved in this type of event."

Response: If sponsorship dollars are given to the event organizer, the special occasion licensee must be a different entity than the event organizer. Even before the new rule on sponsorship, a non-profit organization wouldn't be allowed to accept money from a manufacturer or distributor if they were a retail liquor licensee (special occasion licensee). RCW 66.28.010 and RCW 66.28.305 both prohibit an industry member from providing money or money's worth to a retail licensee.

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Response: No other comments have been received on this issue. The proposed language sufficiently addresses the concerns of the board – to ensure the event name is dominant in any signs acknowledging the sponsors of the event.

Family Wineries of Washington State (FWWS)

WAC 314-52-130: Public and civic events. FWWS is concerned that the proposed rule restricts the giving of money to a special occasion licensee.

Response: RCW 66.29.010 and RCW 66.28.305 prohibit an industry member from providing money or money's worth to a retail liquor licensee. The law will need to be changed to provide an exemption for this activity.

Phil Megenhardt – Fremont Chamber of Commerce (FCC)

WAC 314-52-130: Public and civic events. FCC is requesting that special occasion licenses be excluded from the advertising rules, specifically the prohibition on receiving money from industry members.

Response: RCW 66.29.010 and RCW 66.28.305 prohibit an industry member from providing money or money's worth to a retail liquor licensee. The law will need to be changed to provide an exemption for this activity.