



## Notice of Rule Change – Explanatory Statement Wineries and Bonded Wine Warehouses

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This explanatory statement concerns the **Washington State Liquor Control Board's adoption of changes to the rules necessary to implement legislation regarding wineries and bonded wine warehouses.**

The Administrative Procedure Act (RCW 34.05.325(6)) requires agencies to complete a concise explanatory statement before filing adopted rules with the Office of the Code Reviser. This statement must be provided to anyone who gave comment about the proposed rule making.

Once persons who gave comment during this rule making have had a chance to receive this document, the Liquor Control Board will file the amended rule with the Office of the Code Reviser. This rule change will become effective 31 days after filing (approximately January 30, 2009).

The Liquor Control Board appreciates your involvement in this rule making process. If you have any questions, please contact Karen McCall, Rules Coordinator, at (360) 664-1631 or e-mail at [rules@liq.wa.gov](mailto:rules@liq.wa.gov).

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### What are the agency's reasons for revising these rules?

Three legislative bills pertaining to retail regulations were adopted in 2007 and 2008. The Washington State Liquor Control Board is updating its rules to reflect the changes made by these bills.

#### **Legislative.**

SSB 6770 (2008) permits two new activities, one for domestic wineries and one for bonded-wine warehouses, and creates another enforcement permission for the WSLCB.

1. A domestic winery may sell wine of its own production for on-premises consumption at two locations separate from its production or manufacturing sites. Any person at these locations who sells or serves wine for on-premises consumption must obtain a Class 12 or Class 13 alcohol-server permit.
2. A bonded-wine warehouse may "handle" bottled wine (i.e. packaging and repackaging; labeling; creating gift baskets and variety packs; picking; and packing),

and ship wine orders directly to consumers. However, a contracting winery is responsible for all financial transactions involving direct-to-consumer shipping activities that a bonded-wine warehouse does on its behalf.

3. The WSLCB may hold all licensees involved in the operation of an off-premises, multiple-winery-serving location accountable whenever the WSLCB is unable to connect a violation to a single licensee.

## **What changes are being made?**

### **New Section 314-24-161 – Domestic winery—Additional locations for retail sales only.**

A domestic winery may have up to two additional retail locations. Permitted wine-related activities include serving samples and selling for on- and off-premises consumption. A licensee may also request an outside designated area. Those that sell or serve for on-premises consumption must have a Class 12 or Class 13 alcohol-server permit.

### **Amendatory Section 314-24-220 – Licensing and operation of bonded wine warehouses.**

A bonded-wine warehouse may store and handle wine, provide storage for another bonded-wine warehouse, and ship directly to consumers on behalf of a contracting winery. Only a winery may accept orders and payments for direct-to-consumer shipping that a bonded-wine warehouse does on its behalf, and must do so at the winery premises. Obsolete language is removed.

## **Rule Adoption**

The Board adopted these rule changes on December 17, 2008. The rule was filed on December 29, 2008 and will be effective January 30, 2009.

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## **Summary of all public comments received on this rule proposal.**

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The WSLCB filed Pre-proposal (CR 101) on July 15, 2008 and proposed rules (CR 102) were filed on October 17, 2008. A public hearing was held on December 3, 2008, in Olympia, Washington, at WSLCB headquarters. One person testified at the December 3rd public hearing. No written comment was received.

**1. Comment: Jean Leonard, Washington Wine Institute**

The wording in WAC 314-24-161 (2) referring to outside designated areas needs to be changed from **"that is set aside for"** to **"where alcohol consumption is allowed"**.

**Response:**

Changes were made based on Jean Leonard's comment.

**Text of Rules** (Estimated effective date is January 30, 2009)

NEW SECTION

**WAC 314-24-161 Domestic winery--Additional locations for retail sales only.** A licensee holding a domestic winery license under RCW 66.24.170 may apply for two additional location licenses.

(1) Wine-related retail activities allowed at an additional location include:

(a) Serving of samples provided with or without charge to customers (must be wine of the winery's own production). Samples are subject to taxes under WAC 314-19-015 (4)(b);

(b) Selling wine of the winery's own production for either on-premises or off-premises consumption; and

(c) Renting space for public and private events, such as catered events (subject to all of the provisions of this

section, to Title 66 RCW covering the "tied house" restrictions, and to RCW 66.24.320 and 66.24.420).

(2) A licensee may request approval for an outside designated area. For the purpose of this section, an "outside designated area" means a specific area located on an outside track of land where alcohol consumption is allowed.

(a) An outside designated area must have prior written approval from the board's licensing division.

(b) The outside designated area shall be marked as such, and shall be enclosed in accordance with WAC 314-02-130(1).

(c) The outside designated area shall be on the licensed premises.

(3) Anyone involved in the selling or serving of wine, including the pouring of samples, at an additional location for on-premises consumption must obtain a Class 12 or Class 13 alcohol server permit.

[ ]

AMENDATORY SECTION (Amending WSR 04-24-097, filed 12/1/04, effective 1/1/05)

**WAC 314-24-220 Licensing and operation of bonded wine warehouses.** (1) There shall be a license for bonded wine warehouses pursuant to RCW 66.24.185, and this type of license shall be known as a bonded wine warehouse licensee. Applications for a bonded wine warehouse license shall be on forms prescribed by the board and shall be accompanied by such information as the board may request including, but not limited to, a written description of the proposed method of shipping, receiving, inventory control, and security.

(2) The bonded wine warehouse shall be physically separated from any other use in such manner as prescribed by the board, and as a condition of license approval, the applicant must furnish the board appropriate documentation indicating the location of the bonded wine warehouse is properly zoned for the intended use. (~~Wine not under federal excise tax bond shall be identified as federally tax paid and physically separated on the premises to the extent required under the license holder's federal basic permit.~~)

(3) A bonded wine warehouse may provide storage for a domestic winery, for another bonded wine warehouse, and for a certificate of approval holder. The (~~wine may or may not be under federal bond, and the~~) Washington wine tax provided in

RCW 66.24.210 shall not be due until the wine is removed from bond and shipped to a licensed Washington wine distributor or, pursuant to RCW 66.12.020, to the liquor control board who will be responsible to pay the tax based on their purchases.

(4) Every bonded wine warehouse licensee shall have on file and available for inspection records of all wine transactions, including receipts and shipments of wine and the total inventory on hand at the bonded warehouse.

(5) Removals of wine from a bonded wine warehouse may be made only for shipment (a) to a licensed independent Washington wine distributor; (b) to another licensed bonded wine warehouse; (c) to the liquor control board; (d) out of state; (e) for return to the producing winery; ~~((e~~r~~))~~ (f) to a producing domestic winery licensee; or (g) directly to a consumer. For purposes of this section, "producing domestic winery licensee" means the licensed Washington winery that produced the wine and its licensed agents. For purposes of this section, a "licensed agent" shall be an accredited representative, licensed pursuant to chapter 314-44 WAC, of only one producing domestic winery at the time of removal by such agent. A producing domestic winery licensee may take possession of wine from a bonded wine warehouse, after accepting an order therefor, and deliver the wine to a purchasing retail or special occasion licensee only by transporting the wine directly from the bonded wine warehouse to the licensed premises of the purchasing retail or special occasion licensee; provided, however, that in no event may a producing domestic winery licensee remove, in the aggregate,

during any one calendar year, more than two thousand cases of wine for delivery directly to retail and special occasion licensees. Producing domestic winery licensees shall maintain records of removals and deliveries of wine from bonded wine warehouses and shall file with the liquor control board annually reports of the quantity of wine removed and delivered directly to retail and special occasion licensees. Invoicing shall be by the titleholder. The titleholder shall report shipments to, and returns from the bonded wine warehouse and sales to Washington wine distributors, and/or the liquor control board on the twentieth day of the month following the month of shipment and/or sale on forms furnished by, or acceptable to, the board.

(6) At no time shall title to wine stored at the bonded wine warehouse pass to the operator of the bonded wine warehouse.

(7) "Storage and handling of bottled wine (~~(only)~~)" as used in RCW 66.24.185(1) shall mean the storage and handling of wine packaged for sale at retail (i.e., other than in bulk form).

~~(8) ((As a condition precedent to license issuance, a bonded wine warehouse licensee shall guarantee payment to the state of any and all taxes under RCW 66.24.210 in the event the winery or other entity storing wine in the bonded wine warehouse fails to immediately pay such tax when due. Such guarantee shall be in the form of the bond referred to in subsection (9) of this section.~~

~~(9) As required by RCW 66.24.185(5) every holder of a bonded wine warehouse license must, at all times when said~~

~~license is in force, have in effect and on file with the board a bond executed by a surety authorized to do business in the state of Washington, in a form approved by the board and in the amount of five thousand dollars.))~~ Any winery contracting with a bonded wine warehouse for direct shipments to consumers must accept and process the orders and payments. This includes, but is not limited to, in-person, mail, telephone, and internet orders and payments. Only a winery licensee or a winery licensee's employees may accept and process such orders and payments. A contractor may not do so on behalf of a winery licensee.

(9) A bonded wine warehouse may not accept orders and payments from consumers for direct shipments.

[Statutory Authority: RCW 66.08.030, 2004 c 160. 04-24-097, § 314-24-220, filed 12/1/04, effective 1/1/05. Statutory Authority: RCW 66.08.030, 15.88.030, 19.126.020, 66.04.010, 66.08.180, 66.16.100, 66.20.010, 66.20.300, 66.20.310, 66.24.150, 66.24.170, 66.24.185, 66.24.200, 66.24.206, 66.24.210, 66.24.230, 66.24.240, 66.24.244, 66.24.250, 66.24.375, 66.24.380, 66.24.395, 66.24.400, 66.24.420, 66.24.425, 66.24.440, 66.24.450, 66.24.455, 66.24.495, 66.24.540, 66.28.010, 66.28.040, 66.28.050, 66.28.170, 66.28.180, 66.28.190, 66.28.200, 66.28.310, 66.44.190, 66.44.310, 66.98.060 and 82.08.150. 98-18-097, § 314-24-220, filed 9/2/98, effective 10/3/98. Statutory Authority: RCW 66.08.030 and 66.24.185. 96-11-076, § 314-24-220, filed 5/13/96, effective 6/13/96; 85-24-042 (Order 170, Resolution No.



179), § 314-24-220, filed 11/27/85. Statutory Authority: RCW  
66.24.185, 66.08.030 and 66.98.070. 85-10-029 (Order 158,  
Resolution No. 167), § 314-24-220, filed 4/24/85.]