



**Mike McGinn, Mayor**  
City of Seattle

August 24, 2011

Mr. Rick Garza  
Deputy Director  
Washington State Liquor Control Board  
3000 Pacific Avenue SE  
Olympia, WA 98504

Dear Deputy Director Garza:

Enclosed please find the City of Seattle's Petition to amend State Administrative Rule WAC 314-11-070, relating to liquor service hours, and to adopt new rules governing the establishment of extended hours service areas within local jurisdictions.

As you know, the Seattle City Council adopted a resolution in support of this petition on July 25, 2011. This resolution also has the support of the Mayor, City Attorney, and Seattle Police Chief. Since adoption of Council resolution, we have conducted outreach to gauge support for the petition among local elected officials and law enforcement. We have confirmed the support of the King County Executive Dow Constantine. We have had positive meetings with members of the Seattle legislative delegation, and that outreach is ongoing. We have opened a dialog with the Governor's office. The King County Sheriff and Washington State Patrol have indicated that they are willing to work with us to ensure public safety during an extended hours pilot program. Thus far, we have not encountered any opposition to our petition. We recognize that ongoing outreach will be a key factor in the success of the proposal going forward.

The City's goal is to develop rules that will allow the City to proceed with an extended hours pilot program, in a manner that is acceptable to LCB, law enforcement officials, and City residents. We will be happy to work with LCB and the community to examine and refine this proposal as needed to meet our collective objectives.

Sincerely,

Mike McGinn  
Mayor

MM/cjm

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## PETITION FOR ADOPTION, AMENDMENT, OR REPEAL OF A STATE ADMINISTRATIVE RULE

Print Form

In accordance with [RCW 34.05.330](#), the Office of Financial Management (OFM) created this form for individuals or groups who wish to petition a state agency or institution of higher education to adopt, amend, or repeal an administrative rule. You may use this form to submit your request. You also may contact agencies using other formats, such as a letter or email.

The agency or institution will give full consideration to your petition and will respond to you within 60 days of receiving your petition. For more information on the rule petition process, see Chapter 82-05 of the Washington Administrative Code (WAC) at <http://apps.leg.wa.gov/wac/default.aspx?cite=82-05>.

### CONTACT INFORMATION *(please type or print)*

Petitioner's Name Michael McGinn, Mayor  
Name of Organization City of Seattle  
Mailing Address 600 Fourth Avenue, 7th Floor  
City Seattle State WA Zip Code 98749  
Telephone 206-684-4000 Email mike.mcgin@seattle.gov

### COMPLETING AND SENDING PETITION FORM

- Check all of the boxes that apply.
- Provide relevant examples.
- Include suggested language for a rule, if possible.
- Attach additional pages, if needed.
- Send your petition to the agency with authority to adopt or administer the rule. Here is a list of agencies and their rules coordinators: <http://www.leg.wa.gov/CodeReviser/Documents/RClst.htm>.

### INFORMATION ON RULE PETITION

Agency responsible for adopting or administering the rule: Washington State Liquor Control Board

**1. NEW RULE - I am requesting the agency to adopt a new rule.**

To define processes and criteria for establishment of an Extended Hours Service Area an Extended Hours Endorsement, allowing for on-premises liquor service after 2 a.m.

The subject (or purpose) of this rule is: under certain conditions.

It responds to community demand for more flexible liquor service hours, as a means to enhance public safety and reduce community impacts associated with a uniform 2 a.m. closing time,

The rule is needed because: increase consumer choice, and promote economic activity.

On-premises liquor establishments, patrons, and community members in jurisdictions that seek to establish an Extended

The new rule would affect the following people or groups: Hours Service Area.

2. AMEND RULE - I am requesting the agency to change an existing rule.

List rule number (WAC), if known: WAC 314-11-070

I am requesting the following change: See Attachment A

This change is needed because: See No. 1 above

The effect of this rule change will be: To allow consideration of local petitions to permit on-premises liquor service after 2 a.m., with conditions.

The rule is not clearly or simply stated: \_\_\_\_\_

3. REPEAL RULE - I am requesting the agency to eliminate an existing rule.

List rule number (WAC), if known: \_\_\_\_\_

*(Check one or more boxes)*

It does not do what it was intended to do.

It is no longer needed because: \_\_\_\_\_

It imposes unreasonable costs: \_\_\_\_\_

The agency has no authority to make this rule: \_\_\_\_\_

It is applied differently to public and private parties: \_\_\_\_\_

It conflicts with another federal, state, or local law or rule. List conflicting law or rule, if known: \_\_\_\_\_

It duplicates another federal, state or local law or rule. List duplicate law or rule, if known: \_\_\_\_\_

Other (please explain): \_\_\_\_\_

## ATTACHMENT A - DRAFT PROPOSED RULES

### Amendment:

WAC 314-11-070 During what hours can I sell or serve liquor?

(1) Between the hours of 2 a.m. and 6 a.m., licensees or employees may not:

- (a) Sell liquor,
- (b) Offer liquor for sale,
- (c) Deliver liquor (except that beer and/or wine distributors may deliver beer and/or wine to retail licensees between the hours of 2 a.m. and 6 a.m.),
- (d) Permit the removal of liquor from the premises;
- (e) Allow liquor to be consumed on the premises; or
- (f) Possess liquor, except that persons working on the premises may possess liquor between the hours of 2 a.m. and 6 a.m. while in the performance of their official duties.

(2) A local government subdivision may fix later opening hours or earlier closing hours than those specified in this rule, so long as the hours apply to all licensed premises in the local government subdivision's jurisdiction. See WAC 314-12-215(3) for exceptions when a premises is in a board recognized alcohol impact area.

**(3) A local government subdivision may petition the board to establish an extended hours service area within the jurisdiction of the local government. See WAC 314-\_\_ - \_\_ for exceptions when a premises is in a board recognized extended hours service area.**

### New Section:

**WAC 314-\_\_ - \_\_ Extended Hours Service Area – Definitions – Guidelines.**

(1) What is an Extended Hours Service Area and how is it different?

- (a) An "extended hours service area" is a geographic area within a local government subdivision that is designated by the local government subdivision and recognized by the board.
- (b) The board may permit certain licensees within an extended hours service area to sell liquor for consumption on the premises between the hours of 2 a.m. and 6 a.m. See WAC 314-\_\_ - \_\_ for discussion of extended hours endorsement.

(2) How is an Extended Hours Service Area formed?

- (a) A local authority (a city, town, or county) may petition the board to establish an extended hours service area within the jurisdiction of the local authority.

- (b) A local authority must first designate an extended hours service area by ordinance. The board must recognize an extended hours service area before any unique review process, condition, restriction or endorsement described in this rule may be applied. A local authority must meet certain conditions to achieve recognition.
  - (c) The geographic area of an extended hours service area may include the entire territory of a local authority or a defined geographic area within the local authority.
  - (d) Local authority ordinance must explain the rationale of the proposed boundaries, and describe the boundaries in such a way that:
    - i. The board can determine which liquor licensees are in the proposed extended hours service area; and
    - ii. The boundaries are understandable to the public at large.
  - (e) A local authority's petition for an extended hours service area must include:
    - i. An explanation of why the local authority is seeking an extended hours service area and the anticipated benefits of creating such an area;
    - ii. Statements of support by residents and businesses within the local authority for the creation of an extended hours service area;
    - iii. A statement from local law enforcement that provides an assessment of the potential impacts of an extended hours service area and a public safety plan for managing those impacts;
    - iv. Any restrictions the local authority seeks to apply to licensees with an extended hours endorsement within the extended hours service area.
  - (f) The board shall grant or deny the petition, or communicate to the petitioner in writing requesting additional information that the petitioner must submit before the board can make a final decision. An order granting the petition shall specify any conditions or restrictions that apply to holders of extended hours endorsements within the extended hours service area.
- (3) For how long will an extended service hours area be in effect, and may an extended hours service area be changed?
- (a) An extended hours service area remains in effect until:
    - i. A local authority repeals the enabling ordinance that defines the extended hours service area;
    - ii. A local authority requests that the board revoke its recognition of the extended hours service area;
    - iii. The board repeals its recognition of an extended hours service area of its own initiative and following a public hearing; or
    - iv. A local authority fails to comply with subsection (4) of this section.

- (b) The local authority may petition the board at any time to modify an extended hours service area's geographic boundaries, repeal or modify an existing condition or restriction, create a new condition or restriction, or terminate the extended hours service area. The board will decide to grant or deny such a petition following notice and a public hearing. Modification or termination of an extended hours service area will be effective as to all holders of an extended hours endorsement within the extended hours service area, upon the date identified by the board.

(4) Reporting requirements and assessments.

- (a) Following establishment of an extended hours service area, the local authority shall submit annual reports to the board that identify:
  - i. overall numbers of public safety incidents (including reported crime, emergency responses, and emergency room intakes, all reported by type of incident and time of day) within the jurisdiction of the local authority;
  - ii. overall numbers of public safety incidents within the extended hours service area;
  - iii. public safety incidents associated with liquor licensees within the extended hours service area;
  - iv. public safety incidents associated with holders of extended hours endorsements within the extended hours service area; and
  - v. any other information as may be requested by the board.

Reports shall be submitted no later than sixty calendar days following first anniversary of the issuance of the first extended hours endorsement within the extended hours service area, and annually thereafter.

- (b) The board will conduct an assessment of an extended hours service area following the first, third, fifth anniversaries of the issuance of the first extended hours endorsement within the extended hours service area, and every fifth year thereafter. The assessment process is as follows:
  - i. Within ten calendar days of receiving a local authority's report, the board shall notify affected parties of the upcoming assessment, whereupon an affected party has twenty calendar days to comment upon, or petition the board to discontinue its recognition of, an extended hours service. Affected parties may include, but are not limited to: licensees, residents, businesses or neighboring local authorities.
  - ii. An affected party may submit a written request for one twenty calendar-day extension of the comment/petition period, which the board may grant provided that an affected party provides sufficient reason why he or she is unable to meet the initial twenty-day deadline.
  - iii. The board will complete an assessment within sixty calendar days following the close of the final comment/petition period.

- iv. An assessment shall identify any modifications the board intends to make to the extended hours service area, or the board's reasons for revoking recognition of the extended hours service area.

**WAC 314-\_\_\_ - \_\_\_ Extended Hours Endorsement.**

- (1) Following the establishment of an extended hours service area, businesses with a Spirit, Beer and Wine Restaurant License or a Beer and/or Wine Restaurant License or a Nightclub License within the extended hours service area may apply for an extended hours endorsement.
- (2) An extended hours endorsement allows the licensee to serve liquor during the hours specified on the endorsement for on premises consumption only.
- (3) The local authority may petition the board to request that further restrictions be imposed on an extended hours endorsement in the interest of public safety. Examples of further restrictions a local authority may request are:
  - (a) A continuous operating history with limited violations of law concerning public safety, noise, licensing, taxing, liquor service or permitting related to the ownership, possession, occupation, operation, use or maintenance of the location or premises.
  - (b) A transportation plan that discourages drinking and driving;
  - (c) A security and safety plan documenting the processes for avoiding public disorder and public safety risks.
  - (d) Limitations on interior and exterior noise levels
  - (e) Agreement to participate in a pilot program survey;
  - (f) Agreement to participate in community outreach forums with residents and code compliance agents to review incidents and discuss remedial strategies.
  - (g) A patron responsibility plan showing public awareness and education of individual responsibility for behavior in venues and when leaving venues, especially when moving through residential areas.
- (4) The board may refuse an extended hours endorsement if the board determines that the number of endorsements already granted for the particular locality are adequate for the reasonable needs of the community.
- (5) The annual fee for this endorsement is \_\_\_\_\_. The fee for the endorsement shall be reviewed from time to time and set at such a level sufficient to defray the cost of licensing and enforcing this licensing program.