



## **Notice of Permanent Rules to allow self-dispensing wine machines and self-service beer taps**

**This explanatory statement concerns the Washington State Liquor and Cannabis Board's adoption of rules to allow self-dispensing wine machines and self-service beer taps**

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 rulemaking.

The Liquor and Cannabis 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@lcb.wa.gov](mailto:rules@lcb.wa.gov).

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### **Background and reasons for adopting this rule**

The Washington State Liquor and Cannabis board received a petition for rulemaking from Tri-Cities Tap and Barrel, a tavern license. The licensee requested the board open rulemaking to allow the use of self-dispensing wine machines in on-premises retail licensed locations.

The board adopted Interim Policy #01-2011 on February 2, 2011, which allowed the use of self-dispensing wine machines for wine tastings at a winery premises with proper supervision. The board also adopted Interim Policy #07-2011 on August 10, 2011, which allowed the use of self-service beer taps at a liquor licensed premises. Permanent rules are needed to clarify the requirements for licensees to use self-dispensing wine machines and self-service beer taps.

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

CR 101 – filed October 18, 2017

CR 102 – filed January 24, 2018

Public Hearing and Supplemental CR 102 filed March 7, 2018

Public Hearing held on April 18, 2018

Three comments were received at the March 7, 2018 public hearing. Two written comments were received at that time.

One comment was received at the April 18, 2018 public hearing. Six written comments were received.

Below is a summary of comments received.



1. **Chris Marr, Consultant** - Support for rules on this topic. Request that the twelve ounce minimum purchase requirement be removed and allow “up to” twelve ounces. Request to remove the requirement that beer taps be located at the tables. Request to increase the maximum purchase volume from twenty-four ounces to thirty-two ounces.

**WSLCB response:** Thank you for your comments. Language was amended to remove the requirement that beer taps be located at the table. Language was added to allow “up to” twelve ounces. The purchase volume was not changed and may be considered in a future rulemaking.

2. **Chay Tan, DownTime Taps** - Support for rules on this topic. Request that self-service beer taps be located on a central wall instead of at the table. Request to allow samples of beer and increase the purchase volume to thirty-two ounces.

**WSLCB response:** Thank you for your comments. Language was amended to remove the requirement that beer taps be located at the table. Language was added to allow “up to” twelve ounces. The purchase volume was not changed and may be considered in a future rulemaking.

3. **Darren Nicholson, iPourIt** – Support for rules on this topic and gave an overview of how self-service beer tap technology works.

**WSLCB response:** Thank you for your comments.

4. **Mayor Jon Mutchler, City of Ferndale** – Support for rules on this subject and clarifying rule language that will allow DownTime Taps to operate self-service beer taps.

**WSLCB response:** Thank you for your comments. Language was amended to remove the requirement that beer taps be located at the table. This allows DownTime Taps to utilize the proposed system located on the wall.

5. **Mona McPhee, Miller, Nash, Graham, and Dunn** – Regarding self-service beer taps: Concerns that the rule unintentionally limits the types of self-dispensing systems by referencing “service cards” and that machines may be deactivated “at the table.” Request to not put a limit on the volume per customer over time and that the dispensing limit be thirty two ounces, with a single dispensing limit of sixteen ounces and to allow samples of beer.

**WSLCB response:** Thank you for your comments. Language was amended to remove the requirement that beer taps be located at the table. Language was added to allow “up to” twelve ounces. The purchase volume was not changed and may be considered in a future rulemaking. Language to add other purchase



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verification methods, similar to a “service card” may be considered in a future rulemaking.

- 6. Stacey Okland, Co-Director, Okanogan County Community Coalition –** Concern that “adequate staff” is too vague. Request that language be changed to only allow Class 12 alcohol server permitted employees to operate the self-service machines since they are over 21. Request that self-service machines are only allowed in over-21 on-premises liquor licensed locations.

**WSLCB response:** Thank you for your comments. Concerns regarding adequate staff, Class 12 and 13 alcohol server permits, the potential for overservice, and service in the presence of individuals under 21 are not unique to locations with self-service machines. Rule language outlines requirements for limits, staffing, and training. The referenced interim policies have been in place since 2011. The WSLCB has not received any complaints regarding businesses operating self-service machines.

- 7. Sal Leone, President, Fish Brewing Co and Washington Wine and Beverage Co. –** Concern that restricting alcohol serving size is not in line with what is currently being served when customers purchase bottles of wine (28 oz or more), or pitchers of beer (32 oz or more). Concern that the proposed serving size is too small and doesn’t allow for a 16 ounce serving, growler, or crowler purchase of beer. Request that language be changed to allow “up to” the volume limit so that customers may sample. Concern that even though there is a limit to the amount for beer or wine, customers could combine the two and be over the intended limit. Suggest changing language to address the above concerns.

**WSLCB response:** Thank you for your comments. Language was added to allow “up to” twelve ounces or “up to” five ounces. The purchase volume and purchase limits were not changed and may be considered in a future rulemaking.

- 8. David Clawson –** Concerns that the five ounce serving size of wine does not allow sampling. Also concerned that the limit of wine is 10 ounces when a customer can purchase a bottle of wine.

**WSLCB response:** Thank you for your comments. Language was added to allow “up to” twelve ounces or “up to” five ounces. The purchase volume and purchase limits were not changed and may be considered in a future rulemaking.

- 9. Cliff Goodman, Vashon Brewing –** Support for rules on this topic. Appreciates the ability to purchase smaller quantities of beer.

**WSLCB response:** Thank you for your comments. Purchase volume and purchase limits may be considered in a future rulemaking.



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10. **Katie Jacoy, Western Counsel, Wine Institute** – Support for rules on this topic. Request that language be added that manufacturers cannot pay for the self-dispensing equipment.  
**WSLCB response:** Thank you for your comments. Language addressing what can and cannot be provided to licensees can be found in WAC 314-12-140 Prohibited practices – Contracts – Gifts – Rebates, etc. The requested language was not added to this rule since it is addressed elsewhere in rule.
11. **P. Adam Smith, Vice President, Western Region of the Distilled Spirits Council** - Support for rules on this topic. Request that spirits be included in the scope of this rulemaking and allow the use of self-dispensing machines for all types of beverage alcohol.  
**WSLCB response:** Thank you for your comments. This rulemaking did not address self-dispensing machines for spirits. This rulemaking took into consideration formalizing Board Interim Policy #01-2011 and Board Interim Policy #07-2011 into rule. Both interim policies have been in effect since 2011.
12. **Steven D. Strachan, Executive Director, Washington Association of Sheriffs and Police Chiefs** – Request that the rules not be created and the board repeal Interim Policies #01-2011 and #07-2011 for public safety reasons. Concerns include not having alcoholic beverage served by a trained and licensed alcohol server and potential overservice.  
**WSLCB response:** Thank you for your comments. The referenced interim policies have been in place since 2011. The WSLCB has not received any complaints regarding businesses operating self-service machines. The rule language includes a provision that employees operating the self-service machines hold a class 12 or class 13 alcohol server permit. There are limits on serving size included in rule language and provisions in place for adequate staffing, including checking ID and looking for signs of intoxication. Employees must also have the ability to deactivate self-service beer taps remotely, which allows the employee to control the amount dispensed at all times.

## WAC Changes

See attachment.