



RULE-MAKING ORDER PERMANENT RULE ONLY

CR-103P (December 2017) (Implements RCW 34.05.360)

CODE REVISER USE ONLY

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STATE OF WASHINGTON
FILED

DATE: February 07, 2018

TIME: 11:48 AM

WSR 18-04-116

Agency: Washington State Liquor and Cannabis Board

Effective date of rule:

Permanent Rules

31 days after filing.

Other (specify) _____ (If less than 31 days after filing, a specific finding under RCW 34.05.380(3) is required and should be stated below)

Any other findings required by other provisions of law as precondition to adoption or effectiveness of rule?

Yes No If Yes, explain:

Purpose: Rules are needed to implement 2017 liquor legislation

Citation of rules affected by this order:

New: WAC 314-02-092; WAC 314-38-110

Repealed:

Amended: WAC 314-02-060; 314-02-061; 314-02092; 314-02-103; 314-38-020

Suspended:

Statutory authority for adoption: RCW 66.24.010; RCW 66.24.035; RCW 66.24.330

Other authority:

PERMANENT RULE (Including Expedited Rule Making)

Adopted under notice filed as WSR 18-01-056 on December 13, 2017 (date).

Describe any changes other than editing from proposed to adopted version: None

If a preliminary cost-benefit analysis was prepared under RCW 34.05.328, a final cost-benefit analysis is available by contacting:

Name:

Address:

Phone:

Fax:

TTY:

Email:

Web site:

Other:

**Note: If any category is left blank, it will be calculated as zero.
No descriptive text.**

**Count by whole WAC sections only, from the WAC number through the history note.
A section may be counted in more than one category.**

The number of sections adopted in order to comply with:

| | | | | | | |
|----------------------------------|-----|----------|---------|----------|----------|-----|
| Federal statute: | New | ___ | Amended | ___ | Repealed | ___ |
| Federal rules or standards: | New | ___ | Amended | ___ | Repealed | ___ |
| Recently enacted state statutes: | New | <u>2</u> | Amended | <u>4</u> | Repealed | ___ |

The number of sections adopted at the request of a nongovernmental entity:

| | | | | | |
|-----|-----|---------|-----|----------|-----|
| New | ___ | Amended | ___ | Repealed | ___ |
|-----|-----|---------|-----|----------|-----|

The number of sections adopted on the agency's own initiative:

| | | | | | |
|-----|-----|---------|-----|----------|-----|
| New | ___ | Amended | ___ | Repealed | ___ |
|-----|-----|---------|-----|----------|-----|

The number of sections adopted in order to clarify, streamline, or reform agency procedures:

| | | | | | |
|-----|-----|---------|-----|----------|-----|
| New | ___ | Amended | ___ | Repealed | ___ |
|-----|-----|---------|-----|----------|-----|

The number of sections adopted using:

| | | | | | | |
|--------------------------------|-----|-----|---------|-----|----------|-----|
| Negotiated rule making: | New | ___ | Amended | ___ | Repealed | ___ |
| Pilot rule making: | New | ___ | Amended | ___ | Repealed | ___ |
| Other alternative rule making: | New | ___ | Amended | ___ | Repealed | ___ |

Date Adopted: February 7, 2018

Name: Jane Rushford

Title: Chair

Signature:



AMENDATORY SECTION (Amending WSR 17-12-030, filed 5/31/17, effective 7/1/17)

WAC 314-02-060 What is a caterer's endorsement? (1) A spirits, beer, and wine restaurant ~~((and))~~, a beer and/or wine restaurant, and a tavern applicant or licensee may apply for a caterer's endorsement, in order to extend the on-premises license privilege to allow the sale and service of liquor at locations other than liquor licensed premises. See RCW 66.24.420(6) ~~((and))~~, 66.24.320(2), and 66.24.330 for more information about this endorsement.

(2) The annual fee for this endorsement is three hundred fifty dollars.

AMENDATORY SECTION (Amending WSR 09-02-012, filed 12/29/08, effective 1/29/09)

WAC 314-02-061 What is required for ~~((offsite))~~ off-site storage of liquor under a caterer's endorsement? A spirits, beer, and wine restaurant licensee with a caterer's endorsement, ~~((or))~~ a beer and/or wine restaurant licensee with a caterer's endorsement, or a tavern licensee with a caterer's endorsement, may store its alcohol at locations described in RCW 66.24.320, 66.24.330, and 66.24.420 that are not on the licensed premises if the following conditions are met:

(1) The licensee must display the approval letter for storing liquor at each location;

(2) Liquor storage must be within the event location where catering services for events are provided;

(3) If the location is one for which the licensee has an on-going contract or agreement to provide liquor service at catered events, the contract or agreement must include the following:

(a) Names of the parties;

(b) Location and address where on-going liquor catering services are provided;

(c) A sketch and description of the facility that includes where the liquor will be stored, how the liquor will be secured to ensure public safety, and the provisions that restrict access to the liquor storage area to the licensee and the licensee's employees; and

(d) Signatures of the parties.

(4) For locations owned or leased by the licensee and for which the licensee provides liquor service at catered events, the licensee must submit copies of documents that evidence the ownership or leasehold interest.

NEW SECTION

WAC 314-02-092 What is a combination spirits, beer, and wine license? (1) Per RCW 66.24.632, a combination spirits, beer, and wine license is a retail license that allows a licensee to sell beer and wine, including strong beer, at retail in bottles, cans, and original containers for off-premises consumption, and to:

(a) Sell spirits in original containers to consumers for off-premises consumption and to permit holders;

(b) Sell spirits in original containers to retailers licensed to sell spirits for consumption on the premises, for resale at their licensed premises according to the terms of their licenses. No single sale may exceed twenty-four liters; and

(c) Export spirits.

(2) A combination spirits, beer, and wine licensee that intends to sell to an on-premises retailer must possess a basic permit under the Federal Alcohol Administration Act. This permit must provide for purchasing distilled spirits for resale at wholesale. A copy of the federal basic permit must be submitted to the board. A federal basic permit is required for each location from which the combination spirits, beer, and wine licensee plans to sell to an on-premises retailer.

(3) A sale by a combination spirits, beer, and wine licensee is a retail sale only if not for resale to an on-premises spirits retailer. On-premises retail licensees that purchase spirits from a combination spirits, beer, and wine licensee must abide by RCW 66.24.630.

(4) A combination spirits, beer, and wine licensee must pay to the board seventeen percent of all spirits sales. (see WAC 314-02-109 for quarterly reporting requirements).

Reporting of spirits sales and payment of fees must be submitted on forms provided by the board.

(5) The board may issue a combination spirits, beer, and wine license:

(a)(i) For premises comprising at least ten thousand square feet of fully enclosed retail space within a single structure, including store rooms and other interior areas. This does not include any area encumbered by a lease or rental agreement; and

(ii) To applicants that the board determines will maintain appropriate systems for inventory management, employee training, employee supervision, and physical security of the product.

(b) For premises of a former contract liquor store; or

(c) To a holder of former state liquor store operating rights sold at auction.

(6) A spirits retail licensee may apply for a sampling endorsement to conduct spirits, beer, and wine sampling if they meet the following criteria:

(a) Be a participant in the responsible vendor program;

(b) Advertising:

(i) For combination spirits, beer, and wine retail licensees that are grocery stores, advertising samplings may not be placed in the windows or outside of the premises that can be viewed from the public right of way;

(ii) For combination spirits, beer, and wine retail licensees that are specialty stores, advertising of sampling may be advertised but not state that sampling is free of charge.

(c) Samplings are to be conducted in the following manner:

(i) Samplings service area and facilities must be located within the licensee's fully enclosed retail area and must be of a size and design that the licensee can observe and control persons in the area;

(ii) The licensee must provide a sketch of the sampling area. For combination spirits, beer, and wine licensees that are grocery stores, fixed or movable barriers are required around the sampling area to ensure that persons under twenty-one years of age and apparently intoxicated persons cannot possess or consume alcohol. For combination spi-

rits, beer, and wine licensees that are specialty stores, barriers are not required. The sketch is to be included with the application for the spirits sampling endorsement;

(iii) Each sample may be no more than one-half ounce of spirits, and no more than a total of one and one-half ounces of spirits samples per person during any one visit to the premises. Spirits samples may be altered with mixers, water, and/or ice. For combination spirits, beer, and wine licensees that are grocery stores, beer and wine samples must be two ounces or less, up to a total of four ounces per person during any one visit to the premises. For combination spirits, beer, and wine licensees that are specialty stores, each beer and wine sample must be two ounces or less and no more than ten ounces of beer and/or wine may be provided to a customer during any one visit to the premises;

(iv) For combination spirits, beer, and wine licensees that are grocery stores, the licensee must have food available for the sampling participants;

(v) Customers must remain in the service area while consuming samples;

(vi) All employees serving spirits, beer, or wine during sampling events must hold a class 12 server permit;

(vii) For combination spirits, beer, and wine licensees that are grocery stores, there must be at least two employees on duty when conducting sampling events;

(viii) Sampling activities are subject to RCW 66.28.305 and 66.28.040.

(d) Licensees are required to send a list of scheduled sampling events to their regional enforcement office at the beginning of each month. The date and time for each sampling must be included;

(e) The cost for a beer and wine sampling endorsement is two hundred dollars. There is no charge for a spirits sampling endorsement.

(7) A combination spirits, beer, and wine licensee may sell beer in kegs or other containers holding at least four gallons and less than five and one-half gallons of beer. See WAC 314-02-115 regarding keg registration requirements.

(8) A combination spirits, beer, and wine licensee may sell spirits, beer, and wine over the internet. See WAC 314-03-020 and 314-03-030 regarding internet sales and delivery.

(9) A combination spirits, beer, and wine applicant or licensee that is a grocery store may apply for an international exporter endorsement for five hundred dollars a year, which allows the sale of beer and wine for export to locations outside the United States.

(10) A combination spirits, beer, and wine licensee may apply for an endorsement to sell beer and cider growlers.

(a) Beer and cider must be sold in sanitary containers provided by the purchaser, licensee or the manufacturer and filled by the employee at the time of purchase.

(b) The taps must be located behind a counter where only employees have access or the taps must have locks preventing use unless unlocked and operated by an employee.

(c) Only employees of the licensee are permitted to operate the taps.

(d) All employees operating a tap must hold a class 12 alcohol server permit.

(e) The cost for the endorsement is one hundred twenty dollars.

WAC 314-02-103 What is a wine retailer reseller endorsement?

(1) A wine retailer reseller endorsement is issued to the holder of a grocery store liquor license ((~~or~~)), the holder of a beer and/or wine specialty shop license, or the holder of a combination spirits, beer, and wine license to allow the sale of wine at retail to on-premises liquor licensees.

(2) For holders of a grocery store license: No single sale to an on-premises liquor licensee may exceed twenty-four liters.

(3) For holders of a beer and/or wine specialty shop license:

(a) No single sale may exceed twenty-four liters, unless the sale is made by a licensee that was formerly a state liquor store or contract liquor store.

(b) May sell a maximum of five thousand liters of wine per day for resale to retailers licensed to sell wine for consumption on the premises.

(4) A grocery store licensee or a beer and/or wine specialty shop licensee with a wine retailer reseller endorsement may accept delivery at its licensed premises or at one or more warehouse facilities registered with the board.

(5) The holder of a wine retailer reseller endorsement may also deliver wine to its own licensed premises from the registered warehouse; may deliver wine to on-premises licensees, or to other warehouse facilities registered with the board. A grocery store licensee or a beer and/or wine specialty shop licensee wishing to obtain a wine retailer reseller endorsement that permits sales to another retailer must possess and submit a copy of their federal basic permit to purchase wine at wholesale for resale under the Federal Alcohol Administration Act. A federal basic permit is required for each location from which the grocery store licensee or beer and/or wine specialty shop licensee holding a wine retailer reseller endorsement plans to sell wine to another retailer.

(6) The annual fee for the wine retailer reseller endorsement for a grocery store licensee is one hundred sixty-six dollars.

(7) The annual fee for the wine retailer reseller endorsement for a beer and/or wine specialty shop licensee is one hundred ten dollars.

(8) Sales made under the reseller endorsement are not classified as retail sales for taxation purposes.

AMENDATORY SECTION (Amending WSR 17-08-099, filed 4/5/17, effective 5/6/17)

WAC 314-38-020 Permits—Fees established. The fees for permits authorized under RCW 66.20.010 are hereby established as follows:

(1) A fee of five dollars is established for a special permit as authorized by RCW 66.20.010(1).

(2) The fee for a special permit as authorized by RCW 66.20.010(2) for purchase of five gallons or less is established as five dollars and for purchase of over five gallons is established as ten dollars.

(3) A fee for a banquet permit, as authorized by RCW 66.20.010(3), is established in WAC 314-18-040.

(4) The fee for a special business permit, as authorized by RCW 66.20.010(4), is established in WAC 314-38-010(2).

(5) The fee of ten dollars is established for a special permit as authorized by RCW 66.20.010(5).

(6) A fee of five dollars is established for a special permit as authorized by RCW 66.20.010(6).

(7) A special permit as authorized by RCW 66.20.010(7) shall be issued without charge to those eligible entities.

(8) The fee of twenty-five dollars is established for a special permit as authorized by RCW 66.20.010(8).

(9) The fee of twenty-five dollars is established for a special permit as authorized by RCW 66.20.010(9).

(10) The fee of thirty dollars is established for a special permit as authorized by RCW 66.20.010(10).

(11) The fee of seventy-five dollars is established for a special permit as authorized by RCW 66.20.010(11).

(12) The fee of ten dollars is established for a special permit as authorized by RCW 66.20.010(13).

(13) The fee of ten dollars is established for a special permit as authorized by RCW 66.20.010(14).

(14) The fee of ten dollars is established for a special permit as authorized by RCW 66.20.010(15).

(15) The fee of twenty-five dollars is established for a special permit as authorized by RCW 66.20.010(16).

(16) The fee of twenty-five dollars is established for a special permit as authorized by RCW 66.20.010(17).

NEW SECTION

WAC 314-38-110 Nonprofit wine auction permit. (1) A nonprofit auction permit is for a nonprofit organization to sell wine through a private auction not open to the public.

(2) The nonprofit organization must complete a nonprofit wine auction permit application and submit the application and fee to the WSLCB.

(a) The date and location of the auction must be specified on the application.

(b) The one-time event fee is twenty-five dollars multiplied by the number of wineries that are selling wine at the auction event.

(c) A list of event attendees must be submitted with the wine auction permit application.

(3) The holder of the permit may conduct wine tastings of the wine to be auctioned at the event.

(4) All wine sold by auction cannot be consumed during the event.

(5) Wine from multiple wineries may be sold at the auction. Each winery must be listed on the application.

(6) The permit must be posted in a conspicuous location at the premises for which the permit was issued during all times the permit is in use.