



Supplemental CR102 Memorandum

Regarding Chapter 314-05 WAC – Special Occasion Licenses.

Date: May 27, 2020

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Description of the Issue

In January of 2019, the WSLCB began the initial stages of rule review regarding special occasion licenses. This regulatory review was designed to determine whether the rules described in current chapter 314-05 WAC should be retained in their current form, amended or repealed. The review also concentrated on rules or portions of rule that have been the subject or source of complaints, concerns or other difficulties that related to matters other than the specific mandates of the statute or statutes on which the rules are based.

The following criteria are used for the review of each rule WSLCB identifies for review:

- **Need.** Is the rule necessary to comply with the statutes that authorize it? Is the rule obsolete, ambiguous or duplicative that suggests a revision? Have laws or other circumstances changed so that the rule should be amended or repealed? Is the rule necessary to protect or safeguard the health and safety of Washington's citizens?
- **Effectiveness and Efficiency.** Is the rule providing the results that it was originally designed to achieve in a reasonable manner? Are there regulatory alternatives or new technologies that could more effectively or efficiently achieve the same objectives?
- **Clarity.** Is the rule written and organized in a clear and concise manner so that it can be readily understood by those to whom it applies?
- **Intent and Statutory Authority.** Is the rule consistent with the legislative intent of the statutes that authorize it? Is the rule based upon sufficient statutory authority? Is there a need to develop more specific legislative authorization in order to protect the health, safety, and welfare of Washington citizens?
- **Coordination.** Could additional consultation and coordination with other governmental jurisdictions and state agencies with similar regulatory authority eliminate or reduce duplication and inconsistency?
- **Cost.** Have the qualitative and quantitative benefits of the rule been considered in relation to its cost?
- **Fairness.** Does the rule result in equitable treatment of those required to comply with it? Should it be modified to eliminate or minimize any

The original CR102 regarding special occasion licenses was filed on November 13, 2019 as WSR 19-23-046, and set a hearing for January 8, 2020. A number of comments were offered before and during that hearing that resulted in WSLCB reconsidering the original rule proposal. Some suggested substantive changes were made to the original proposal. RCW 34.05.340 provides that an agency may not adopt a rule that is substantially different from the rule proposed in the published notice of proposed rule adoption or a supplemental notice in the proceeding. If an agency contemplates making a substantial variance from a proposed rule described in a published notice, it may file a supplemental notice with the code reviser meeting the requirements of RCW 34.05.320 and reopen the proceedings for public comment on the proposed variance.

The proposed rule revisions amend, reorganize, clarify, and modernize existing requirements related to special occasion licenses. Specifically, the proposal clarifies that a special occasion license is a retail license; updates application requirements and adds information from the current on-line application; provides clarifying updates for special occasion events; and adds statutory references that clarify requirements for alcohol and monetary donations, advertising, ticket and alcohol sales, and payment information. These proposed revisions more clearly describe existing processes, and are anticipated to result in increased access to and use of on-line licensing resources by applicants and licensees, as well as consistent rule application, interpretation, and guidance designed to support applicant and licensee success.

The agency has determined that there are no costs associated with this rule. The rule does not impose any additional regulatory burden on applicants or licensees, nor does it change, modify, add cost or otherwise alter the special occasion license application process, but actually increases applicant and licensee ease of use by assuring that the application process flows more efficiently. Any perceived or real administrative burden, including gathering publicly available data and other material may require applicants to extend efforts beyond but this does not add any new requirements to the special occasion license application process. Both applicants and licensees have been or are aware of required documentation to be submitted since this requirement was established in rule prior to this proposal, and applicants and licensees should appropriately prepared to provide required documentation. The nominal additional costs that may be voluntarily incurred by applicants and licensees is far outweighed by the public benefit of increased public safety, even though the effect of that benefit may not be apparent through numeric measures.

Rule Necessity

The proposed rules are needed to support WSLCB applicants and licensees by confirming existing standards through language clarification and modernization describing those standards. The proposed rules are designed to assure applicants and licensees have clear and relevant guidelines in place regarding special occasion licenses and events, and assure access to licensing resources

and guidance. The proposed rules are anticipated increase agency efficiency and effective delivery of services to applicants and licensees.

Description of Rule Changes

Amended Section. WAC 314-05-020 – Revised title from “What is a special occasion license?” to “Special occasion license.” Reaffirms, streamlines and updates existing rule language and guidance related to the issuance of special occasion licenses. Revisions include assuring language consistency throughout the section, and retains the current licensing fee of \$60 per day, per event. Strikes existing language relocated to WAC 314-05-030.

Supplemental updates include non-substantive word addition that had been removed from the original proposal.

Amended Section. WAC 314-05-025 – Reaffirms, streamlines, and updates existing rule language and guidance regarding the application process for a special occasion license, mirroring the structure of the current special occasion application. Provides specific reference to chapter 314-07 WAC, regarding how to apply for and maintain a liquor license.

Supplemental updates include non-substantive word addition that had been removed from the original proposal.

Amended Section. WAC 314-05-030 – Revised title from “Guidelines for special occasion license events” to Requirements for special occasion license events.” Reaffirms, clarifies, and updates existing language by adding specific, relevant elements of:

- RCW 66.28.070, regarding restrictions on purchases of spirits, beer, or wine by retail spirits, beer, or wine licensees or special occasion licensees;
- RCW 66.28.310, regarding three-tier promotional items; and
- RCW 66.28.040, regarding exceptions to prohibition of giving away liquor, specifically alcohol that may be donated to special occasion licensees registered at 501(c)(3) and 501(c)(6) businesses;
- RCW 66.24.375, regarding portion of the profits from events sponsored by a not-for-profit group that may be paid directly or indirectly to members, officers, directors, or trustees except for services performed for the organization;
- RCW 66.24.380, regarding sale, service, and consumption of spirits, beer, and wine is to be confined to specified premises or designated areas.

Supplemental updates include non-substantive word addition that had been removed from the original proposal.

Amended Section. WAC 314-05-035- Revised title from, “Branded promotional items” to “Advertising and branded promotional items for special occasion events.” Reaffirms, clarifies, and updates existing language with specific reference to statutory construction of RCW 66.28.285 through 66.28.310 regarding the three-tier system, direct and indirect interests between industry members and retailers, undue influence, exclusive agreements, and money advances. Although these statutes apply to all WSLCB liquor licensees, these statutory references had not previously been provided in rule.

Supplemental, substantive updates to this section include specific statutory elements described in subsection (2); branding and advertising arrangements in subsections (4)(c) and (d); and alcohol-related promotional materials described in subsection (5). Language was removed from subsections (6) and (8). The word “retailer” was removed from section 10(a) and replaced with “special occasion licensee.”