



## **Notice of Permanent Rules**

### **Regarding 2019 Legislation Implementation and Rules Review for Chapter 314-38 WAC (Student Tastings/ Permits).**

**This concise explanatory statement concerns the Washington State Liquor and Cannabis Board's (WSLCB) adoption of amendments to existing rules regarding chapter 314-38 WAC – Permits.**

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. The concise explanatory statement must be provided to any person upon request, or from whom the WSLCB received comment.

The WSLCB appreciates and encourages your involvement in the rule making process. If you have questions, please contact Audrey Vasek, Policy and Rules Coordinator, at (360) 664-1758 or e-mail at [rules@lcb.wa.gov](mailto:rules@lcb.wa.gov).

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### **Background and reasons for adopting these rules**

The Washington State Liquor and Cannabis Board (WSLCB) began to consider revisions to implement Engrossed House Bill (EHB) 1563 (Chapter 112, Laws of 2019; effective July 28, 2019) and to update, modernize, and clarify existing language in the permits chapter 314-38 WAC by initiating a formal rule inquiry under WSR # 19-12-037 on May 29, 2019.

Under chapter 314-38 WAC, the WSLCB may issue permits to certain entities to purchase, use, donate, or undertake other activities involving liquor, consistent with RCW 66.20.010 and 66.20.400. EHB 1563 amended the special permit for student tastings under RCW 66.20.010(12) to allow an enrolled student who is at least eighteen years of age to taste alcoholic beverages while on the premises of the college or university at which the student is enrolled, or while on a field trip to a grape-growing area or production facility, as long as the enrolled student is accompanied and supervised by a faculty or staff member with a mandatory alcohol server permit.

The adopted rules amend, reorganize, clarify, and modernize the existing requirements related to permits. Specifically, the adopted rules consolidate and reorganize WAC sections related to the same permit types (e.g., by repealing WAC 314-38-010 and adding the repealed language to WAC 314-38-050); modernize and clarify language

(e.g. by removing references to “class” titles and updating section captions); and add references to authorizing statutes as appropriate. The adopted rules also revise WAC 314-38-060 to align the rule with and implement the law as established by EHB 1563. These adopted rules more clearly describe existing processes, and are anticipated to result in consistent rule application, interpretation, and guidance to support permit applicants.

These rules are needed to support WSLCB permit applicants by confirming existing standards through language clarification and modernization. These rules are also needed to implement the law as established by EHB 1563 concerning special permits for student tastings of alcohol.

**Rulemaking history for this adopted rule:**

**CR 101** – filed May 29, 2019 as WSR #19-12-037;  
**CR 102** – filed September 30, 2020 as WSR #20-20-039;  
Public hearing held November 18, 2020.

One person testified at the November 18 public hearing. One written comment was received.

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**Public comment received on the rule proposal**

The following comments were received as indicated below, and are presented in their native form, including text and spelling. A response to each comment is provided, along with an indication regarding whether the comment was reflected in the adopted rule.

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**1. Email received September 30, 2020:**

From Josh McDonald:

To: Chair Rushford, Board Members Hauge and Garrett  
Re: CR 102 on 2019 Legislative Implementation and Rules Review for Chapter 314-38 WAC (Student Tastings/Permits)

Dear Chair Rushford, Board Members Hauge and Garrett

Please accept these comments as the Washington Wine Institute’s formal comments on today’s request to approve the CR 102 on 2019 Legislative Implementation and Rules Review for Chapter 314-38 WAC (Student Tastings/Permits). My apologies for the delay in providing these written comments.

The Washington Wine Institute is supportive of the WSLCB moving forward with the CR 102. We want to compliment your team working on these rules, specifically Rules and Policy Coordinator Audrey Vasek, for engaging us in the process early on and creating an open dialogue to provide any comments and suggested changes we felt were needed to strengthen the proposed CR 102. As authors of the numerous pieces of legislation making these changes to student tastings as well as the creation of various other wine industry permits impacted under this rule revision work, our participation in this process is appropriate and we believe provides the understanding of intent and purpose so crucial to creating a set of rules that properly guide what is allowed under each permit utilized by your Washington wine industry.

Thank you for your continued willingness to engage with your licensees on this important work and value the importance of treating us as partners in this important work. We look forward to continuing to work on this CR 102 and all future WSLCB Rules Review efforts moving forward.

Kind Regards

Josh McDonald  
Executive Director  
WA Wine Institute

**WSLCB response:** The WSLCB appreciates these comments and the demonstration of interest in collaborative participation in the rulemaking process.

**Was the comment reflected in the adopted rule?** This comment is not reflected in the final rule.

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2. **Oral testimony provided November 18, 2020:**

From Jim MacRae:

My name is Jim MacRae I am testifying basically as just a member of the public today. The testimony I am giving—I noticed it in the section where you are amending WAC 314-38-100. One of the editorial type changes you are making, semantic, is to change the “WSLCB” to “board.” Now I’ve given similar testimony in another context, but I wanted to reiterate it today. I believe “board” should be capitalized in this case. Just for proper grammar, it’s a note of respect. The “board” in this case unambiguously refers to the Washington State Liquor and Cannabis Board, and as such it’s considered proper and should be capitalized. If it was just a general board, that would be great, but it’s not. All references to it in this section are to the WSLCB as an entity, as such I believe the title should take it. Now, I’ll repeat the tongue in cheek suggestion I made at a Listen and Learn last year: If we can take liberties with grammar and do “board” lower case, I would submit as alternate language to capitalize “Board” and put the letters “DA” before it for “DABoard.”

**WSLCB response:** The WSLCB appreciates these comments and the demonstration of interest in collaborative participation in the rulemaking process. The change suggested to capitalize “board” is contrary to the instructions on style for the Washington Administrative Code (WAC) 2017 published by the Office of the Code Reviser and used by the Order Typing Service (OTS), which prepares proposed and adopted rules for state agencies. The instructions on style for the WAC provide a list of terms that should not be capitalized: “Do not capitalize . . . names of boards, bureaus, departments, or officers . . . state agencies.”<sup>1</sup> This is consistent with the instructions on style for the Revised Code of Washington provided in the Bill Drafting Guide published by the Office of the Code Reviser.<sup>2</sup>

**Was the comment reflected in the adopted rule?** This comment is not reflected in the final rule.

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<sup>1</sup> Statute Law Committee, Office of the Code Reviser, Order Typing Service, *Instructions on Style for the Washington Administrative Code 2017*, at 9, <https://leg.wa.gov/CodeReviser/Documents/InstructionsOnStyle.pdf>.

<sup>2</sup> Statute Law Committee, Office of the Code Reviser, *Bill Drafting Guide 2019*, at Part IV Instructions on Style, (3) Capitalization, [https://leg.wa.gov/CodeReviser/Pages/bill\\_drafting\\_guide.aspx#CAPITALIZATION](https://leg.wa.gov/CodeReviser/Pages/bill_drafting_guide.aspx#CAPITALIZATION). (“Do not capitalize . . . names of boards, bureaus, departments, or officers thereof”).