



CR 103 Memorandum

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

Date: December 9, 2020
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Background

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.

The WSLCB held a virtual Listen and Learn session on September 3, 2020, to gather public feedback on conceptual draft rule language. The CR 102 rule proposal filed as WSR # 20-20-039 on September 30, 2020, incorporated some of the public feedback received during the Listen and Learn session.

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and reorganize WAC sections related to the same permit types (e.g., by repealing WAC 314-38-010 and adding the repealed language to WAC 314-38-050); modernize and clarify language (e.g. by removing references to “class” titles and updating section captions); and add references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.

Rule Necessity

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

Description of Rule Changes

Amended Section. WAC 314-38-020. This amended section reaffirms, streamlines, and updates existing rule language related to the fees for permits authorized under RCW 66.20.010 and 66.20.400. Revisions include adding subsections (12) and (18). Section (12) clarifies that there is no fee for the special permit for student tastings and incorporates RCW 66.20.010(12) by reference. Subsection (18) clarifies that the fee for the day spa permit is established in a different rule section and incorporates the appropriate state statute and rule by reference. Revisions also include non-substantive technical and clarifying changes, such as rearranging the sentence structure from “The fee of X dollars is established for Y permit” to “The fee for Y permit is X dollars,” and modernizing the style.

Amended Section. WAC 314-38-030. This amended section reaffirms, streamlines, and updates existing rule language related to the fee for replacement of a lost or destroyed license or permit. Revisions include replacing the term “agent’s license” with “representative’s license” in subsection (1) to align with the language in the referenced statute. Revisions also include non-substantive technical and clarifying changes, such as rearranging the sentence structure from “The fee of X dollars is established for Y ” to “The fee for Y is X dollars,” and modernizing the style.

Amended Section. WAC 314-38-040. This amended section reaffirms, streamlines, and updates existing rule language related to the alcohol raffle permit. Revisions include non-substantive technical and clarifying changes, such as revising the section caption from “Beverage alcohol raffle permit—Fee to “Alcohol raffle permit—Fee,” streamlining the phrase “beverage alcohol” to “alcohol” throughout, correcting the term “organization officer” to “organization’s officer,” and modernizing the style.

Amended Section. WAC 314-38-050. This amended section reaffirms, streamlines, and updates existing rule language related to the special permit to serve employees and guests. Revisions include non-substantive technical and clarifying changes, such as revising the section caption from “Serve employees and guests permit—Purpose—Use” to “Special permit to serve employees and guests—Purpose—Use—Fee” and modernizing the style. Language from WAC 314-38-010 (related to this same permit type and repealed by this rule proposal), including the fee, is rearranged and consolidated with the language in this

section. Subsection (15) regarding suspension or cancelation of the permit is streamlined and revised to incorporate a reference to RCW 66.20.070.

Amended Section. WAC 314-38-060. This amended section related to the special permit for student tastings of alcohol aligns the existing rule language with the law as established and dictated by Engrossed House Bill 1563, and reaffirms, streamlines, and updates the rule language. Revisions include non-substantive technical and clarifying changes, such as revising the section caption from “Special permit for technical or community colleges, regional university, or state university as authorized by RCW 66.20.010(12) shall be called a class 15 permit” to “Special permit for community or technical colleges, regional universities, or state universities.” The language in this section is rearranged, the style is modernized, and references to “class” titles of special permits are removed to better align the language with statute.

Amended Section. WAC 314-38-070. This amended section reaffirms, streamlines, and updates existing rule language related to the day spa permit. Revisions include non-substantive technical and clarifying changes, such as revising the section caption from “Class 16 day spa permit” to “Day spa permit— Fee.” The language in this section is rearranged and references to “class” titles of special permits are removed to better align the language with statute. Subsection (5) regarding suspension or cancelation of the permit is streamlined and revised to incorporate a reference to RCW 66.20.070.

Amended Section. WAC 314-38-080. This amended section reaffirms, streamlines, and updates existing rule language related to the special winery permit. Revisions include non-substantive technical and clarifying changes, such as revising the section caption from “Class 18 special winery permit” to “Special winery permit.” Subsection (1) is streamlined and revised to incorporate a reference to the authorizing statute, RCW 66.20.010(14). Subsection (2) is revised to include “on-premises” and off-premises consumption, which is consistent with the statute. The language in this section is rearranged, the style is modernized, and references to “class” titles of special permits are removed to better align the language with statute.

Amended Section. WAC 314-38-090. This amended section reaffirms, streamlines, and updates existing rule language related to the special distillery permit. Revisions include non-substantive technical and clarifying changes, such as revising the section caption from “Class 19 special distillery permit” to “Special distillery permit.” Subsection (1) is streamlined and revised to incorporate a reference to the authorizing statute, RCW 66.20.010(13). Subsection (2) is revised to include “on-premises” and off-premises consumption, which is consistent with the statute. The language in this section is rearranged, the style is modernized, and references to “class” titles of special permits are removed to better align the language with statute.

Amended Section. WAC 314-38-095. This amended section reaffirms, streamlines, and updates existing rule language related to the special brewery permit. Revisions include non-substantive technical and clarifying changes, such as revising the section caption from “Class 20 special brewery permit” to “Special brewery permit.” Subsection (1) is streamlined and revised to incorporate a reference to the authorizing statute, RCW 66.20.010(15), and the phrase “Washington breweries” is replaced with the term “Domestic breweries,” which is defined in RCW 66.04.010. Subsection (2) is revised to include “on-premises” and off-premises consumption, which is consistent with the statute. The language in this section is rearranged, the style is modernized, and references to “class” titles of special permits are removed to better align the language with statute.

Amended Section. WAC 314-38-100. This amended section reaffirms, streamlines, and updates existing rule language related to the accommodation sale permit. Revisions include non-substantive technical and clarifying changes, such as revising “WSLCB” to “board,” as well as other stylistic and grammatical revisions. Subsection (1) is revised to incorporate a reference to the authorizing statute, RCW 66.20.010(16).

Amended Section. WAC 314-38-110. This amended section reaffirms, streamlines, and updates existing rule language related to the nonprofit wine auction permit. Revisions include non-substantive technical and clarifying changes, such as revising the section caption and language in subsection (1) from “Nonprofit wine auction permit” to “Nonprofit private wine auction permit.” Subsection (1) is also revised to incorporate a reference to the authorizing statute, RCW 66.20.010(17).

Repealed Section. WAC 314-38-010. This section related to the “serve employees and guests permit” is repealed in order to streamline the permits chapter 314-38 WAC by consolidating this section with WAC 314-28-050, the other section in this chapter related to the serve employees and guests permit. Repealed language from this section is updated, rearranged, and consolidated with the language in amended section WAC 314-38-050.

Variance between proposed rule (CR102) and final rule:

There is no variance between the proposed rule and the final rule.

Rule Implementation

Informing and Educating Persons Impacted by the Rule

To help inform and educate persons impacted by the rule, the WSLCB will:

- Email notice with the adoption materials to persons who commented on the rules, the rule making and licensee distribution lists, and the general WSLCB GovDelivery list;
- Post rule adoption materials, including final rule language, response to comments, final analysis (Concise Explanatory Statement), and any other relevant documents on the rulemaking webpage for public access.
- Provide information and training on request.

Promoting and Assisting Voluntary Compliance

WSLCB will promote and assist voluntary compliance through technical assistance.

- WSLCB staff are available to respond to phone and email inquiries about the rules.
- Licensing and Enforcement/Education leadership and staff have participated in rule revisions, and are familiar with the final product. Internal and external education efforts to share knowledge and assure consistent application of rule have will be supported.
- Rule and guidance documents will be available on the WSLCB website.
- WSLCB will use available and customary resources to disseminate materials and information to all persons impacted by the rules.

These actions are designed to inform and educate all persons impacted by the rules to support and promote voluntary compliance.

Training and Informing WSLCB Staff

Several WSLCB staff responsible for implementing these adopted rules work directly with impacted parties and are already familiar with the nuances of the rule changes. Additional internal guidance documents may be prepared as necessary. The WSLCB will also consider:

- Provision of internal and external training and education, as needed, potentially including webinars, training, and videos if appropriate;
- Coordinating and centrally locating decisions to assure consistency between agency, staff, and industry.

Rule Effectiveness Evaluation

The WSLCB will evaluate the effectiveness of these rules in the following ways, including but not limited to:

- Monitoring questions received after the effective date of these rules, and adjusting training and guidance accordingly;
- Monitoring the number of enforcement actions, including type, resolution, and final outcome;

- Monitoring the number of requests for rule language revisions or changes;
- Monitoring the number of requests for rule interpretation;
- Monitoring licensee feedback including, but not limited to, the number of requests for assistance.

Attachments: Final Rules
Concise Explanatory Statement