



PROPOSED RULE MAKING

CR-102 (December 2017) (Implements RCW 34.05.320)

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STATE OF WASHINGTON
FILED

DATE: November 13, 2019

TIME: 11:49 AM

WSR 19-23-046

Agency: Washington State Liquor & Cannabis Board

Original Notice

Supplemental Notice to WSR

Continuance of WSR

Preproposal Statement of Inquiry was filed as WSR 19-03-060 ; or

Expedited Rule Making--Proposed notice was filed as WSR _____; or

Proposal is exempt under RCW 34.05.310(4) or 34.05.330(1); or

Proposal is exempt under RCW _____.

Title of rule and other identifying information: (describe subject)

WAC 314-05-020 Special occasion license

WAC 314-05-025 Application process for a special occasion license

WAC 314-05-030 Guidelines for special occasion license events

WAC 314-05-035 Advertising and branded promotional items for special occasion events

The above sections were revised to clarify requirements for special occasion license applications, events, and advertising. Other changes include the removal of unnecessary and outdated language and additional technical and clarifying updates.

Hearing location(s):

Date:	Time:	Location: (be specific)	Comment:
January 8, 2020	10:00 am	1025 Union Ave, Olympia, WA 98504	

Date of intended adoption: On or after January 22, 2019 (Note: This is **NOT** the **effective** date)

Submit written comments to:

Name: Janette Benham

Address: PO Box 43080, Olympia, WA 98504

Email: rules@lcb.wa.gov

Fax: 360-664-9689

Other:

By (date) January 8, 2020

Assistance for persons with disabilities:

Contact Claris Nnanabu, ADA Coordinator, Human Resources

Phone: 360-664-1642

Fax: 360-664-9689

TTY: 7-1-1 or 1-800-833-6388

Email: Claris.Nnanabu@lcb.wa.gov

Other:

By (date) December 30, 2019

Purpose of the proposal and its anticipated effects, including any changes in existing rules: The proposed rules revisions clarify requirements for special occasion licenses, including the application process, guidelines for special occasion events, and advertising requirements for special occasion events. Rules revisions will help ensure applicants and licensees operate under applicable statutory provisions and have clear guidelines in place..

Reasons supporting proposal: As part of the WSLCB ongoing rules review process, revisions and updates were necessary to ensure applicants and licensees have clear and relevant guidelines in place regarding special occasion licenses and events. The rules revisions will also ensure applicants and licensees have clear rules in place and will help reduce the number of calls to WSLCB staff. Revisions also include additional technical and clarifying updates

Statutory authority for adoption: RCW 66.08.030

Statute being implemented: RCW 66.24.010, RCW 66.24.375, RCW 66.24.380, RCW 66.28.040, RCW 66.28.070, RCW 66.28.285, RCW 66.28.290, RCW 66.28.295, RCW 66.28.300, RCW 66.28.305, RCW 66.28.310, RCW 66.28.315, RCW 66.28.320.

Is rule necessary because of a:

Federal Law?	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No
Federal Court Decision?	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No
State Court Decision?	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No

If yes, CITATION:)

Agency comments or recommendations, if any, as to statutory language, implementation, enforcement, and fiscal matters: None

Name of proponent: (person or organization) Washington State Liquor and Cannabis Board

<input type="checkbox"/> Private
<input type="checkbox"/> Public
<input checked="" type="checkbox"/> Governmental

Name of agency personnel responsible for:

	Name	Office Location	Phone
Drafting: Coordinator	Janette Benham, Rules	3000 Pacific Ave SE, Olympia, WA After 7/1/19: 1025 Union Ave, Olympia, WA	360-664-1760
Implementation: Director	Becky Smith, Licensing	3000 Pacific Ave SE, Olympia, WA After 7/1/19: 1025 Union Ave, Olympia, WA	360-664-1615
Enforcement: Chief	Justin Nordhorn, Enforcement	3000 Pacific Ave SE, Olympia, WA After 7/1/19: 1025 Union Ave, Olympia, WA	360-664-1726

Is a school district fiscal impact statement required under RCW 28A.305.135? Yes No

If yes, insert statement here:

The public may obtain a copy of the school district fiscal impact statement by contacting:

Name:
Address:
Phone:
Fax:
TTY:
Email:
Other:

Is a cost-benefit analysis required under RCW 34.05.328?

Yes: A preliminary cost-benefit analysis may be obtained by contacting:

Name:
Address:
Phone:
Fax:
TTY:
Email:
Other:

No: Please explain: A cost benefit analysis is not required because the subject of proposed rulemaking does not qualify as a significant legislative rule or other rule requiring a cost benefit analysis under RCW 34.05.328(5).

Requirements outlined in the rules are explicitly and specifically dictated by statute. In addition, the rules relate to process requirements for applying for a license..

Regulatory Fairness Act Cost Considerations for a Small Business Economic Impact Statement:

This rule proposal, or portions of the proposal, **may be exempt** from requirements of the Regulatory Fairness Act (see chapter 19.85 RCW). Please check the box for any applicable exemption(s):

This rule proposal, or portions of the proposal, is exempt under RCW 19.85.061 because this rule making is being adopted solely to conform and/or comply with federal statute or regulations. Please cite the specific federal statute or regulation this rule is being adopted to conform or comply with, and describe the consequences to the state if the rule is not adopted.

Citation and description:

This rule proposal, or portions of the proposal, is exempt because the agency has completed the pilot rule process defined by RCW 34.05.313 before filing the notice of this proposed rule.

This rule proposal, or portions of the proposal, is exempt under the provisions of RCW 15.65.570(2) because it was adopted by a referendum.

This rule proposal, or portions of the proposal, is exempt under RCW 19.85.025(3). Check all that apply:

RCW 34.05.310 (4)(b)
(Internal government operations)

RCW 34.05.310 (4)(e)
(Dictated by statute)

RCW 34.05.310 (4)(c)
(Incorporation by reference)

RCW 34.05.310 (4)(f)
(Set or adjust fees)

RCW 34.05.310 (4)(d)
(Correct or clarify language)

RCW 34.05.310 (4)(g)
((i) Relating to agency hearings; or (ii) process requirements for applying to an agency for a license or permit)

This rule proposal, or portions of the proposal, is exempt under RCW _____.

Explanation of exemptions, if necessary:

COMPLETE THIS SECTION ONLY IF NO EXEMPTION APPLIES

If the proposed rule is **not exempt**, does it impose more-than-minor costs (as defined by RCW 19.85.020(2)) on businesses?

No Briefly summarize the agency's analysis showing how costs were calculated.

Yes Calculations show the rule proposal likely imposes more-than-minor cost to businesses, and a small business economic impact statement is required. Insert statement here:

The public may obtain a copy of the small business economic impact statement or the detailed cost calculations by contacting:

- Name:
- Address:
- Phone:
- Fax:
- TTY:
- Email:
- Other:

Date: November 13, 2019

Name: Jane Rushford

Title: Chair

Signature:



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

WAC 314-05-020 ~~((What is a))~~ **Special occasion license** ~~((?))~~. (1) Per RCW 66.24.380, a special occasion license allows a nonprofit organization to sell, at a specified date, time, and place:

(a) Spirits, beer, and wine by the individual serving and wine by the bottle for on-premises consumption; and

(b) Spirits, beer, and wine in original, unopened containers for off-premises consumption ~~((; and~~

~~(c) Wine in original, unopened containers for on-premises consumption if permission is obtained from the WSLCB prior to the event))~~.

(2) Special occasion licensees ~~((are limited to))~~ may have no more than twelve days of events per calendar year (see RCW 66.24.380(1) for an exception for agricultural fairs).

(3) The fee for ~~((this))~~ the special occasion license is ~~((60))~~ sixty dollars per day, per event. ~~((Multiple))~~ Each additional alcohol service ~~((locations))~~ area at an event ~~((are))~~ is an additional sixty dollars per ~~((location))~~ day.

(4) ~~((Per RCW 66.24.375, all proceeds from the sale of alcohol at a special occasion event must go directly back into the nonprofit organization, except for reasonable operating costs for actual services performed at compensation levels comparable to like services within the state.~~

~~(5) A charitable nonprofit organization or a local winery industry association is not disqualified from obtaining a special occasion license even if its board members are also officers, directors, owners, or employees of either a licensed domestic winery or a winery certificate of approval holder. The charitable nonprofit organization must be registered under section 501 (c)(3) of the Internal Revenue Code, and the local wine industry association must be registered under section 501 (c)(6) of the Internal Revenue Code.~~

~~(6) If a winery is taking orders and accepting payment for product of its own production from consumers at a special occasion event to be delivered at a later date from one of its authorized locations, the special occasion shall include the name of the winery on the special occasion license application.)~~ A special occasion license is a retail liquor license. Nonprofit organizations must comply with applicable retail liquor license requirements when operating under the special occasion license.

AMENDATORY SECTION (Amending WSR 16-01-102, filed 12/16/15, effective 1/16/16)

WAC 314-05-025 **Application process for a special occasion license**. (1) Special occasion applications ~~((normally take))~~ must:

(a) Be submitted at least forty-five days ~~((to process. The liquor and cannabis board may not be able to process your application in time for your event if you do not apply at least forty-five days before the event.~~

~~(2))~~ prior to an event where no minors will attend; or

(b) Be submitted with an application addendum at least sixty days prior to an event where the applicant requests minors in attendance.

(2) Special occasion applications must include:

(a) Documentation verifying that the organization is a registered nonprofit;

(b) The name of any winery that will be taking orders at the event and accepting payment for wine of its own production to be delivered at a later date; and

(c) Any additional information requested by the board.

(3) Applications submitted less than the required forty-five or sixty days prior to the event may not be approved.

(4) Per RCW 66.24.010(8), ((when the liquor and cannabis board receives a special occasion application, it)) the board must send a notice to the local authority for each application received. The local authority has twenty days to respond ((with any input, and they may)) or request an extension for good cause.

~~((3) The liquor and cannabis)~~ (5) The board may ((run)) conduct a criminal history check on the organization's officers and/or managers.

~~((4) The liquor and cannabis board requires documentation to verify the organization is a bona fide nonprofit, who the true party(ies) of interest are in the organization, and that the organization meets the guidelines outlined in WAC 314-05-020 and 314-05-025.~~

~~(5) See chapter 314-07 WAC regarding possible reasons for denial of a special occasion license.)~~ (6) Special occasion licenses may be denied for reasons including, but not limited to, those outlined in chapter 314-07 WAC. Denials are subject to the provisions of the Administrative Procedure Act, chapter 34.05 RCW.

AMENDATORY SECTION (Amending WSR 12-17-006, filed 8/1/12, effective 9/1/12)

WAC 314-05-030 Guidelines for special occasion license events.

(1) The special occasion license must be posted at each alcohol service area at the event.

~~(2) ((Special occasion licensees may get alcohol for the event only from the following sources:~~

~~(a)) Per RCW 66.28.070, all spirits, beer, and wine ((must be purchased at retail from)) purchased for the event by the special occasion licensee may only be purchased in the manufacturer's approved container or package from the following:~~

~~(a) A licensed off-premises retailer; ((from a spirits, beer, or wine))~~

~~(b) A distributor; ((from a distiller, a craft distiller,))~~

~~(c) A distillery or craft distillery;~~

~~(d) A domestic brewery((~~7~~)) or microbrewery((~~7-08~~));~~

~~(e) A winery ((acting as a distributor of its own product)); or ((from))~~

~~(f) A certificate of approval holder with a direct shipping to Washington retailer endorsement.~~

(3) Per RCW 66.28.310, special occasion licensees are allowed to pay for beer ((~~or~~)), wine, and spirits used for the special occasion event immediately following the end of the ((special occasion)) event(~~;~~ and

~~(b-))~~.

(4) Per RCW 66.28.040, alcohol may be donated to special occasion licensees registered as 501(c)(3) and 501(c)(6) for the event as follows:

(a) In state breweries ((and wineries, out-of-state breweries and wineries holding a certificate of approval license, domestic distillers or an accredited representative of a distiller, manufacturer, importer, or distributor of spirituous liquor may donate beer, wine, and spirits to special occasion licensees that are nonprofit 501 (c)(3) charitable organizations or nonprofit 501 (c)(6) organizations.

(3) Special occasion licensees may not advertise or sell alcohol below cost. If donated product is sold by the special occasion licensee, it may not be advertised or sold below the manufacturers' cost.

(4) Per RCW 66.28.310, alcohol manufacturers, importers and distributors may provide advertising, pouring, or dispensing of beer or wine at a beer or wine tasting exhibition or judging event, but may not provide money, goods, or services to special occasion licensees.

(a) Wineries and distilleries may pour at any special occasion event) and beer certificate of approval holders may donate beer;

(b) In state wineries and wine certificate of approval holders may donate wine;

(c) An accredited representative of a distiller, manufacturer, importer, or distributor of spirituous liquor may donate spirits.

(5) Alcohol may not be provided, or advertised as being provided, free of charge at the special occasion event.

(6) Alcohol may not be sold, or advertised as being sold, below the manufacturer's cost at the special occasion event.

(7) If alcohol is auctioned at the event, the final sale price may not be below the manufacturer's cost.

(8) Tickets may be sold for the special occasion event.

(a) If the ticket fee includes alcohol for event attendees, the ticket must be sold directly by the nonprofit organization and may not be sold by a third party; and

(b) In order to ensure alcohol is not being given away or sold below the manufacturer's cost, if the ticket fee includes alcohol the total ticket fee must be above the manufacturer's cost of the included alcohol.

(9) Per RCW 66.24.375, no portion of the profits from special occasion events may be paid directly or indirectly to members, officers, directors, or trustees of the nonprofit organization except for services performed for the organization. Any compensation paid to officers and executives must be only for actual services and at levels comparable to the compensation for like positions within the state.

((b-)) (10) Wineries ((or)), breweries ((that are)), and distilleries participating in a special occasion event may pay ((reasonable)) booth fees to the special occasion licensee. Booth fees must be comparable to normally accepted industry standards and uniform for all participating wineries ((and)), breweries, and distilleries.

((5-)) (11) Breweries may provide installation of draft beer dispensing equipment for a special occasion event.

(12) Pouring or dispensing may be provided at any type of special occasion event by wineries, distilleries, or spirits distributors.

(13) Pouring or dispensing may be provided by breweries at a beer tasting exhibition or judging event. A beer tasting exhibition or judging event must be sponsored by the special occasion licensee and have at least three breweries represented that are pouring samples.

(14) Per RCW 66.24.380, the sale, service, and consumption of alcohol must be confined to a designated area.

~~((6))~~ (15) If a special occasion ~~((license function))~~ event is held at an establishment that has a liquor license:

(a) The special occasion ~~((function))~~ event must be ~~((held in an))~~ in a designated area of the licensed premises separate from areas open to the general public ~~((during the time the special occasion function is occurring, and));~~

(b) The licensed premises' liquor cannot be sold or served in ~~((the same area(s) as))~~ the designated special occasion ~~((license function.~~

~~(b-))~~ event area;

(c) The liquor licensee cannot charge for the liquor purchased and brought by the special occasion licensee for service at the ~~((special occasion event, but can charge for room usage, services, etc.))~~ event but may charge for room usage, staff services, and additional service items used for the event;

(d) The liquor licensee must sign the special occasion application acknowledging that they will not sell or serve their liquor at the event and giving permission for the special occasion licensee to bring and sell their ~~((alcohol))~~ liquor at the liquor licensed premises ~~((.~~

~~(e-))~~; and

(e) The special occasion ~~((license will not be issued for use))~~ event cannot be held at a premises ~~((whose))~~ where the liquor license will be suspended by the board on the date(s) of the scheduled event.

AMENDATORY SECTION (Amending WSR 16-01-102, filed 12/16/15, effective 1/16/16)

WAC 314-05-035 Advertising and branded promotional items for special occasion events. (1) ~~((Nothing in RCW 66.28.305 prohibits a licensed domestic brewery or microbrewery from providing branded promotional items which are of nominal value, singly or in the aggregate, to a nonprofit charitable corporation or association, exempt from taxation under 26 U.S.C. Sec. 501 (c)(3) of the Internal Revenue Code as it existed on the effective date of this section for use consistent with the purpose entitling it to such exemptions. Branded promotional items may not be targeted to or be especially appealing to youth.~~

~~((2) If the nonprofit charitable corporation or association applies for and receives a special occasion license, they are considered a liquor retailer and are required to comply with RCW 66.28.305.))~~ Manufacturers, distributors, or their licensed representatives may use web sites and social media to post, repost, or share promotional information or images about events per the requirements outlined in RCW 66.28.310.

(2) Special occasion licensees and industry members must comply with 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.

(3) Industry members may not provide money for advertising or promoting (sponsoring) an event directly to:

(a) The special occasion licensee;

(b) Employees of the special occasion licensee; or

(c) Promoters, event coordinators, or third parties hired by the special occasion licensee.

(4) If a third-party organization is holding an event in which a special occasion licensee participates, industry members may provide money for advertising or promoting (sponsoring) the event directly to the third-party organization only when:

(a) The third-party organization does not hold a special occasion license for the event; and

(b) The third-party organization has not been hired by the participating special occasion licensee.

(5) Industry members may also provide the following:

(a) Signage with the industry member's name or brand name of the product;

(b) Programs or flyers to be disseminated at the event;

(c) Media coverage of the event; and

(d) Branded promotional items as referenced in subsection (6) of this section.

(6) Signage that may be visible to the general public from the public right of way must not:

(a) Exceed a total of four signs affixed to or hanging in a window, or on the outside of the licensed event area, referring to alcoholic beverages, brand names, or manufacturers; and

(b) Exceed sixteen hundred square inches.

(7) Inflatables are not allowed inside the event area unless the area is completely enclosed with no view to the inside from the public right of way.

(8) Industry members may not give alcohol-related promotional items to event attendees in the special occasion licensed area.

(9) Special occasion licensees must comply with RCW 66.28.310 regarding receipt of branded promotional items. Branded promotional items:

(a) May be provided by an industry member to a special occasion licensee;

(b) Must be of nominal value, singly or in the aggregate;

(c) Must be used exclusively by the (~~retailer~~) special occasion licensee in a manner consistent with (~~its~~) the special occasion license;

~~((b))~~ (d) Must bear imprinted advertising matter of the industry member only, except imprinted advertising matter of the industry member can include the logo of a professional sports team which the industry member is licensed to use;

~~((e))~~ (e) May be provided by industry members only to (~~retailers~~) special occasion licensees and their employees and may not be provided by or through (~~retailers~~) special occasion licensees or their employees to retail customers; and

~~((d))~~ (f) May not be targeted to or be especially appealing to youth.

~~((3))~~ (10) An industry member is not obligated to provide (~~such~~) branded promotional items as a condition for selling alcohol to the (~~retailer~~) special occasion licensee.

~~((4))~~ (11) Any industry member or retailer or any other person asserting the provision of branded promotional items as allowed in this section has resulted or is more likely than not to result in undue influence or an adverse impact on public health and safety, or is otherwise inconsistent with the criteria of this section, may file a complaint with the (~~liquor and cannabis~~) board. Upon receipt of a

complaint, the ((liquor and cannabis)) board may conduct ((such)) an investigation ((as it deems appropriate)).

(a) The ((liquor and cannabis)) board may issue an administrative violation notice to the industry member, the retailer, or both.

(b) The recipient of the administrative violation notice may request a hearing under chapter 34.05 RCW.