



# PROPOSED RULE MAKING

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

Do NOT use for expedited rule making

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STATE OF WASHINGTON  
FILED

DATE: November 26, 2019

TIME: 12:14 PM

WSR 19-24-050

**Agency:** Washington State Liquor & Cannabis Board

**Original Notice**

**Supplemental Notice to WSR**

**Continuance of WSR**

**Preproposal Statement of Inquiry was filed as WSR 18-17-042 ; 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 314-02-025 What are the floor space requirements to obtain and maintain a spirits, beer, and wine restaurant license or a beer and wine restaurant license?

WAC 314-02-033 Do spirits, beer, and wine restaurants that exclude minors from the premises have to put demarcations around their dedicated dining area(s)?

WAC 314-03-200 Outside or extended alcohol service

The above sections were revised to allow options other than a forty-two-inch barrier to designate areas classified as off-limits to minors in beer/wine and spirits/beer/wine restaurants. Revisions also allow licensees to reclassify areas of restaurants as open to minors for regularly scheduled or special events with prior board approval. Requirements for "minor prohibited" signs were updated, and additional technical and clarifying changes were made.

**Hearing location(s):**

**Date:**                      **Time:**                      **Location:** (be specific)                      **Comment:**

January 8, 2020	10:00 am	1025 Union Ave, Olympia, WA 98504	
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**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 outline several options for designating areas classified as off-limits to minors, update signage requirements, and make additional technical and clarifying changes. Rules revisions will help ensure applicants and licensees operate under applicable statutory provisions and have clear guidelines in place..

**Reasons supporting proposal:** The proposed rules allow beer/wine and spirits/beer/wine licensees to have several alternatives other than a forty-two-inch barrier to designate areas off-limits to minors. The rules revisions will allow licensees to have variations in floor plans, while ensuring areas off-limits to minors and well-defined and have required signage posted.

**Statutory authority for adoption:** RCW 66.08.030

**Statute being implemented:** RCW 66.44.310.

**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	1025 Union Ave, Olympia, WA	360-664-1760
Implementation: Director	Becky Smith, Licensing	1025 Union Ave, Olympia, WA	360-664-1615
Enforcement: Chief	Justin Nordhorn, Enforcement	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 under RCW 34.05.328(5) because the rules allow additional, less restrictive options and clarify language without changing the effect of the rule. 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 19.85.025 (3). RCW 66.44.310 directs the WSLCB to classify licensed premises or portions of licensed premises as off-limits to persons under the age of twenty-one years. Additional changes correct and clarify language and relate to requirements for applying for a license.

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. The proposed rules do not create additional compliance costs, or administrative and regulatory burden for licensees. The rules allow additional, less restrictive options and clarify language without changing the effect of the rules. The less restrictive options are anticipated to result in compliance cost reductions for new licensees, and reduced administrative burden for new and already-established businesses.

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 26, 2019

**Signature:**

**Name:** Jane Rushford



**Title:** Chair

**WAC 314-02-025 What are the floor space requirements to obtain and maintain a spirits, beer, and wine restaurant license or a beer and wine restaurant license?**

(1) The liquor and cannabis board has the responsibility to classify what licensed premises or what portions of the licensed premises are off-limits to minors ~~((~~per~~ RCW 66.44.310(2).))~~ per RCW 66.44.310(2). Minors may not purchase, possess, or consume liquor, and may not enter any areas that are classified as off-limits to minors ~~((~~per~~ RCW 66.44.290 and 66.44.310.))~~ The purpose of this rule is to clarify the ways in which licensees can prevent minors from consuming alcohol or entering ~~((~~restricted~~))~~ classified as off-limits to minors.

(2) Dedicated dining areas - If a spirits, beer, and wine restaurant licensee or a beer and wine restaurant licensee that allows minors chooses to have live music, Karaoke, patron dancing, live entertainment, or contests involving physical participation by patrons in the dedicated dining area after 11:00 p.m., the licensee must either:

(a) Request board approval to reclassify the dining area to a lounge for the period of time that live entertainment is conducted, thus restricting minors during that time; or

(b) Notify the ~~((~~board's licensing and regulation division~~))~~ board in writing at least forty-eight hours in advance that the sale, service, and consumption of liquor will end in the dedicated dining area after 11:00 p.m.

Requests or notifications may cover one event or a series of recurring events over a period of time.

~~(3) ((~~Barriers~~ Licensees must place barriers around areas that are classified as off-limits to minors and around game rooms.~~

~~(a) The barriers))~~ A licensed premises must have a clear demarcation between dedicated dining areas and areas that are off-limits to minors.

~~(a) Demarcation means a dividing line that must clearly separate ((~~restricted areas~~, and must be at least forty-two inches high.~~

~~(b) The barriers must be permanently affixed (folding or retractable doors or other barriers that are permanently affixed are acceptable). A portable or moveable rope and stanchion is not acceptable. Those licensees that have been approved by the board for moveable barriers prior to the effective date of this rule may keep their moveable barriers until the licensee requests alterations to the premises or the premises change ownership.~~

~~(c) Structures where customers can sit or stand and consume food or liquor are not acceptable as a barrier.~~

~~(d) Entrances to restricted areas may not be wider than ten feet. If a licensee has more than one entrance along one wall, the total entrance areas may not exceed ten feet.~~

~~(e))~~ areas classified as off-limits to minors from dedicated dining areas.

(b) Demarcation options available to applicants and licensees, subject to approval by the board, include:

(i) Visibly different and contrasting flooring;

(ii) Steps or ramps up or down;

(iii) Walls, half-walls, or forty-two inch barriers, where entrances to the restricted areas are not more than ten feet wide;

(iv) Permanently affixed stanchions, pillars, or posts at least six inches wide and placed no more than ten feet apart;

(v) Stationary planters at least six inches wide and placed no more than ten feet apart; and

(vi) Permanently affixed floor lighting or beacons placed no more than ten feet apart.

(c) Other demarcation options may be approved at the board's discretion.

(d) Demarcation does not include tape, paint, or stickers on floors, walls, or ceilings.

(e) Once the floor plan is approved by the board the demarcation cannot be moved or changed without prior board approval.

(f) "Minor prohibited" signs, as required by WAC 314-11-060(1), must be posted ((at each entrance to restricted areas.

(4-)) and clearly visible to patrons who are:

(i) Approaching the area(s) classified as off-limits to minors; and

(ii) Inside the area(s) classified as off-limits to minors.

(4) A spirits, beer, and wine restaurant licensee or a beer and wine restaurant licensee may request the board reclassify their off-limits area(s) as open to minors for regularly scheduled or special events. Reclassifying an off-limits area is considered an alteration to a licensed premises under WAC 314-03-300 and must be approved by the board prior to the event.

(5) If the business allows minors, the business's primary entrance must open directly into a dedicated dining area or into a neutral area, such as a lobby or foyer, that leads directly to a dedicated dining area. Minors must be able to access restrooms without passing through a lounge or other age-restricted area.

((5-)) (6) **Floor plans** - When applying for a license, the applicant must provide to the ((board's licensing and regulation division two copies of)) board a detailed drawing of the entire premises. The drawing must:

(a) Be drawn ((one foot to one-quarter-inch)) to scale;

(b) Have all ((rooms)) areas labeled according to their use; e.g., dining ((room)), lounge, ((game room)) gaming, kitchen, etc.; and

(c) Have all ((barriers labeled in a descriptive way; e.g., "full wall," "half wall," etc.

(6-)) demarcations that separate dedicated dining areas from areas off-limits to minors labeled and described in detail.

(7) **Convention centers** - To qualify ((for)) as a convention center ((there must be)) a premises must have two or more rooms that provide space and accommodations for private events only. ((Licensees holding a)) Convention center licensees may only sell alcohol for private events at the licensed premises.

AMENDATORY SECTION (Amending WSR 11-01-133, filed 12/21/10, effective 1/21/11)

**WAC 314-02-033 Do spirits, beer, and wine restaurants that exclude minors from the premises have to put ((barriers)) demarcations around their dedicated dining area(s)?** Spirits, beer, and wine restaurant licensees who exclude minors from the entire premises at all

times are only required to place (~~the barriers~~) demarcations described in WAC 314-02-025(~~(+2)~~) around dedicated dining areas for the purpose of paying the lower annual license fee (fifty percent to ninety-nine percent dedicated dining area). Restaurants that do not allow minors at any time and do not wish to have (~~barriers~~) demarcations around their dining area(s) must pay the higher annual license fee (less than fifty percent dedicated dining area). (See WAC 314-02-020 for an explanation of fees.)

**WAC 314-03-200 Outside or extended alcohol service.** A licensee must request approval from the board's licensing division for ongoing outside or extended alcohol service. The following conditions must be met:

(1) The area must be enclosed with a permanent or movable barrier a minimum of forty-two inches in height (~~(; and)~~).

(2) There must be an interior access to the licensed premises. If the interior access is from a minor restricted area of the premises, minors are prohibited in the outside or extended alcohol service area.

(3) There must be an attendant, wait staff, or server dedicated to the outside service area when patrons are present.

(4) Must have leasehold rights to the area and have and be connected to the licensed premises.

(5) Openings into and out of the outside area cannot exceed ten feet. If there is more than one opening along one side, the total combined opening may not exceed ten feet.

(6) **Exception.** For sidewalk cafe outside service, the board allows local regulations that, in conjunction with a local sidewalk cafe permit, requires a forty-two inch barrier or permanent demarcation of the designated alcohol service areas for continued enforcement of the boundaries.

(a) The permanent demarcation must be at all boundaries of the outside service area;

(b) The permanent demarcation must be at least six inches in diameter;

(c) The permanent demarcation must be placed (~~(at a minimum of)~~) no more than ten feet apart;

(d) There must be an attendant, wait staff, or server dedicated to the outside service area when patrons are present;

(e) This exception only applies to restaurant liquor licenses with sidewalk cafe service areas contiguous to the liquor licensed premises. "Contiguous" means touching along a boundary or at a point;

(f) This exception does not apply to beer gardens, standing room only venues, and permitted special events. Board approval is still required with respect to sidewalk cafe barrier requirements.

(7) **Limited exception.** The board may grant limited exceptions to the required forty-two inch high barrier for outside alcohol service areas.

(a) The licensee must have exclusive leasehold rights to the outside service area.

(b) There must be permanent demarcations at all boundaries of the outside service area for continued enforcement of the boundaries.