



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: December 18, 2019

TIME: 10:53 AM

WSR 20-01-169

Agency: Washington State Liquor & Cannabis Board

Original Notice

Supplemental Notice to WSR

Continuance of WSR

Preproposal Statement of Inquiry was filed as WSR 19-12-038 ; 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 314-02-015 What is a spirits, beer, and wine restaurant license?

WAC 314-02-045 What is a beer and/or wine restaurant license?

WAC 314-30-010 Sales and contracting by manufacturers.

The above sections were revised to implement legislation that passed during the 2019 legislative session.

Substitute House Bill 1034 (Chapter 61, Laws of 2019) created an endorsement that allows spirits, beer, and wine restaurants to serve bottles of soju for on-premises consumption to tables of two or more patrons. The new law also allows restaurants to recap soju bottles and for patrons to remove recapped soju bottles from the premises.

House Bill 1672 (Chapter 169, Laws of 2019) allows spirits, beer, and wine restaurants and beer and wine restaurants to recap sake purchased for consumption with a meal, and for patrons to remove the recapped sake.

Senate Bill 5909 (Chapter 156, Laws of 2019) allows manufacturers licensed under RCW 66.24.150 to contract with distilleries, breweries, and wineries to provide packaging services.

Additional technical and clarifying changes were made and unnecessary language was removed.

Hearing location(s):

Date:	Time:	Location: (be specific)	Comment:
January 22, 2020	10:00 am	1025 Union Ave, Olympia, WA 98504	

Date of intended adoption: On or after February 5, 2020 (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 22, 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) January 15, 2020

Purpose of the proposal and its anticipated effects, including any changes in existing rules: WAC 314-02-015 was revised to allow service of soju by the bottle in restaurants that have a soju endorsement and to reference the soju curriculum developed by the board. WAC 314-02-015 and WAC 314-02-045 were revised to allow restaurants to recap sake purchased for consumption with a meal, and for patrons to remove the recapped sake. WAC 314-30-010 was revised to include packaging for manufacturers licensed under RCW 66.24.150 and to add a reference to packaging provisions outlined in statute. Additional technical and clarifying changes were made to all revised sections of WAC, and unnecessary language in WAC 314-30-010 was removed.
Rules revisions will help applicants and licensees operate under applicable statutory provisions with clear guidelines in place..

Reasons supporting proposal: The proposed rules implement legislation that passed during the 2019 legislative session and make technical and clarifying changes to ensure rule language is clear..

Statutory authority for adoption: RCW 66.08.030

Statute being implemented: RCW 66.04.010, RCW 66.24.400, RCW 66.24.320., RCW 66.24.150

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 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..

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:

- | | |
|---|--|
| <input type="checkbox"/> RCW 34.05.310 (4)(b)
(Internal government operations) | <input checked="" type="checkbox"/> RCW 34.05.310 (4)(e)
(Dictated by statute) |
| <input type="checkbox"/> RCW 34.05.310 (4)(c)
(Incorporation by reference) | <input type="checkbox"/> RCW 34.05.310 (4)(f)
(Set or adjust fees) |
| <input checked="" type="checkbox"/> RCW 34.05.310 (4)(d)
(Correct or clarify language) | <input type="checkbox"/> 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: December 18, 2019

Name: Jane Rushford

Title: Chair

Signature:

A handwritten signature in cursive script, appearing to read "Jane Rushford", written in black ink.

AMENDATORY SECTION (Amending WSR 17-12-030, filed 5/31/17, effective 7/1/17)

WAC 314-02-015 What is a spirits, beer, and wine restaurant license? (1) Per RCW 66.24.400, this license allows a restaurant to:

(a) Serve spirits by the individual glass or soju by the bottle for on-premises consumption(~~(+)~~).

(i) Soju served by the bottle may only be served in restaurants holding a soju endorsement and must be served under the provisions outlined in RCW 66.24.400(5);

(ii) Soju endorsement holders must ensure servers providing soju to patrons are trained every five years in the soju curriculum developed by the board.

(b) Serve beer by the bottle or can or by tap for on-premises consumption;

(c) Serve wine and sake for on-premises consumption;

(d) Allow patrons to remove recorked or recapped wine, sake, or soju from the licensed premises;

(e) Sell wine by the bottle for off-premises consumption with the appropriate endorsement; and

(f) Sell kegs of malt liquor with the appropriate endorsement. This endorsement also allows the sale of beer or cider as defined in RCW 66.24.210(6) (~~to a purchaser~~) in a sanitary container brought to the premises by the purchaser or furnished by the licensee and filled at the tap by the retailer at the time of sale.

(2) To obtain and maintain a spirits, beer, and wine restaurant license, the restaurant must be open to the public at least five hours a day during the hours of 8:00 a.m. and 11:00 p.m., three days a week.

(3) All applicants for a spirits, beer, and wine license must establish, to the satisfaction of the board, that the premises will operate as a bona fide restaurant. The term "bona fide restaurant" means a business where the board can clearly determine that the primary purpose of the business is the service of complete meals. "Complete meals" is defined in WAC 314-02-035.

AMENDATORY SECTION (Amending WSR 15-01-001, filed 12/3/14, effective 1/3/15)

WAC 314-02-045 What is a beer and/or wine restaurant license?

(1) Per RCW 66.24.320 and 66.24.354, this license allows a restaurant to:

Privilege	Annual fee
(a) Serve beer by the bottle or can or by tap for on-premises consumption.	\$200
(b) Serve wine <u>or sake</u> for on-premises consumption (see RCW 66.24.320 regarding patrons removing recorked <u>or recapped</u> wine <u>or sake</u> from the premises).	\$200
(c) Sell beer and/or wine in the original, unopened containers for off-premises consumption.	\$120

Privilege	Annual fee
(d) Sell tap beer for off-premises consumption in a sanitary container holding less than four gallons of beer, and brought to the premises by the purchaser.	In conjunction with off-premises privilege outlined in (c) of this subsection.
(e) Sell cider as defined in RCW 66.24.210(6) for off-premises consumption to a purchaser in a sanitary container brought to the premises by the purchaser or provided by the licensee and filled at the tap in the restaurant at the time of purchase. The licensee must comply with federal regulations.	In conjunction with off-premises privilege outlined in (c) of this subsection.
(f) Sell beer in kegs or other containers holding at least four gallons of beer (see WAC 314-02-115 regarding the requirements for registering kegs).	In conjunction with off-premises privilege outlined in (c) of this subsection.

(2) All applicants for a beer and/or wine restaurant license must establish, to the satisfaction of the board, that the premises will operate as a bona fide restaurant, as defined in RCW 66.04.010 ~~((+30))~~.

(a) Minimum food service is required, as defined in WAC 314-02-010.

(b) To obtain and maintain a beer and/or wine restaurant license, the restaurant must be open to the public at least five hours a day, three days a week.

(3) If a beer and/or wine restaurant's dedicated dining area comprises less than fifteen percent of the total customer service area, the premises must maintain a tavern license ~~((+see))~~ as described in WAC 314-02-070 ~~((regarding the tavern license))~~.

WAC 314-30-010 Sales and contracting by manufacturers. (1) Manufacturers licensed ~~((in accordance with))~~ under RCW 66.24.150 may sell within the state:

(a) Spirituous liquor products only to spirits distributor~~((s))~~ licensees;

(b) Wine products only to wine distributor licensees;

(c) Beer products only to beer distributor licensees; or

(d) To permit holders as authorized by RCW 66.20.010 (7) through (10).

(2) Manufacturers licensed under RCW 66.24.150 may contract with licensed liquor distillers, craft distillers, domestic brewers, micro-breweries, wineries, and domestic wineries to provide packaging services. Contracted packaging services must be done under the provisions outlined in RCW 66.24.150 (2) and (3).

(3) The first spirits distributor, wine distributor, or beer distributor to receive spirits, wine, or ~~((malt beverages))~~ beer from a ~~((distiller,))~~ distillery, winery, brewery, or manufacturer ~~((, rectifier, or bottler shall be liable for))~~ must pay the fees and/or taxes due.

~~((3) Manufacturers selling spirits, wine, or malt beverage products will be considered a supplier and will be required to meet the requirements of WAC 314-23-005, 314-24-190, and 314-20-100 respectively.~~

~~(4) Manufacturers selling spirits to a licensed spirits distributor, wine to a licensed wine distributor, or beer to a licensed beer distributor shall file monthly reports with the board on forms prescribed by the board showing the quantity of liquor shipped to each above referenced licensee during the preceding month. Such report shall be submitted on or before the twentieth day of the month following the month of sale or delivery.~~

~~(5) Failure to make such report at the time prescribed will be sufficient cause for the board to forthwith suspend or cancel the license privilege of the manufacturer. When the twentieth day of any month falls on a Sunday, or a legal holiday, the report may be filed not later than the close of business the next business day.)~~