



## **CR 102 Memorandum**

### **Regarding Implementation of 2020 Alcohol Legislation – HB 2412, ESSB 5006, ESSB 6095, and SSB 6392.**

Date: November 18, 2020  
Presented by: Audrey Vasek, Policy and Rules Coordinator

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#### **Background**

The Washington State Liquor and Cannabis Board (WSLCB) began to consider rule revisions to implement the following four alcohol-related 2020 bills by initiating a formal rule inquiry under WSR # 20-15-160 on July 22, 2020:

- House Bill (HB) 2412 (chapter 230, Laws of 2020), which increased the number of retail liquor licenses that a licensed domestic brewery or microbrewery may hold from two to four, and exempts licensed domestic breweries and microbreweries from certain keg registration and identification requirements.
- Engrossed Substitute Senate Bill (ESSB) 5006 (chapter 186, Laws of 2020), which created a new type of endorsement that allows a licensed domestic winery to sell beer by the single serving for on-premises consumption and allows a licensed domestic brewery or microbrewery to sell wine by the single serving for on-premises consumption, under certain circumstances. The annual fee for the new endorsement is set by law (RCW 66.24.246) at \$200.
- Engrossed Substitute Senate Bill (ESSB) 6095 (chapter 200, Laws of 2020), which made changes to the interstate common carrier license and created new exceptions to the money or moneys' worth restrictions under the three-tier system for alcohol regulation.
- Substitute Senate Bill (SSB) 6392 (chapter 210, Laws of 2020), which created a new type of license for local wine industry associations. The annual fee for the new license is set by law (RCW 66.24.165) at \$700.

The rule proposal aligns existing rule language with changes made to the law by HB 2412 and ESSB 6095 and establishes new rule sections needed to implement ESSB 5006 and SSB 6392. Specifically, the rule proposal:

- Amends WAC 314-20-017 and 314-02-115 to align existing rule language with the changes made to statute by HB 2412;

- Creates two new rule sections WAC 314-20-019 and 314-24-163 to implement the new brewery/winery on-premise consumption endorsement created in ESSB 5006;
- Amends WAC 314-27-010, 314-52-080, 314-52-090, 314-52-110, and 314-12-140 to align existing rule language with the changes made to statute by ESSB 6095; and
- Creates a new rule section WAC 314-24-270 to implement the new local wine industry association license created by SSB 6392.

The WSLCB estimates that the proposed new rules to implement ESSB 5006 and SSB 6392 will result in new costs of compliance for businesses that choose to apply for these new endorsement or license types:

- Brewery and winery licensees that choose to apply for the new endorsement type created by ESSB 5006 must pay a \$200 annual fee that is mandated by RCW 66.24.246. Additionally, licensees that apply for the new endorsement type will have costs associated with the initial application process, including the time needed to complete the application and any associated interaction with WSLCB representatives to discuss or verify application information.
- Organizations that choose to apply for the new local wine industry association license created by SSB 6392 must pay a \$700 annual fee that is mandated by RCW 66.24.165. Additionally, organizations that apply for the license will have costs associated with the initial application and annual renewal process, including the time needed to complete the application for the license and any associated interaction with WSLCB representatives to discuss or verify application information. Licensees will also have administrative costs associated with each event or marketing program that they hold.

Both the new endorsement created by ESSB 5006 and the new license created by SSB 6392 are optional. Businesses only need to obtain these endorsements or licenses if they wish to have the new privileges allowed by the new endorsement or license type.

The WSLCB estimates that the proposed rule revisions to implement HB 2412 and ESSB 6095 will not result in new or additional costs of compliance or regulatory burden for licensees. The proposed rule revisions to implement HB 2412 and ESSB 6095 do not create any new fees or add additional costs for licensees.

## **Rule Necessity**

The proposed rules are needed to align existing rules with and implement the law as established by HB 2412, ESSB 5006, ESSB 6095, and SSB 6392.

## Description of Rule Changes

**Amended Section. WAC 314-02-115.** Concerning keg registration requirements. The proposed amendments to this rule section align the existing rule language with the law as established and dictated by HB 2412. Revisions include exempting licensed domestic breweries and microbreweries from certain keg registration and identification requirements when selling kegs of beer of their own production, consistent with RCW 66.28.200 and 66.28.210.

**Amended Section. WAC 314-12-140.** Concerning prohibited practices under the three-tier system for alcohol regulation. The proposed amendments to this rule section align the existing rule language with the law as established and dictated by ESSB 6095. A cross-reference to RCW 66.28.310, which contains exceptions to the money or moneys' worth restrictions, is added to subsection (2).

**Amended Section. WAC 314-20-017.** Concerning brewery and microbrewery retail liquor licenses. The proposed amendments to this rule section align the existing rule language with the law as established and dictated by HB 2412. Revisions include increasing the number of retail liquor licenses that a licensed domestic brewery or microbrewery may hold from two to four, consistent with RCW 66.24.240 and 66.24.244, and making a non-substantive technical and clarifying change to update a subsection number in an RCW cross-reference.

**New Section. WAC 314-20-019.** Concerning the domestic brewery or microbrewery endorsement for on-premises consumption of wine. The proposed new rule section implements the law as established and dictated by ESSB 5006. Consistent with RCW 66.24.246, the proposed rule section describes and clarifies the requirements that an endorsement holder must comply with in order to sell wine for on-premises consumption, and includes a reference to the annual fee for the new endorsement, which is set by law at \$200.

**New Section. WAC 314-24-163.** Concerning the domestic winery endorsement for on-premises consumption of beer. The proposed new rule section implements the law as established and dictated by ESSB 5006. Consistent with RCW 66.24.246, the proposed rule section describes and clarifies the requirements that an endorsement holder must comply with in order to sell beer for on-premises consumption, and includes a reference to the annual fee for the new endorsement, which is set by law at \$200.

**New Section. WAC 314-24-270.** Concerning the local wine industry association license. The proposed new rule section implements the law as established and dictated by SSB 6392. Consistent with RCW 66.24.165, the proposed rule section describes and clarifies the application criteria for a local wine industry association license, along with certain requirements and privileges of the license. A reference to the annual fee for the new endorsement, which is set by law at \$200, is also included.

**Amended Section. WAC 314-27-010.** Concerning the interstate common carrier license. The proposed amendments to this rule section align the existing rule language with the law as established and dictated by ESSB 6095. Revisions include adding a new subsection (5) containing a reference to the new privileges authorized under RCW 66.24.395, and a new subsection (6) containing a reference to the promotional, advertising, and other activities that licensed interstate common carriers and industry members are permitted to engage in under RCW 66.28.310. Revisions also include non-substantive technical and clarifying changes, such as lower-casing the term “Interstate Common Carrier” throughout the section and updating the section caption from “Liquor purchases by Interstate Common Carrier licensees—Reports.” to “Interstate common carrier license—Reports.” The phrase “spirituous liquor” is removed from the tax reporting requirement consistent with Initiative 1183, which moved all spirits tax collection from the WSLCB to the Department of Revenue in 2012.

**Amended Section. WAC 314-52-080.** Concerning novelty advertising. The proposed amendments to this rule section align the existing rule language with the law as established and dictated by ESSB 6095. A new subsection (6) is added containing a reference to the promotional, advertising, and other activities that licensed interstate common carriers and industry members are permitted to engage in under RCW 66.28.310 as an exception to the money or moneys’ worth restrictions under the three-tier system for alcohol regulation.

**Amended Section. WAC 314-52-090.** Concerning advertising sponsored jointly by retailers and manufacturers, importers, or distributors. The proposed amendments to this rule section align the existing rule language with the law as established and dictated by ESSB 6095. A new subsection (4) is added containing a reference to the promotional, advertising, and other activities that licensed interstate common carriers and industry members are permitted to engage in under RCW 66.28.310 as an exception to the money or moneys’ worth restrictions under the three-tier system for alcohol regulation.

**Amended Section. WAC 314-52-110.** Concerning advertising by retail licensees. The proposed amendments to this rule section align the existing rule language with the law as established and dictated by ESSB 6095. A new subsection (5) is added containing a reference to the promotional, advertising, and other activities that licensed interstate common carriers and industry members are permitted to engage in under RCW 66.28.310 as an exception to the money or moneys’ worth restrictions under the three-tier system for alcohol regulation.

**Attachments:**

Attachment A. (Table containing public feedback received on conceptual draft rules to implement 2020 alcohol legislation.)

Attachment B. (GovDelivery Messaging re Conceptual Draft Rules.)

**CR 102 Memo - Attachment A**

Public feedback on conceptual draft rules to implement 2020 alcohol legislation – HB 2412, ESSB 5006, ESSB 6095, and SSB 6392.

Source	Name	Date Received	Theme	Feedback
Email	Angie Rowley	9/15/2020	General	<p>[Subject line: "new bills being preposed"] Hello Audrey,</p> <p>My name is Angie Rowley, I'm a mother of four young children and began working part-time in the prevention world a year ago. I coordinate the wellness coalition in the Pend Oreille County. I have a background in nursing and life experiences.</p> <p>Anyway, I just wanted to drop an email about these new proposals. The language used in the bills is foreign to me. And I'd assume to many others as well. It raises concern to me because I do not know how to express if I think it's a good idea or not to make these changes. I was wondering how you feel about this thought....</p> <p>Alcohol has been around since the beginning of time. And research shows that using it does not create a better or healthier community. Making alcohol more available is not going to help the communities, it is going to hurt them. In all of my traveling through our nation the towns with liquor stores on every corner had more violence, abuse, crime and drugs than the small towns where no stores were.</p> <p>So, I don't know how to proceed with looking at those bills and giving feedback. If I had to guess on what they are saying I'm going to say that the bills are going to make it easier for the vendors to sell it and more of it. Sad.</p> <p>Well, I hope you are having a good day Audrey, I don't know if you can help me with this issue or not. I was going to involve my coalition in this matter but I don't think they will understand the language either.</p> <p>Sincerely, Angie rowley</p>

Email	Dawne Swanson	9/15/2020	ESSB 5006	<p>[Subject Line "ESSB5006"] Long overdue! I suggest the fee be modified so that larger establishments pay a higher fee than small ones. Whether that is differentiated by case production, revenue, or square footage, my little tasting room would really benefit by offering this option to bi-beverage couples. But \$200/year is probably more than my profit would be. Maybe a higher fee but waive or discount it for the little wineries?</p> <p>Sent from Dawne's iPhone by personal assistant Siri.</p>
Email	Keith Johnsen	9/15/2020	ESSB 5006	<p>[Subject line: "Public Feedback on ESSB 5006"] : Hello -</p> <p>We strongly support the passage of this endorsement, so that people who are either not fans of, or not physically tolerant of, either wine or beer can still enjoy the social environment and company of their friends and family who are, when visiting either wineries or microbreweries. My wife, for instance, is gluten intolerant but a wine lover; and yet at certain wonderful local breweries, she is unable to get a glass of wine if I want to go to try some of their newest artisanal beer.</p> <p>This actually limits the opportunity for those breweries to capture our business, because we will ultimately choose a different taproom or restaurant that does offer both. Especially during these brutally difficult times for small on-premise businesses, offering them every logical chance to succeed is crucial to their survival, and they deserve that much - especially as the neighborhood micro businesses that they often are. And the same cultural behavior of savoring a nice beer or glass of wine with close friends and family is not pushed to any negative extremes...these are not tequila shots or kamikazis that we are talking about!</p> <p>Cheers, Keith Johnsen &amp; Kim Rookstool Bellingham</p>
Email	Micah Mailand	9/15/2020	ESSB 5006	<p>[Subject line: "Feedback"] Hello Audrey,</p> <p>I would like to see the draft rule ESSB 5006 enacted.</p> <p>This new endorsement for wineries and microbreweries is going to help my business</p>

				<p>grow by bringing in new customers and encouraging current customers to stay longer.</p> <p>Sincerely,</p> <p>--</p> <p>Micah Mailand   Co-Founder</p>
Email	Gail Swanson	9/15/2020	ESSB 5006	<p>[Subject line: "Emailing support"] I am emailing support for the proposed rule change ESSB 5006 to create a new type of endorsement allowing a licensed domestic winery to sell beer by the single serving for on-premises consumption and to allow a licensed domestic brewery or microbrewery to sell wine by the single serving for on-premises consumption. I think the fee should be done on some kind of a sliding scale to help the smaller establishments to participate.</p> <p>Thank you! Gail Swanson</p>
Email	Brenda Robinson	9/15/2020	ESSB 5006	<p>[Subject line: "ESSB 5006"] I support the proposed rule change ESSB 5006 where a licensed domestic winery may sell single serving beer, but please put the fees on some sort of sliding scale.</p> <p>Thank you.</p> <p>-Brenda Robinson Tacoma WA.</p> <p>Sent from my iPhone</p>
Email	Tracy and Jim Whitlatch	9/15/2020	ESSB 5006	<p>[Subject line: "Support for ESSB 5006"] Hello,</p> <p>I want to voice my support for proposed rule change ESSB 5006 creating a new type of endorsement allowing a licensed domestic winery to sell beer by the single serving for on-premises consumption and allows a licensed domestic brewery or microbrewery to sell wine by the single serving for on-premises consumption. This would be great for spouses that want to support small wineries and tasting rooms with their significant other who doesn't like wine. I understand that the fee would be \$200/year and I'd suggest that it should be some sort of sliding scale. As</p>

				<p>everyone, especially snap businesses are hurting.</p> <p>Sincerely, Tracy and Jim Whitlatch</p>
Email	Al Cutshall	9/24/2020	ESSB 5006	<p>[Subject line: "ESSB 5006"] I fully support ESSB 5006 allowing a winery to sell on-premises single serving beer. I also support a sliding scale on the fee for smaller tasting rooms,</p> <p>Thank you, Al Cutshall</p>
Email	Annie McGrath	10/5/2020	HB 2412	<p>[Subject line: "Re: LCB seeks input on Draft Rules"] Hi Audrey,</p> <p>I've reviewed the draft concept rules for 2020 liquor legislation and everything looks great.</p> <p>I have one question for clarification on HB 2412 as it relates to keg registrations. I don't know if we need any language in rule on it, but there may be some confusion as to whether keg registration requirements apply to breweries with a beer/wine restaurant license. As I read it, it looks like a brewery with that additional license is not subject to keg registration requirements for kegs of beer they produce, but would need to adhere to the requirements for any sales of kegs from another producer. Is that correct?</p> <p>Thanks so much for your work on these. It is very well done!</p> <p>Best, Annie</p> <p><b>Follow up suggestion received on 10/13:</b> Add the following underlined language at the beginning of WAC 314-02-115(3) after "Domestic breweries and microbreweries and any additional domestic brewery or microbrewery licensed retail locations "</p>



Email	Josh McDonald	10/6/2020	ESSB 5006, ESSB 6095, SSB 6392	<p>[Letter attached to email with subject line: "Re: LCB seeks input on Draft Rules"]  To: WA Liquor and Cannabis Board Rules Coordinator 10/6/2020  From: Washington Wine Institute  Re: Comments regarding proposed conceptual draft rules to implement 2020 alcohol legislation</p> <p>Dear Washington State Liquor and Cannabis Board Rules Coordinator</p> <p>Please accept this letter as the Washington Wine Institute’s (WWI) formal comments on the Washington State Liquor and Cannabis Board’s (WSLCB) proposed conceptual draft rules to implement 2020 alcohol legislation.</p> <p>SB 5006: The language in 314-24-163 (C) sub (3) “for each location” is very important to the intent of this legislation. We want to be clear in our comments, as we have with conversations with the WSLCB as this endorsement became active, that this new allowance to serve three options of Washington State-produced craft beer extends to every tasting room location for a winery. We are pleased that the WSLCB already recognizes this and thus far approved many additional (remote/satellite) tasting room locations for the beer service endorsement created by SB 5006.</p> <p>SB 6095: As stakeholders in the creation and passage of SB 6095, we support the proposed rule language as written.</p> <p>SB 6392: As the author of this legislation passed in March 2020, we support the proposed rule language as written. We want to applaud the WSLCB for working with our industry to approve two of these licenses prior to this proposed rules language, which resulted in the survival of one of our most charitable and industry-important events of the year with the Auction of WA Wines.</p> <p>On behalf of the Washington Wine Institute, the official statewide trade association representing the Washington State wine industry, with a membership including over 98% of all wine produced in Washington State, we thank you for the opportunity to provide comments on this proposed LCB rule-making. If you have any questions or</p>
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				<p>need further clarification on any of the above comments, please don't hesitate to contact me.</p> <p>Kind Regards</p> <p>Josh McDonald Executive Director Washington Wine Institute</p>
Email	Scott Hazlegrove	11/02/2020	ESSB 6095	<p>[Subject line: "Re: Conceptual Draft Rules ESSB 6095"] Audrey:</p> <p>I reviewed the draft rule relating to common carriers (implementing SB 6095). The rule language focuses back to the language of the statute in most places.</p> <p>The only item I flagged was the reference to common carrier only including planes, trains, and ships. I was wondering about the inclusion of buses and other vehicles. However, when I went back to the definition of "common carrier" you cited in the rule, it is clear from the RCW language that the provision only applies to planes, trains, and ships.</p> <p>Great job. I apologize for the delay in getting comments to you.</p> <p>Scott Hazlegrove</p>



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# LCB seeks input on Draft Rules

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**September 9, 2020**

## Conceptual Draft Rules to Implement 2020 Alcohol Legislation

The Washington State Liquor and Cannabis Board (WSLCB) is seeking public feedback on conceptual draft rules to implement four alcohol-related bills enacted during the 2020 legislative session as described below.

The conceptual draft rules are [linked here](#).

### Background

On July 22, 2020, the WSLCB filed a preproposal statement of inquiry (CR 101) as WSR 20-15-160 ([linked here](#)), to consider implementation of the following legislation:

- [HB 2412](#), which increases the number of retail liquor licenses a licensed domestic brewery or microbrewery may hold from two to four, and exempts licensed domestic breweries and microbreweries from certain keg registration and identification requirements.
- [ESSB 5006](#), which creates a new type of endorsement allowing a licensed domestic winery to sell beer by the single serving for on-premises consumption and allows a licensed domestic brewery or microbrewery to sell wine by the single serving for on-premises consumption, under certain circumstances.
- [ESSB 6095](#), which makes changes to the interstate common carrier license and creates new exceptions to the money or moneys' worth restrictions under the three-tier system for alcohol regulation.
- [SSB 6392](#), which creates a new type of license for local wine associations.

The WSLCB invites and encourages written feedback on the conceptual draft rule language. All feedback will be reviewed and considered before a CR 102, or rule proposal, is presented to the Board. The CR 102 proposal is expected to be presented to the Board on or after October 28, 2020

### How to Provide Feedback on the Conceptual Draft Rules

Please email feedback to Audrey Vasek at [audrey.vasek@lcb.wa.gov](mailto:audrey.vasek@lcb.wa.gov) by **October 6, 2020**.

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