



## **Notice of Permanent Rules**

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

**This concise explanatory statement concerns the Washington State Liquor and Cannabis Board’s adoption of amendments to existing rules and creation of new rule sections to implement 2020 alcohol legislation.**

The Administrative Procedure Act (RCW 34.05.325(6)) requires agencies to complete a concise explanatory statement before filing adopted rules with the Office of the Code Reviser. The concise explanatory statement must be provided to any person upon request, or from whom the Board received comment.

The Washington State Liquor and Cannabis Board (Board) appreciates and encourages your involvement in the rule making process. If you have questions, please contact Audrey Vasek, Policy and Rules Coordinator, at (360) 664-1758 or by e-mail at [rules@lcb.wa.gov](mailto:rules@lcb.wa.gov).

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### **Background and reasons for adopting these rules.**

The Board initiated a formal rule inquiry under WSR # 20-15-160 on July 22, 2020 to consider revisions to implement 2020 legislation including the following four bills:

- House Bill (HB) 2412, which is related to brewery keg registration and identification requirements;
- Engrossed Substitute Senate Bill (ESSB) 5006, which is related to on-premises consumption endorsements for breweries and wineries;
- Engrossed Substitute Senate Bill (ESSB) 6095, which is related to interstate common carriers; and
- Substitute Senate Bill (SSB) 6392, which is related to local wine industry associations.

To engage interested members of the public in the rulemaking process, the WSLCB offered conceptual draft rule language for feedback through email messaging sent to

GovDelivery subscribers in September 2020.<sup>1</sup> The CR 102 and proposed rules filed as WSR # 20-23-125 on November 18, 2020, took into consideration the public feedback received. A description of the changes made based on this feedback was provided during the oral presentation at the November 18, 2020, WSLCB Meeting and in follow-up emails sent to the individuals who provided feedback.<sup>2</sup>

The adopted rules align existing rules with and implement the law as established by:

- HB 2412 (chapter 230, Laws of 2020), which is codified in RCW 66.24.240(4), 66.24.244(4), 66.28.200(2) and (3), 66.28.210(1) and (2), and 66.28.220(1), (3), and (4);
- ESSB 5006 (chapter 186, Laws of 2020), which is codified in RCW 66.24.246;
- ESSB 6095 (chapter 200, Laws of 2020), which is codified in RCW 66.28.310(1), (5), (7), (11) and (12), and 66.24.395(2) and (3); and
- SSB 6392 (chapter 210, Laws of 2020), which is codified in RCW 66.24.165.

Specifically, the adopted rules:

- Amend WAC 314-20-017 and 314-02-115 to align existing rule language with the changes made to statute by HB 2412;
- Create 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;
- Amend 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
- Create a new rule section WAC 314-24-270 to implement the new local wine industry association license created by SSB 6392.

### **Rulemaking history for this adopted rule:**

**CR 101** – filed July 22, 2020 as WSR #20-15-160;

**CR 102** – filed November 18, 2020 as WSR #20-23-125;

Public hearing held January 6, 2021.

Two people testified at the January 6, 2021, public hearing. No written comments were received.

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<sup>1</sup> A table containing the public feedback received and a copy of the GovDelivery messaging sent in September were included as Attachments A and B to the CR 102 memo presented to the Board on November 18, 2020 ([linked here](#)).

<sup>2</sup> See November 18, 2020, WSLCB Meeting Minutes ([linked here](#)). A follow-up email containing information about the CR 102 rule proposal and November 18 Board Activity, as well as a brief description of the feedback received and changes made, and was sent on November 23, 2020, to each individual who provided feedback.

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## Public comment received on the rule proposal

The following comments were received as indicated below. A response to each comment is provided, along with an indication regarding whether the comment was reflected in the adopted rule.

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### 1. Oral testimony provided during the public hearing held January 6, 2021, as transcribed directly from the meeting recording:

From Josh McDonald, Washington Wine Institute:

“Thank you Chair Rushford and Board members Hauge and Garrett for the opportunity to speak on this CR 102. I want to start and finish by saying that your team at the Liquor and Cannabis Board, your rules making team, Audrey and Kathy, have done just an absolute tremendous job on creating an ability for participation and providing input to improve the rules as they’re being proposed. For our sake, both Senate Bill 6392 and 5006 were ones that we commented on, and our comments were incorporated into the rules, which we feel improved the overall rules that we hope are adopted. In my time here, this is definitely the most professional, most well thought-out and implemented process to be able to be part of the rulemaking process. I just want to say really big kudos to your team for putting that in place and really engaging with us on this. We worked hard to get that legislation passed and to help our wineries be able to continue to do what they can in these times, and so we want to thank you for that. We are in support of the proposal in its current form and again want to say thank you.

I know my colleague Annie McGrath at the Washington Brewers Guild was hoping to provide testimony, and if you can’t see her, I have the authority to say she agrees and is in support of the proposal as drafted too. But hopefully she is visible to you and she can jump in to provide comment on behalf of her industry. In case not, just want to put that on the record. With that, thank you Chair and Board Members, thank you staff for this fantastic work. We are in support of the proposal.”

**Board response:** The Board appreciates these comments and the demonstration of interest in collaborative participation in the rulemaking process.

**Was the comment reflected in the adopted rule?** This comment is not reflected in the final rule.

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### 2. Oral testimony provided during the public hearing held January 6, 2021, as transcribed directly from the meeting recording:

From Annie McGrath, Washington Brewers Guild:

“Hi, thank you so much, Annie McGrath with the Washington Brewers Guild. You would think by 2021, I would figure out how to sign in virtually ahead of time, so I appreciate your staff allowing me to jump in here having not signed up early enough.

I’d just like to echo everything Josh said about the process going into this rulemaking. We’re here today to go on the record in support of the rules for Senate Bill 5006 and House Bill 2412. The process was extremely helpful, for not only our association but even for members of the public and licensees to be able to provide input on these rules. Our early input was incorporated. Staff did a great job incorporating that into the rules draft. It reflects the legislation, and we think it will provide much needed clarity for licensees as they implement some of these in procedures in their businesses. So again, thank you so much, and Washington Brewers Guild supports the work on 5006 and 2412.”

**Board response:** The Board appreciates these comments and the demonstration of interest in collaborative participation in the rulemaking process.

**Was the comment reflected in the adopted rule?** This comment is not reflected in the final rule.