



## **CR 103 Memorandum**

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

Date: January 20, 2021  
Presented by: Audrey Vasek, Policy and Rules Coordinator

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#### **Background**

The Washington State Liquor and Cannabis Board (WSLCB) 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 rule language with changes made to the law by HB 2412 and ESSB 6095 and establish new rule sections needed to implement ESSB 5006 and SSB 6392. Specifically, the adopted rules:

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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.

- 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.

## Rule Necessity

The adopted rules are needed to 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.

## Description of Rule Changes

**Amended Section. WAC 314-02-115.** Concerning keg registration requirements. The 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 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 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 new rule section implements the law as established and dictated by ESSB 5006. Consistent with RCW 66.24.246, the new 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 new rule section implements the law as established and dictated by ESSB 5006. Consistent with RCW 66.24.246, the new 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 new rule section implements the law as established and dictated by SSB 6392. Consistent with RCW 66.24.165, the new 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 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 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 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 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.

## **Variance between proposed rule (CR102) and final rule:**

There is no variance between the proposed rule and the final rule.

## **Rule Implementation**

### **Informing and Educating Persons Impacted by the Rule**

To help inform and educate persons impacted by the rule, the WSLCB will:

- Email notice with the adoption materials to persons who commented on the rules and to all GovDelivery subscribers;
- Post rule adoption materials, including final rule language, response to comments, final analysis (Concise Explanatory Statement), and any other relevant documents on the rulemaking webpage for public access.
- Provide information and training on request.

### **Promoting and Assisting Voluntary Compliance**

The WSLCB will promote and assist voluntary compliance through technical assistance.

- WSLCB staff are available to respond to phone and email inquiries about the rules.

- The licensing, enforcement and education, and finance divisions have participated in the rule revision process and are familiar with the final product. Internal and external education efforts to share knowledge and assure consistent application of rule have will be supported.
- Rule and guidance documents will be available on the WSLCB website.
- The WSLCB will use available and customary resources to disseminate materials and information to all persons impacted by the rules.

These actions are designed to inform and educate all persons impacted by the rules to support and promote voluntary compliance.

### **Training and Informing WSLCB Staff**

Several WSLCB staff responsible for implementing these adopted rules work directly with impacted parties and are already familiar with the nuances of the rule changes. Additional internal guidance documents may be prepared as necessary. The WSLCB will also consider:

- Provision of internal and external training and education, as needed, potentially including webinars, training, and videos if appropriate;
- Coordinating and centrally locating decisions to assure consistency between agency, staff, and industry.

### **Rule Effectiveness Evaluation**

The WSLCB will evaluate the effectiveness of these rules in the following ways, including but not limited to:

- Monitoring questions received after the effective date of these rules, and adjusting training and guidance accordingly;
- Monitoring the number of enforcement actions, including type, resolution, and final outcome;
- Monitoring the number of requests for rule language revisions or changes;
- Monitoring the number of requests for rule interpretation;
- Monitoring licensee feedback including, but not limited to, the number of requests for assistance.

Attachments: Final Rules  
Concise Explanatory Statement