



RULE-MAKING ORDER PERMANENT RULE ONLY

CR-103P (December 2017) (Implements RCW 34.05.360)

CODE REVISER USE ONLY

OFFICE OF THE CODE REVISER
STATE OF WASHINGTON
FILED

DATE: September 30, 2020

TIME: 11:00 AM

WSR 20-20-038

Agency: Washington State Liquor and Cannabis Board

Effective date of rule:

Permanent Rules

- 31 days after filing.
 Other (specify) (If less than 31 days after filing, a specific finding under RCW 34.05.380(3) is required and should be stated below)

Any other findings required by other provisions of law as precondition to adoption or effectiveness of rule?

- Yes No If Yes, explain:

Purpose: Chapter 314-05 WAC – Special Occasion Licenses. The Washington State Liquor and Cannabis Board (Board) has adopted amendments to existing special occasion license rules to update, modernize, and clarify existing language.

Citation of rules affected by this order:

New:

Repealed:

Amended: WAC 314-05-020, 314-05-025, 314-05-030, and 314-05-035.

Suspended:

Statutory authority for adoption: RCW 66.08.030.

Other authority:

PERMANENT RULE (Including Expedited Rule Making)

Adopted under notice filed as WSR 20-12-024 on May 27, 2020 (date).

Describe any changes other than editing from proposed to adopted version: There were no changes from the proposed rules to the adopted rules.

If a preliminary cost-benefit analysis was prepared under RCW 34.05.328, a final cost-benefit analysis is available by contacting:

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Other:

**Note: If any category is left blank, it will be calculated as zero.
No descriptive text.**

**Count by whole WAC sections only, from the WAC number through the history note.
A section may be counted in more than one category.**

The number of sections adopted in order to comply with:

Federal statute:	New	_____	Amended	_____	Repealed	_____
Federal rules or standards:	New	_____	Amended	_____	Repealed	_____
Recently enacted state statutes:	New	_____	Amended	_____	Repealed	_____

The number of sections adopted at the request of a nongovernmental entity:

New	_____	Amended	_____	Repealed	_____
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The number of sections adopted on the agency's own initiative:

New	_____	Amended	4	Repealed	_____
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The number of sections adopted in order to clarify, streamline, or reform agency procedures:

New	_____	Amended	_____	Repealed	_____
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The number of sections adopted using:

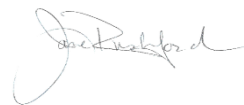
Negotiated rule making:	New	_____	Amended	_____	Repealed	_____
Pilot rule making:	New	_____	Amended	_____	Repealed	_____
Other alternative rule making:	New	_____	Amended	4	Repealed	_____

Date Adopted: September 30, 2020

Name: Jane Rushford

Title: Chair

Signature:



AMENDATORY SECTION (Amending WSR 17-08-099, filed 4/5/17, effective 5/6/17)

WAC 314-05-020 ~~((What is a))~~ **Special occasion license** ~~((?))~~. (1) ~~((Per))~~ Consistent with RCW 66.24.380, a special occasion license allows a nonprofit organization to sell, at a specified date, time, and place:

(a) Spirits, beer, and wine by the individual serving and wine by the bottle for on-premises consumption; and

(b) Spirits, beer, and wine in original, unopened containers for off-premises consumption ~~((; and~~

~~((c) Wine in original, unopened containers for on-premises consumption if permission is obtained from the WSLCB prior to the event))~~.

(2) Special occasion licensees ~~((are limited to))~~ may have no more than twelve days of events per calendar year (see RCW 66.24.380(1) for an exception for agricultural fairs).

(3) The fee for ~~((this))~~ the special occasion license is ~~((60))~~ sixty dollars per day, per event. Multiple alcohol service locations at an event are an additional sixty dollars per location.

(4) ~~((Per RCW 66.24.375, all proceeds from the sale of alcohol at a special occasion event must go directly back into the nonprofit organization, except for reasonable operating costs for actual services performed at compensation levels comparable to like services within the state.~~

~~((5) A charitable nonprofit organization or a local winery industry association is not disqualified from obtaining a special occasion license even if its board members are also officers, directors, owners, or employees of either a licensed domestic winery or a winery certificate of approval holder. The charitable nonprofit organization must be registered under section 501 (c) (3) of the Internal Revenue Code, and the local wine industry association must be registered under section 501 (c) (6) of the Internal Revenue Code.~~

~~((6) If a winery is taking orders and accepting payment for product of its own production from consumers at a special occasion event to be delivered at a later date from one of its authorized locations, the special occasion shall include the name of the winery on the special occasion license application.))~~ A special occasion license is a retail liquor license. Nonprofit organizations must comply with applicable retail liquor license requirements when operating under the special occasion license.

AMENDATORY SECTION (Amending WSR 16-01-102, filed 12/16/15, effective 1/16/16)

WAC 314-05-025 **Application process for a special occasion license.** (1) Special occasion applications ~~((normally take))~~ should:

(a) Be submitted at least forty-five days ~~((to process. The liquor and cannabis board may not be able to process your application in time for your event if you do not apply at least forty-five days before the event.~~

~~((2) Per))~~ prior to an event where no minors will attend;

(b) Be submitted with an application addendum at least sixty days prior to an event where the applicant requests minors in attendance; or

(c) Applications submitted less than the required forty-five or sixty days prior to the event might not be approved.

(2) Special occasion applications must include:

(a) Documentation verifying that the organization is a registered nonprofit with the Washington secretary of state or with the Internal Revenue Service;

(b) The name of any winery that will be taking orders at the event and accepting payment for wine of its own production to be delivered at a later date; and

(c) Any additional relevant information requested by the board.

(3) Consistent with RCW 66.24.010(8), ((when the liquor and cannabis board receives a special occasion application, it)) the board must send a notice to the local authority for each application received. The local authority has twenty days to respond ((with any input, and they may)) or request an extension for good cause.

((3) The liquor and cannabis)) (4) The board may ((run)) conduct a criminal history check on the organization's officers and/or managers.

((4) The liquor and cannabis board requires documentation to verify the organization is a bona fide nonprofit, who the true party(ies) of interest are in the organization, and that the organization meets the guidelines outlined in WAC 314-05-020 and 314-05-025.

(5) See chapter 314-07 WAC regarding possible reasons for denial of a special occasion license.) (5) Special occasion licenses may be denied for reasons including, but not limited to, those outlined in chapter 314-07 WAC. Denials are subject to the provisions of the Administrative Procedure Act, chapter 34.05 RCW.

AMENDATORY SECTION (Amending WSR 12-17-006, filed 8/1/12, effective 9/1/12)

WAC 314-05-030 ((Guidelines)) Requirements for special occasion license events. (1) The special occasion license must be posted at each alcohol service area at the event.

(2) ((Special occasion licensees may get alcohol for the event only from the following sources:

(a)) Consistent with RCW 66.28.070, all spirits, beer, and wine ((must be purchased at retail from)) purchased for the event by the special occasion licensee may only be purchased in the manufacturer's approved container or package from the following:

(a) A licensed off-premises retailer; ((from a spirits, beer, or wine))

(b) A distributor; ((from a distiller, a craft distiller,))

(c) A distillery or craft distillery;

(d) A domestic brewery((7)) or microbrewery((7-08));

(e) A winery ((acting as a distributor of its own product)); or ((from))

(f) A certificate of approval holder with a direct shipping to Washington retailer endorsement.

(3) Consistent with RCW 66.28.310, special occasion licensees are allowed to pay for beer ((08)), wine, and spirits used for the special

occasion event immediately following the end of the (~~special occa-~~
~~sion~~) event (~~(and~~

~~(b) Per~~)).

(4) Consistent with RCW 66.28.040, alcohol may be donated to special occasion licensees registered as 501(c)(3) and 501(c)(6) for the event as follows:

(a) In state breweries (~~and wineries, out-of-state breweries and wineries holding a certificate of approval license, domestic distillers or an accredited representative of a distiller, manufacturer, importer, or distributor of spirituous liquor may donate beer, wine, and spirits to special occasion licensees that are nonprofit 501 (c)(3) charitable organizations or nonprofit 501 (c)(6) organizations.~~

(3) Special occasion licensees may not advertise or sell alcohol below cost. If donated product is sold by the special occasion licensee, it may not be advertised or sold below the manufacturers' cost.

(4) Per RCW 66.28.310, alcohol manufacturers, importers and distributors may provide advertising, pouring, or dispensing of beer or wine at a beer or wine tasting exhibition or judging event, but may not provide money, goods, or services to special occasion licensees.

(a) Wineries and distilleries may pour at any special occasion event) and beer certificate of approval holders may donate beer;

(b) In state wineries and wine certificate of approval holders may donate wine;

(c) An accredited representative of a distiller, manufacturer, importer, or distributor of spirituous liquor may donate spirits.

(5) Alcohol may not be provided, or advertised as being provided, to the public free of charge at the special occasion event.

(6) Alcohol may not be sold, or advertised as being sold, below the manufacturer's cost at the special occasion event.

(7) If alcohol is auctioned at the event, the final sale price may not be below the manufacturer's cost.

(8) If tickets are sold for the special occasion event and the ticket fee includes alcohol for event attendees, the ticket must be sold directly by the nonprofit organization and may not be sold by a third party. In order to ensure alcohol is not being given away or sold below the manufacturer's cost, if the ticket fee includes alcohol the total ticket fee must be above the manufacturer's cost of the included alcohol.

(9) Consistent with RCW 66.24.375, no portion of the profits from special occasion events may be paid directly or indirectly to members, officers, directors, or trustees of the nonprofit organization except for services performed for the organization.

(~~(b)~~) (10) Wineries (~~(or)~~), breweries (~~that are~~), and distilleries participating in a special occasion event may pay (~~reasonable~~) booth fees to the special occasion licensee. Booth fees must be uniform for all participating wineries (~~and~~), breweries, and distilleries.

(~~(5) Per~~) (11) Breweries may provide installation of draft beer dispensing equipment for a special occasion event.

(12) Pouring or dispensing may be provided at any type of special occasion event by wineries, distilleries, or spirits distributors.

(13) Pouring or dispensing may be provided by breweries at a beer tasting exhibition or judging event. A beer tasting exhibition or judging event must be sponsored by the special occasion licensee and have at least three breweries represented that are pouring samples.

(14) Consistent with RCW 66.24.380, the sale, service, and consumption of alcohol must be confined to a designated ((location(s))) area.

~~((6))~~ (15) If a special occasion ((license function)) event is held at an establishment that has a liquor license:

~~(a) The special occasion ((function)) event must be ((held in an)) in a designated area of the licensed premises separate from areas open to the general public ((during the time the special occasion function is occurring, and));~~

~~(b) The licensed premises' liquor cannot be sold or served in ((the same area(s) as)) the designated special occasion ((license function.~~

~~(b-)) event area;~~

~~(c) The liquor licensee cannot charge for the liquor purchased and brought by the special occasion licensee for service at the ((special occasion event, but can charge for room usage, services, etc.)) event;~~

~~(d) The liquor licensee must sign the special occasion application acknowledging that they will not sell or serve their liquor at the event and giving permission for the special occasion licensee to bring and sell their ((alcohol)) liquor at the liquor licensed premises ((-~~

~~(e-)) ; and~~

~~(e) The special occasion ((license will not be issued for use)) event cannot be held at a premises ((whose)) where the liquor license will be suspended by the board on the date(s) of the scheduled event.~~

AMENDATORY SECTION (Amending WSR 16-01-102, filed 12/16/15, effective 1/16/16)

WAC 314-05-035 Advertising and branded promotional items for special occasion events. (1) ~~((Nothing in RCW 66.28.305 prohibits a licensed domestic brewery or microbrewery from providing branded promotional items which are of nominal value, singly or in the aggregate, to a nonprofit charitable corporation or association, exempt from taxation under 26 U.S.C. Sec. 501 (c)(3) of the Internal Revenue Code as it existed on the effective date of this section for use consistent with the purpose entitling it to such exemptions. Branded promotional items may not be targeted to or be especially appealing to youth.~~

~~(2) If the nonprofit charitable corporation or association applies for and receives a special occasion license, they are considered a liquor retailer and are required to comply with RCW 66.28.305. Branded promotional items:~~

~~(a) Must be used exclusively by the retailer in a manner consistent with its license;~~

~~(b) Must bear imprinted advertising matter of the industry member only, except imprinted advertising matter of the industry member can include the logo of a professional sports team which the industry member is licensed to use;~~

~~(c) May be provided by industry members only to retailers and their employees and may not be provided by or through retailers or their employees to retail customers; and~~

~~(d) May not be targeted to or be especially appealing to youth.~~

~~(3-))~~ Special occasion licensees and industry members must comply with RCW 66.28.285 through 66.28.310, regarding the three-tier system, direct and indirect interests between industry members and retailers, undue influence, exclusive agreements, and money advances.

(2) Manufacturers, distributors, or their licensed representatives may use websites and social media to post, repost, or share promotional information or images about events or provide other advertising services per the requirements outlined in RCW 66.28.310. Manufacturers, distributors, or their licensed representatives may also provide programs or flyers to be disseminated at the event, or may have media coverage of the event.

(3) Industry members may not provide money for advertising or promoting (sponsoring) an event directly to:

(a) The special occasion licensee;

(b) Employees of the special occasion licensee; or

(c) Promoters, event coordinators, or third parties hired by the special occasion licensee.

(4) If a third-party organization is holding an event in which a special occasion licensee participates, industry members may provide money for advertising or promoting (sponsoring) the event directly to the third-party organization only when:

(a) The third-party organization does not hold a special occasion license for the event;

(b) The third-party organization has not been hired by the participating special occasion licensee;

(c) Any advertising money may not be shared with the special occasion licensee; and

(d) The third-party organization has not expressly or implicitly promised, contracted, or otherwise agreed that the industry member's brand will be or will be more likely to be sold by the special occasion licensee, that the industry member's brand will be sold to the total or partial exclusion of any other brand, or that the industry member will be allowed access to the special occasion licensed area for advertising purposes without direct approval from the special occasion licensee and payment of reasonable booth fees to the special occasion licensee.

(5) Industry members may not give alcohol-related promotional items to event attendees in the special occasion licensed area.

(6) Industry members may also provide signage with the industry member's name or brand name of the product. Signage that may be visible to the general public from the public right of way must not:

(a) Exceed a total of four signs affixed to or hanging in a window, or on the outside of the licensed event area, referring to alcoholic beverages, brand names, or manufacturers; and

(b) Exceed sixteen hundred square inches.

(7) Inflatables are not allowed inside the event area unless the area is completely enclosed with no view to the inside from the public right of way.

(8) Industry members must comply with RCW 66.28.310 regarding the provision of and/or the receipt of branded promotional items directly or indirectly to a special occasion licensee.

(9) An industry member is not obligated to provide ~~((such))~~ branded promotional items as a condition for selling alcohol to the ~~((retailer))~~ special occasion licensee.

~~((4) Any industry member or retailer or any other person))~~ (10) Anyone asserting the provision of branded promotional items as allowed in this section has resulted or is more likely than not to result in

undue influence or an adverse impact on public health and safety, or is otherwise inconsistent with the criteria of this section, may file a complaint with the ((~~liquor and cannabis~~)) board. Upon receipt of a complaint, the ((~~liquor and cannabis~~)) board may conduct ((~~such~~)) an investigation ((~~as it deems appropriate~~)).

(a) The ((~~liquor and cannabis~~)) board may issue an administrative violation notice to the industry member, the ((~~retailer~~)) special occasion licensee, or both.

(b) The recipient of the administrative violation notice may request a hearing under chapter 34.05 RCW.