



# RULE-MAKING ORDER PERMANENT RULE ONLY

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

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STATE OF WASHINGTON  
FILED

DATE: December 08, 2021

TIME: 11:09 AM

WSR 22-01-052

**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:** The Washington State Liquor and Cannabis Board (WSLCB) has adopted new rule sections and amendments to existing rule sections in chapters 314-02 and 314-03 WAC to implement Engrossed Second Substitute House Bill (E2SHB) 1480 (chapter 48, Laws of 2021), which extended certain temporary privileges granted to liquor licensees to mitigate the impact of the coronavirus (COVID-19) pandemic.

The adopted rules implement E2SHB 1480 by: (1) creating new rule sections for the temporary “to-go” alcohol endorsements for cocktails/wine by the glass, growlers, and manufacturer sealed alcohol products; (2) creating a new rule section for the temporary outdoor alcohol service area requirements; and (3) permanently revising food service menu requirement rules to provide licensees with greater flexibility.

**Citation of rules affected by this order:**

- New: WAC 314-03-205, 314-03-500, 314-03-505, and 314-03-510.
- Repealed:
- Amended: WAC 314-02-010, 314-02-035, 314-02-0411, 314-02-065, 314-02-087, 314-02-112, 314-02-114, and 314-03-200.
- Suspended:

**Statutory authority for adoption:** E2SHB 1480 (section 2, chapter 48, Laws of 2021), RCW 66.08.071, RCW 66.08.030.

**Other authority:** E2SHB 1480 (chapter 48, Laws of 2021) now codified in RCW 66.08.071, 66.24.630.

**PERMANENT RULE (Including Expedited Rule Making)**

Adopted under notice filed as WSR 21-20-066 on September 29, 2021 (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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**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 | 4   | Amended | 8   | Repealed | ___ |

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

|     |     |         |     |          |     |
|-----|-----|---------|-----|----------|-----|
| New | ___ | Amended | ___ | Repealed | ___ |
|-----|-----|---------|-----|----------|-----|

**The number of sections adopted on the agency's own initiative:**

|     |     |         |     |          |     |
|-----|-----|---------|-----|----------|-----|
| New | ___ | Amended | ___ | Repealed | ___ |
|-----|-----|---------|-----|----------|-----|

**The number of sections adopted in order to clarify, streamline, or reform agency procedures:**

|     |     |         |     |          |     |
|-----|-----|---------|-----|----------|-----|
| New | ___ | Amended | ___ | Repealed | ___ |
|-----|-----|---------|-----|----------|-----|

**The number of sections adopted using:**

|                                |     |     |         |     |          |     |
|--------------------------------|-----|-----|---------|-----|----------|-----|
| Negotiated rule making:        | New | ___ | Amended | ___ | Repealed | ___ |
| Pilot rule making:             | New | ___ | Amended | ___ | Repealed | ___ |
| Other alternative rule making: | New | 4   | Amended | 8   | Repealed | ___ |

|                                       |  |
|---------------------------------------|--|
| <b>Date Adopted:</b> December 8, 2021 | <b>Signature:</b><br> |
| <b>Name:</b> David Postman            |  |
| <b>Title:</b> Chair                   |  |

NEW SECTION

**WAC 314-03-500 Temporary endorsement for sale of manufacturer sealed alcohol products through curbside, takeout, or delivery service.**

(1) As authorized in section 2, chapter 48, Laws of 2021, the temporary endorsement described in this section is available until July 1, 2023, unless extended by law. There is no fee for a licensee to apply for and obtain this endorsement.

(2)(a) Consistent with section 2(2), chapter 48, Laws of 2021, an endorsement to sell manufacturer sealed alcohol products at retail through curbside, takeout, or delivery service is available to the following licensees: Beer and wine restaurants; spirits, beer, and wine restaurants; taverns; domestic wineries; domestic breweries and microbreweries; distilleries; snack bars; nonprofit arts licensees; and caterers.

(b) This endorsement is separate from the endorsements in WAC 314-03-505 and 314-03-510 that authorize the sale through curbside, takeout, or delivery service of nonmanufacturer or nonfactory sealed premixed cocktails, cocktail kits, wine by the glass, premixed wine and spirits cocktails, premixed wine drinks, or growlers.

(3) In order to obtain and maintain the endorsement described in this section, licensees must meet the following requirements:

(a) Alcohol products must be sold in closed, factory or manufacturer sealed packages or containers, such as cans, bottles, and kegs. Licensees may only sell the types of manufacturer sealed alcohol products under this endorsement that they are authorized to sell under the terms of their license.

(b)(i) Except as provided in (b)(ii) of this subsection, if an alcohol product authorized for sale under this endorsement is enclosed inside a bag, box, or other packaging before the alcohol product is provided to the customer through curbside, takeout, or delivery service, the exterior of the bag, box, or other packaging must be clearly marked or labeled with the words "CONTAINS ALCOHOL, FOR PERSONS 21+" in a size that is legible and readily visible.

(ii) Brewery, winery, and distillery licensees are not required to mark or label the exterior of the bag, box, or other packaging as described in (b)(i) of this subsection if the alcohol product is provided to the customer through takeout service.

(c) If the alcohol products authorized for sale under this endorsement are sold through delivery service:

(i) Licensees must comply with the requirements in the consumer orders, internet sales, and delivery rules in this title. For these requirements, see WAC 314-03-020 through 314-03-040. Delivery by third-party service providers is allowed with approval by the board's licensing division of an added activity application requesting internet sales privileges.

(ii) At the time of delivery, the employee making the delivery must verify that the person receiving the delivery is at least twenty-one years of age using an acceptable form of identification in WAC 314-11-025. See RCW 66.44.270.

(iii) Consistent with section 2(9), chapter 48, Laws of 2021, upon delivery of the alcohol product, the signature of the person age twenty-one or over receiving the delivery must be obtained. Delivery sales records must meet the requirements in the consumer orders, internet sales, and delivery rules. For general record retention requirements, see WAC 314-11-095.

(iv) If no person age twenty-one or over is present to accept the alcohol product at the time of delivery, the alcohol product must be returned. An alcohol product may not be left unattended at a delivery location.

(v) Delivery of an alcohol product may not be made to any person who shows signs of intoxication. See RCW 66.44.200.

(d)(i) In addition to the signs required by WAC 314-11-060, signs provided electronically by the board regarding public consumption and transportation of any alcohol products sold through curbside, takeout, or delivery service must be posted in plain view at:

(A) The main entrance to the area of the premises where alcohol products are sold; and

(B) The areas of the premises where alcohol products are picked up for takeout, curbside, or delivery service.

(ii) The signs will be designed to remind customers purchasing alcohol products through curbside, takeout, or delivery service that they must comply with applicable laws and rules including, but not limited to, restrictions on consuming alcohol in public in RCW 66.44.100 and restrictions on drinking or having an open container in a vehicle in RCW 46.61.519.

(4) In addition to the requirements listed in this section, licensees must comply with all applicable requirements in Title 66 RCW, Title 314 WAC, and any other applicable laws and rules including, but not limited to: Keg sale requirements in WAC 314-02-115 and restrictions on sales to minors and intoxicated persons in chapter 66.44 RCW and WAC 314-16-150.

(5) The definitions in this subsection apply throughout this section unless the context clearly requires otherwise.

(a) "Alcohol product" means liquor as defined in RCW 66.04.010.

(b) "Factory sealed" or "manufacturer sealed" means that a package or container is in one hundred percent resalable condition, with all manufacturer's seals intact.

(6) This section expires July 1, 2023, pursuant to section 2(11), chapter 48, Laws of 2021, unless extended by law.

#### NEW SECTION

**WAC 314-03-505 Temporary endorsement for sale of premixed cocktails, cocktail kits, wine by the glass, premixed wine and spirits cocktails, or premixed wine drinks through curbside, takeout, or delivery service.** (1) As authorized in section 2, chapter 48, Laws of 2021, the temporary endorsement described in this section is available until July 1, 2023, unless extended by law. There is no fee for a licensee to apply for and obtain this endorsement.

(2) Consistent with section 2(3) and (4), chapter 48, Laws of 2021:

(a) An endorsement is available to spirits, beer, and wine restaurants to sell premixed cocktails, cocktail kits, wine by the glass, or premixed wine and spirits cocktails through curbside, takeout, or delivery service. This endorsement does not authorize the sale of full bottles of spirits for off-premises consumption, although mini-bottles may be sold as part of cocktail kits. Consistent with section 2(3), chapter 48, Laws of 2021, mini-bottle sales as part of cocktail kits

are exempt from the spirits license issuance fee under RCW 66.24.630 (4) (a) and the tax on each retail sale of spirits under RCW 82.08.150.

(b) An endorsement is also available to beer and wine restaurant licensees to sell wine or premixed wine drinks by the glass through curbside, takeout, or delivery service.

(3) In order to obtain and maintain the endorsement described in this section, licensees must meet the following requirements:

(a) (i) For spirits, beer, and wine restaurants, food that qualifies as a complete meal under WAC 314-02-010 must be sold with the premixed cocktails, cocktail kits, wine by the glass, or premixed wine and spirits cocktails authorized for sale through curbside, takeout, or delivery service under this endorsement. Spirits, beer, and wine restaurants can sell up to 3 ounces of spirits per complete meal.

(ii) For beer and wine restaurants, a food item that qualifies as minimum food service under WAC 314-02-010 must be sold with the wine or premixed wine drinks by the glass authorized for sale through curbside, takeout, or delivery service under this endorsement.

(b) The alcohol products authorized for sale through curbside, takeout, or delivery service under this endorsement must be prepared the same day they are sold.

(c) The alcohol products authorized for sale through curbside, takeout, or delivery service under this endorsement must be packaged in a container that has been sealed in a manner designed to prevent consumption without removal of the tamper-evident lid, cap, or seal. For the purposes of this subsection, "tamper-evident" means a lid, cap, or seal that visibly demonstrates when a container has been opened. Tape is not a tamper-evident seal. The following list of examples is not comprehensive and is not intended to capture all of the possible types of allowed or disallowed containers:

(i) Examples of containers that are allowed:

(A) Containers with a screw top cap or lid that breaks apart when the container is opened.

(B) Containers with a plastic heat shrink wrap band, strip, or sleeve extending around the cap or lid to form a seal that must be broken when the container is opened.

(C) Vacuum or heat-sealed pouches without holes or openings for straws.

(ii) Examples of containers that are not allowed:

(A) Containers with lids with sipping holes or openings for straws.

(B) Containers such as styrofoam, paper, or plastic cups that lack a tamper-evident lid, cap, or seal.

(d) The containers that the alcohol products authorized for sale under this endorsement are packaged in must be clearly marked or labeled with the words "CONTAINS ALCOHOL, FOR PERSONS 21+" in a size and manner that is legible and readily visible. If a container of alcohol authorized for sale under this endorsement is enclosed inside a bag, box, or other packaging before it is provided to the customer through curbside, takeout, or delivery service, the exterior of the bag, box, or other packaging must be clearly marked or labeled with the words "CONTAINS ALCOHOL, FOR PERSONS 21+" in a size and manner that is legible and readily visible.

(e) To deter public consumption or consumption in a vehicle of premixed cocktails, cocktail kits, wine by the glass, premixed wine and spirits cocktails, and premixed wine drinks sold through curbside, takeout, or delivery service, licensees may not put ice directly into the containers that the alcohol products authorized for sale under

this endorsement are packaged in, except for frozen or blended drinks. Ice may be provided separately along with the curbside, takeout, or delivery order.

(f) The premixed cocktails, cocktail kits, wine by the glass, premixed wine and spirits cocktails, and premixed wine drinks authorized for sale through curbside, takeout, or delivery service under this endorsement must be placed in the trunk of the vehicle or beyond the immediate reach of the driver or any passengers in compliance with open container requirements in RCW 46.61.519 before being transported off the licensee's premises.

(g) If the premixed cocktails, cocktail kits, wine by the glass, premixed wine and spirits cocktails, and premixed wine drinks authorized for sale under this endorsement are sold through delivery service:

(i) Licensees must comply with the requirements in the consumer orders, internet sales, and delivery rules in this title, except to the extent that those rules allow delivery by third-party service providers and prohibit the sale of nonfactory sealed containers. For these requirements, see WAC 314-03-020 through 314-03-040.

(ii) Delivery must be made by an employee of the licensed business who is at least twenty-one years of age and holds a class 12 mandatory alcohol server training (MAST) permit under chapter 314-17 WAC. Delivery may not be made by third-party service providers.

(iii) At the time of delivery, the employee making the delivery must verify that the person receiving the delivery is at least twenty-one years of age using an acceptable form of identification in WAC 314-11-025. See RCW 66.44.270.

(iv) Consistent with section 2(9), chapter 48, Laws of 2021, upon delivery of the alcohol product, the signature of the person age twenty-one or over receiving the delivery must be obtained. Delivery sales records must meet the requirements in the consumer orders, internet sales, and delivery rules. For general record retention requirements, see WAC 314-11-095.

(v) If no person age twenty-one or over is present to accept the alcohol product at the time of delivery, the alcohol product must be returned. An alcohol product may not be left unattended at a delivery location.

(vi) Delivery of an alcohol product may not be made to any person who shows signs of intoxication. See RCW 66.44.200.

(h)(i) In addition to the signs required by WAC 314-11-060, signs provided electronically by the board regarding public consumption and transportation of any alcohol products sold through curbside, takeout, or delivery service must be posted in plain view at:

(A) The main entrance to the area of the premises where alcohol products are sold; and

(B) The areas of the premises where alcohol products are picked up for takeout, curbside, or delivery service.

(ii) The signs will be designed to remind customers purchasing alcohol products through curbside, takeout, or delivery service that they must comply with applicable laws and rules including, but not limited to, restrictions on consuming alcohol in public in RCW 66.44.100 and restrictions on drinking or having an open container in a vehicle in RCW 46.61.519.

(4) In addition to the requirements listed in this section, licensees must comply with all applicable requirements in Title 66 RCW, Title 314 WAC, and any other applicable laws and rules including, but

not limited to, restrictions on sales to minors and intoxicated persons in chapter 66.44 RCW and WAC 314-16-150.

(5) The definitions in this subsection apply throughout this section unless the context clearly requires otherwise.

(a) "Alcohol product" or "alcoholic beverage" means liquor as defined in RCW 66.04.010.

(b) "Mini-bottles" has the same meaning as defined in section 2(10), chapter 48, Laws of 2021: Original factory-sealed containers holding not more than 50 milliliters of a spirituous beverage.

(c) "Premixed cocktail" means a drink made by combining spirits with other alcoholic or nonalcoholic beverages and ingredients including, but not limited to, fruit juice, carbonated beverages, flavorings, or cream.

(d) "Premixed wine and spirits cocktail" means a drink made by combining wine and spirits with other alcoholic or nonalcoholic beverages and ingredients including, but not limited to, fruit juice, carbonated beverages, flavorings, or cream.

(e) "Premixed wine drink" means a drink made by combining wine with nonalcoholic beverages and ingredients including, but not limited to, fruit juice, carbonated beverages, flavorings, or cream. A premixed wine drink may not include alcoholic beverages other than wine.

(f) "Spirits" has the same meaning as defined in RCW 66.04.010.

(g) "Wine" has the same meaning as defined in RCW 66.04.010.

(6) This section expires July 1, 2023, pursuant to section 2(11), chapter 48, Laws of 2021, unless extended by law.

#### NEW SECTION

**WAC 314-03-510 Temporary endorsement for sale of growlers through curbside, takeout, or delivery service.** (1) As authorized in section 2, chapter 48, Laws of 2021, the temporary endorsement described in this section is available until July 1, 2023, unless extended by law. There is no fee for a licensee to apply for and obtain this endorsement.

(2) Consistent with section 2(5), chapter 48, Laws of 2021, an endorsement to sell growlers for off-premises consumption through curbside, takeout, or delivery service is available to licensees that were authorized by statute or rule before January 1, 2020, to sell growlers.

(a) Licensees eligible for this endorsement include: Taverns; beer and wine restaurants; spirits, beer, and wine restaurants; grocery stores; beer and wine specialty shops; breweries; microbreweries; wineries; combination spirits, beer, and wine licensees; and hotel licenses.

(b) For a beer and wine specialty shop to be eligible for the endorsement described in this section, the beer and wine specialty shop must meet the requirement in RCW 66.24.371(3), as it existed on December 31, 2019, that the licensee's beer and/or wine sales must be more than fifty percent of the licensee's total sales.

(3) In order to obtain and maintain this endorsement, licensees must meet the following requirements:

(a) Sale of growlers must meet federal alcohol and tobacco tax and trade bureau requirements.

(b) (i) Growlers must be filled at the tap by the licensee at the time of sale, except that beer and wine specialty shops licensed under RCW 66.24.371 and domestic breweries and microbreweries with this endorsement may sell prefilled growlers consistent with section 2(7), chapter 48, Laws of 2021. Prefilled growlers must be sold the same day they are prepared for sale and not stored overnight for sale on future days.

(ii) Brewery and microbrewery products that meet federal alcohol and tobacco tax and trade bureau labeling requirements are not considered prefilled growlers and are not subject to the overnight storage prohibition.

(c) Growlers must be filled with alcohol products, such as beer, wine, or cider, that the licensee was authorized by statute or rule before January 1, 2020, to sell in growlers.

(d) If the growlers authorized for sale under this endorsement are sold through delivery service:

(i) Licensees must comply with the requirements in the consumer orders, internet sales, and delivery rules in this title, except to the extent that those rules allow delivery by third-party service providers and prohibit the delivery of growlers. For these requirements, see WAC 314-03-020 through 314-03-040.

(ii) Delivery must be made by an employee of the licensed business who is at least twenty-one years of age. Delivery may not be made by third-party service providers.

(iii) At the time of delivery, the employee making the delivery must verify that the person receiving the delivery is at least twenty-one years of age using an acceptable form of identification in WAC 314-11-025. See RCW 66.44.270.

(iv) Consistent with section 2(9), chapter 48, Laws of 2021, upon delivery of the alcohol product, the signature of the person age twenty-one or over receiving the delivery must be obtained. Delivery sales records must meet the requirements in the consumer orders, internet sales, and delivery rules. For general record retention requirements, see WAC 314-11-095.

(v) If no person age twenty-one or over is present to accept the alcohol product at the time of delivery, the alcohol product must be returned. An alcohol product may not be left unattended at a delivery location.

(vi) Delivery of an alcohol product may not be made to any person who shows signs of intoxication. See RCW 66.44.200.

(e) (i) In addition to the signs required by WAC 314-11-060, signs provided electronically by the board regarding public consumption and transportation of any alcohol products sold through curbside, takeout, or delivery service must be posted in plain view at:

(A) The main entrance to the area of the premises where alcohol products are sold; and

(B) The areas of the premises where alcohol products are picked up for takeout, curbside, or delivery service.

(ii) The signs will be designed to remind customers purchasing alcohol products through curbside, takeout, or delivery service that they must comply with applicable laws and rules including, but not limited to, restrictions on consuming alcohol in public in RCW 66.44.100 and restrictions on drinking or having an open container in a vehicle in RCW 46.61.519.

(4) In addition to the requirements listed in this section, licensees must comply with all applicable requirements in Title 66 RCW, Title 314 WAC, and any other applicable laws and rules including, but



not limited to, restrictions on sales to minors and intoxicated persons in chapter 66.44 RCW and WAC 314-16-150.

(5) The definitions in this subsection apply throughout this section unless the context clearly requires otherwise.

(a) "Alcohol product" means liquor as defined in RCW 66.04.010.

(b) "Beer" has the same meaning as defined in RCW 66.04.010.

(c) "Cider" has the same meaning as defined in RCW 66.24.210.

(d) "Growlers" has the same meaning as defined in section 2(10), chapter 48, Laws of 2021: Sanitary containers brought to the premises by the purchaser or furnished by the licensee and filled by the retailer at the time of sale.

(e) "Wine" has the same meaning as defined in RCW 66.04.010.

(6) This section expires July 1, 2023, pursuant to section 2(11), chapter 48, Laws of 2021, unless extended by law.

**WAC 314-03-200 Outside or extended alcohol service.** A licensee must request approval from the board's licensing division for ongoing outside or extended alcohol service. Except as provided in the temporary rules for outdoor alcohol service in WAC 314-03-205 that are effective until July 1, 2023, unless extended by law, the following conditions must be met:

(1) The area must be enclosed with a permanent or movable barrier a minimum of (~~forty-two~~) 42 inches in height.

(2) There must be an interior access to the licensed premises. If the interior access is from a minor restricted area of the premises, minors are prohibited in the outside or extended alcohol service area.

(3) There must be an attendant, wait staff, or server dedicated to the outside service area when patrons are present.

(4) Must have leasehold rights to the area and have and be connected to the licensed premises.

(5) Openings into and out of the outside area cannot exceed (~~ten~~) 10 feet. If there is more than one opening along one side, the total combined opening may not exceed (~~ten~~) 10 feet.

(6) **Exception.** For sidewalk cafe outside service, the board allows local regulations that, in conjunction with a local sidewalk cafe permit, requires a (~~forty-two~~) 42 inch barrier or permanent demarcation of the designated alcohol service areas for continued enforcement of the boundaries.

(a) The permanent demarcation must be at all boundaries of the outside service area;

(b) The permanent demarcation must be at least six inches in diameter;

(c) The permanent demarcation must be placed no more than (~~ten~~) 10 feet apart;

(d) There must be an attendant, wait staff, or server dedicated to the outside service area when patrons are present;

(e) This exception only applies to restaurant liquor licenses with sidewalk cafe service areas contiguous to the liquor licensed premises. "Contiguous" means touching along a boundary or at a point;

(f) This exception does not apply to beer gardens, standing room only venues, and permitted special events. Board approval is still required with respect to sidewalk cafe barrier requirements.

(7) **Limited exception.** The board may grant limited exceptions to the required (~~forty-two~~) 42 inch high barrier for outside alcohol service areas.

(a) The licensee must have exclusive leasehold rights to the outside service area.

(b) There must be permanent demarcations at all boundaries of the outside service area for continued enforcement of the boundaries.

NEW SECTION

**WAC 314-03-205 Temporary rules for outdoor alcohol service by on-premises licensees.** (1) As authorized in section 2(8), chapter 48, Laws of 2021, the temporary rules for outdoor alcohol service descri-

bed in this section are effective until July 1, 2023, unless extended by law. These rules create a temporary exception to the requirements in WAC 314-03-200. These rules apply to all on-premises licensees.

(2) For ongoing outdoor alcohol service located in privately owned spaces, a licensee must request approval from the board's licensing division and meet the following requirements:

(a) The licensee must have legal authority to use the outdoor alcohol service area including, but not limited to, ownership or leasehold rights;

(b) The licensee must have a building that provides indoor dining or production in order to qualify for an outdoor alcohol service area;

(c) The outdoor alcohol service area must be (i) contiguous to the licensed business, or (ii) located on the same property or parcel of land as the licensed business;

(d) The outdoor alcohol service area must have an attendant, wait staff, or server dedicated to the area when patrons are present;

(e) Interior access to the licensed premises from the outdoor alcohol service area is not required. However, unless there is (i) interior access to the licensed premises from the outdoor alcohol service area, or (ii) an unobstructed direct line of sight from inside the licensed premises to the outdoor alcohol service area, an employee with a mandatory alcohol server training (MAST) permit under chapter 314-17 WAC must be present in the outdoor alcohol service area at all times that patrons are present, in order to monitor alcohol consumption. This requirement is in addition to the requirement in (d) of this subsection that the outdoor alcohol service area must have an attendant, wait staff, or server dedicated to the area when patrons are present;

(f) The same food service offered inside the licensed premises must also be offered in the outdoor alcohol service area;

(g) The outdoor alcohol service area must be enclosed with a permanent or movable barrier a minimum of 42 inches in height. The board may grant limited exceptions to the required 42 inch high barrier for outdoor alcohol service areas if the licensee has permanent boundaries for the outdoor alcohol service area;

(h) Openings into and out of the outdoor alcohol service area cannot exceed 10 feet. If there is more than one opening along one side, the total combined opening may not exceed 10 feet; and

(i) Licensees must comply with local building codes, local health jurisdiction requirements, department of labor and industries requirements, and any other applicable laws and rules.

(3) For ongoing outdoor alcohol service located in public spaces, a licensee must request approval from the board's licensing division and meet the following requirements:

(a) The licensed business must have a permit from their local jurisdiction allowing the business to use the public space as a service area, such as a sidewalk cafe permit or other similar outdoor area permit authorized by local regulation;

(b) The licensee must have a building that provides indoor dining or production in order to qualify for an outdoor alcohol service area;

(c)(i) Except as provided in (c)(ii) of this subsection, the outdoor alcohol service area must be enclosed with a permanent or movable barrier a minimum of 42 inches in height. Openings into and out of the outdoor alcohol service area cannot exceed 10 feet. If there is more than one opening along one side, the total combined opening may not exceed 10 feet;

(ii) Licensees with outdoor alcohol service areas contiguous to the licensed premises may use a permanent demarcation of the designa-

ted alcohol service area for continued enforcement of the boundaries, instead of a permanent or movable barrier a minimum of 42 inches in height. If a permanent demarcation is used, the permanent demarcation must be at all boundaries of the outdoor alcohol service area, must be at least six inches in diameter, and must be placed no more than 10 feet apart;

(d) The outdoor alcohol service area must have an attendant, wait staff, or server dedicated to the area when patrons are present;

(e) The same food service offered inside the licensed premises must also be offered in the outdoor alcohol service area; and

(f) Licensees must comply with local building codes, local health jurisdiction requirements, department of labor and industries requirements, and any other applicable laws and rules.

(4) For multiple licensees to share an outdoor alcohol service area, the licensees must request approval from the board's licensing division and meet the following requirements:

(a) The licensees' property parcels or buildings must be located in direct physical proximity to one another. For the purposes of this subsection, "direct physical proximity" means that the property parcels or buildings are physically connected or touching each other along a boundary or at a point;

(b) (i) If the shared outdoor alcohol service area is located on public space, the licensees sharing the space must meet all of the requirements in subsection (3) of this section and shared use of the outdoor service area must be authorized by the licensees' local jurisdiction permits; or

(ii) If the shared outdoor alcohol service area is located in a privately owned space, the licensees sharing the space must meet all of the requirements in subsection (2) of this section and must have legal authority to share use of the outdoor service area including, but not limited to, ownership or leasehold rights;

(c) The licensees must maintain separate storage of products and separate financial records for the shared outdoor alcohol service area. If licensees share any point of sale system, the licensees must keep complete documentation and records for the shared point of sale system showing clear separation as to what sales items and categories belong to each respective licensee;

(d) The licensees must use distinctly marked glassware or serving containers in the shared outdoor alcohol service area to identify the source of any alcohol product being consumed. The distinctive markings may be either permanent or temporary. Any temporary markings must remain on the glassware or serving containers through the duration of use by the customer;

(e) The licensees must complete an operating plan for the shared outdoor alcohol service area. The operating plan should demonstrate in general how responsibility for the outdoor alcohol service area is shared among the licensees. Licensees are required to submit the operating plan to the board's licensing division at the time of application or alteration and must keep documentation of an up-to-date plan available for inspection on premises; and

(f) Consistent with WAC 314-11-065, a licensee may not permit the removal of alcohol in an open container from the shared outdoor alcohol service area, except to reenter the licensed premises where the alcohol was purchased. Signage prohibiting the removal of alcohol in an open container must be visible to patrons in the shared outdoor alcohol service area.

(5) If multiple licensees use a shared outdoor alcohol service area as described in subsection (4) of this section, all participating licensees are jointly responsible for any violation or enforcement issues unless it can be demonstrated that the violation or enforcement issue was due to one or more licensee's specific conduct or action, in which case the violation or enforcement action applies only to those identified licensees.

(6) The definitions in this subsection apply throughout this section unless the context clearly requires otherwise.

(a) "Alcohol service" means service of liquor as defined in RCW 66.04.010.

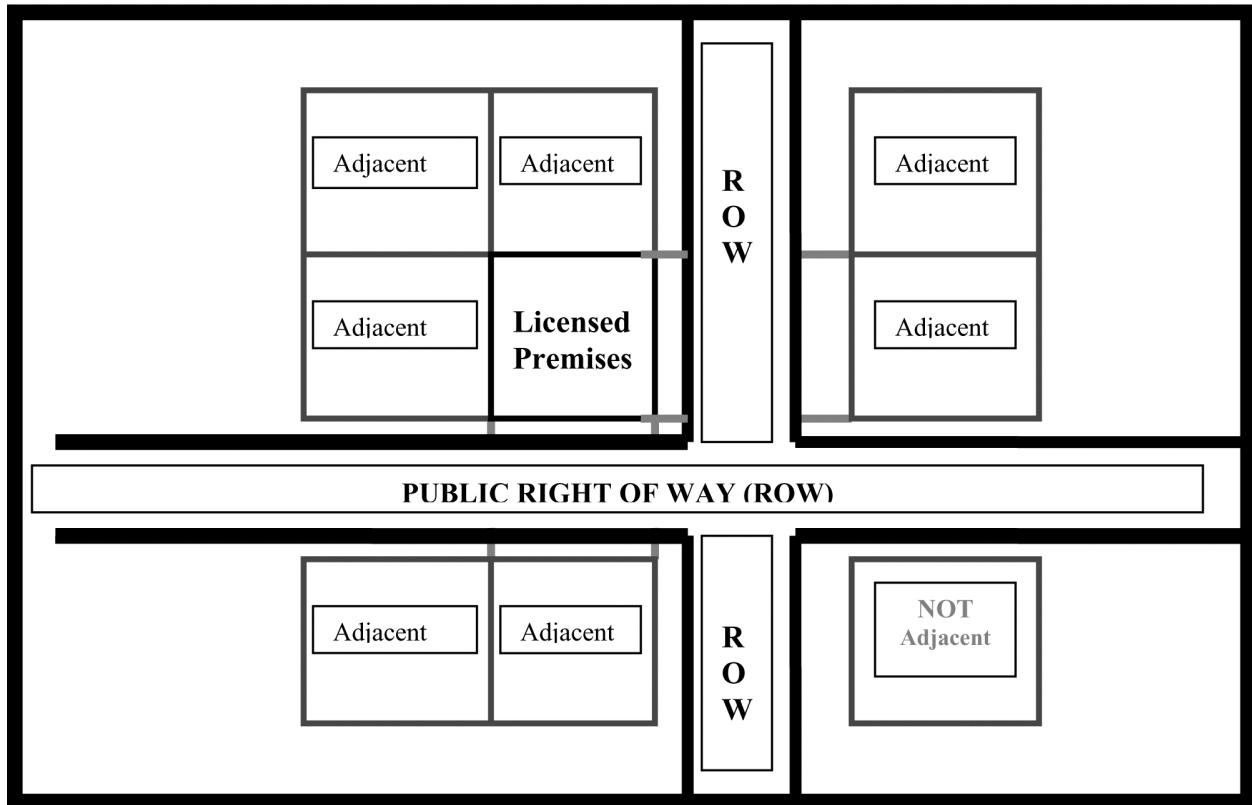
(b) "Contiguous" means touching along a boundary or at a point.

(c) "Sidewalk cafe" means a designated seating area on the sidewalk, curb space, or other public space where a business provides table service and seating for their patrons during business hours.

(7) This section expires July 1, 2023, pursuant to section 2(11), chapter 48, Laws of 2021, unless extended by law.

**WAC 314-02-010 Definitions.** ~~The ((following definitions are to clarify the purpose and intent of the rules and laws governing liquor licenses and permits))~~ definitions in this section apply throughout this title unless the context clearly requires otherwise. Additional definitions can be found in RCW 66.04.010.

(1) "Adjacent" means having a common endpoint or border where the extension of the property lines of the licensed premises contacts that common border.



(2) ~~((~~"Appetizer" means a small portion of food served before the main course of a meal to stimulate the appetite. An appetizer does not qualify as minimum food service.

~~(3-))~~ "Banquet room" means any room used primarily for the sale and service of food and liquor to private groups.

(3) (a) "Complete meal" means:

(i) An entree with at least one side dish available to order. Side dishes must be offered and available to order with the entree, but are not required to be included; or

(ii) A combination of small plates that are intended to be ordered many at a time or on a rolling basis throughout the meal service.

(b) Menu items that consist solely of the following types of food do not qualify as complete meals: Precooked frozen meals that are reheated, carry-out items obtained from another business, or snack food.

(c) For the purposes of this subsection, the following definitions apply unless the context clearly requires otherwise:

(i) "Entree" means the main course of a meal. Some examples of entrees include, but are not limited to, fish, steak, chicken, pork, pasta, pizza, burgers, pho, sushi, street tacos, tikka masala, quiche, fufu, curry, seafood salad, Cobb salad, chef's salad, sandwiches, and breakfast items.

(ii) "Side dish" includes soups, vegetables, salads, potatoes, beans, rice, naan, couscous, irio, fruit, bread, banchan, and other similar dishes. Garnishes do not qualify as side dishes. Some examples of garnishes include, but are not limited to, pickles, salsa, and dips.

(iii) "Small plate" means a type of menu item that has a small portion size and is intended to be ordered many at a time or on a rolling basis throughout the meal service. Small plates are often shared among guests. Some examples of small plates include, but are not limited to, tapas, dim sum, and meze. Many cultures have different types of small plates. Small plates do not include snack food.

(4) "Customer service area" means areas where food and/or liquor are normally sold and served to the public, i.e., lounges and dining areas. A banquet room is not considered a customer service area.

(5) "Dedicated dining area." In order for an area to qualify as a dedicated dining area, it must be a distinct portion inside of a restaurant that is used primarily for the sale, service, and consumption of food, and have accommodations for eating, e.g., tables, chairs, booths, etc. See WAC 314-02-025 for more information.

(6) "Designated area" means a space where alcohol may be sold, served, or consumed.

(7) "Entertainer" means someone who performs for an audience such as a disc jockey, singer, or comedian, or anyone providing entertainment services for the licensee. An entertainer is considered an employee of the liquor licensee per WAC 314-01-005. Patrons participating in entertainment are not considered employees.

(8) "Entertainment" means dancing, karaoke, singing, comedy shows, concerts, TV broadcasts, contests with patron participation and/or performing for an audience.

(9) "Food counter" means a table or counter set up for the primary purpose of food service to customers who sit or stand at the counter. Any alcohol served is incidental to food service.

(10) "Game room" means an area of a business set up for the primary purpose of patrons using games or gaming devices.

~~(11) ("Limited food service" means items such as appetizers, sandwiches, salads, soups, pizza, hamburgers, or fry orders.~~

~~(12))~~ (12) "Liquor bar" means a table or counter where alcohol is stored or prepared and served to customers who sit or stand at the bar. Liquor bars can only be in lounges or in premises where minors are not allowed at any time.

~~((13))~~ (12) "Lounge" means the portion of a restaurant used primarily for the preparation, sale, and service of beer, wine, or spirits. Minors are not allowed in a lounge (see RCW 66.44.316 for information on employees and professional musicians under ~~((twenty-one))~~ 21 years of age).

~~((14))~~ (13)(a) "Minimum food service" means that menu items such as sandwiches, salad, soup, pizza, hamburgers, ((and fry orders)) fries, savory pies, tacos, dumplings, fried rice, and other similar items are available to order.

(b) Menu items that consist solely of the following types of food do not qualify as minimum food service: Precooked frozen meals that

are reheated, carry-out items obtained from another business, or snack food.

~~((15))~~ (14) "Minor" means a person under ~~((twenty-one))~~ 21 years of age.

~~((16))~~ (15) "On-premises liquor licensed premises" means a building in which a business is located inside that is allowed to sell alcohol for consumption on the licensed premises.

~~((17))~~ (16) "Service bar" means a fixed or portable table, counter, cart, or similar work station primarily used to prepare, mix, serve, and sell alcohol that is picked up by employees or customers. Customers may not be seated or allowed to consume food or alcohol at a service bar.

~~((18))~~ (17) "Snack food" ~~((means))~~ includes items such as peanuts, popcorn, ~~((and))~~ chips, jerky, candy, cookies, crackers, edamame, and other similar food items.

AMENDATORY SECTION (Amending WSR 18-13-063, filed 6/14/18, effective 7/15/18)

**WAC 314-02-035 ~~((What are the))~~ Food service requirements for a spirits, beer, and wine restaurant license(?).** (1) A spirits, beer, and wine restaurant licensee must serve at least ~~((eight))~~ four complete meals. ~~((The board may make an exception to the eight complete meal requirement on a case-by-case basis.))~~ Establishments shall be maintained in a substantial manner as a place for preparing, cooking, and serving of complete meals. ~~((For purposes of this title:~~

~~(a) "Complete meal" means an entree and at least one side dish. Side dishes are not required to be included with the entrée, however must be offered.~~

~~(b) "Entree" means the main course of a meal. Some examples of entrees are fish, steak, chicken, pork, pasta, pizza, burgers, pho, sushi, street tacos, tikka masala, quiche, seafood salad, Cobb salad, chef's salad, sandwiches, and breakfast items (as long as they include a side dish). Entrees do not include snack items, or menu items which consist solely of precooked frozen food that is reheated, or consist solely of carry-out items obtained from another business.~~

~~(c) Examples of side dishes are soups, vegetables, salads, potatoes, rice, fruit, and bread. Garnishes such as, but not limited to, pickles, salsa, and dips do not qualify as a side dish.)~~ "Complete meal" is defined in WAC 314-02-010.

(2) The restaurant must maintain the kitchen equipment necessary to prepare the complete meals required under this section.

(3) The complete meals must be prepared on the restaurant premises.

(4) A chef or cook must be on duty while complete meals are offered.

(5) A menu must be available to customers.

(6) The food items required to maintain the menu must be on the restaurant premises. These items must be edible.

(7) Restaurants that have ~~((one-hundred))~~ 100 percent dedicated dining area must maintain complete meal service any time liquor is available for sale, service, or consumption.

(8) (a) Restaurants with less than ~~((one-hundred))~~ 100 percent dedicated dining area must maintain complete meal service for a mini-



mum of five hours a day during the hours of 8:00 a.m. and 11:00 p.m., three days a week.

~~((Limited food service, such as appetizers, sandwiches, salads, soups, pizza, burgers, or fry orders, must be available outside of these hours. Snacks such as peanuts, popcorn, and chips do not qualify as limited food service.))~~ (b) Minimum food service must be available during hours of alcohol service when complete meal service is not offered. "Minimum food service" is defined in WAC 314-02-010.

(9) The hours of complete meal service must be conspicuously posted on the premises or listed on the menu. A statement that ~~((limited))~~ minimum food service is available outside of those hours must also be posted or listed on the menu.

AMENDATORY SECTION (Amending WSR 11-23-045, filed 11/9/11, effective 12/10/11)

**WAC 314-02-0411 ((What are the)) Food service requirements for a hotel license(?).**

(1) A hotel licensee must have the ability to serve at least ~~((eight))~~ four complete meals to hotel guests or any other patron of the hotel who is offered alcohol service for on-premise consumption at a food outlet on the hotel premises. Food outlets include room service, banquets, bars/lounges, restaurants, or coffee shops. "Complete meal" is defined in WAC ~~((314-02-035))~~ 314-02-010.

(2) Complete meals must be prepared on the hotel premises.

(3) A menu must be available to hotel guests and patrons offered alcohol service that lists, at a minimum, the required complete meals.

(4) The food items required to maintain the menu must be located on the licensed premises. These items must be edible.

(5)(a) Licensees must maintain complete meal service for a minimum of five hours a day between the hours of 11:00 a.m. and 2:00 a.m. on any day that liquor is served. The board may consider written requests for exceptions to this requirement due to a demonstrated hardship and may allow exceptions under terms and conditions the board determines are in the best interests of the public.

(b) Minimum food service must be available during hours of alcohol service when complete meal service is not offered. "Minimum food service" ~~((includes items such as hamburgers or fry orders. Snacks such as peanuts, popcorn, and chips do not qualify as minimum food service))~~ is defined in WAC 314-02-010.

(6) Hours of complete meal service must be listed on the menu. If applicable, a statement must be posted or listed on the menu that minimum food service is available when alcohol is served and complete meal service is unavailable.

AMENDATORY SECTION (Amending WSR 11-23-045, filed 11/9/11, effective 12/10/11)

**WAC 314-02-065 ((What is a)) Snack bar license(?).** (1) Per RCW 66.24.350, a snack bar license allows a licensee to serve beer by the opened bottle or can for on-premises consumption only.

(2) Snack bar licensees must have snack food, as defined in WAC 314-02-010(~~((15))~~), available whenever beer is sold or served.

(3) Snack bars must have designated seating for on-premises consumption of beer.

(4) The annual fee for this license is (~~(one hundred twenty-five dollars)~~) \$125.

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

**WAC 314-02-087 (~~(What is a)~~) Spirits, beer, and wine theater license (?)**. (1) A spirits, beer, and wine theater is a place of business where motion pictures or other primarily nonparticipatory entertainment or events are shown. The holder of a beer and wine theater license is allowed to sell spirits, beer, strong beer, and wine, at retail, for consumption on the licensed premises.

(2) The requirements for the spirits, beer, and wine theater license are as follows:

(a) The theater has no more than (~~(one hundred twenty)~~) 120 seats per theater room.

(b) All servers of beer and wine are required to attend a mandatory alcohol server training (MAST) program.

(c) The serving size for spirits is one and one quarter ounce. The serving size for wine is five ounces. The serving size for beer is twelve ounces.

(d) There must be tabletop accommodations for in theater dining.

(e) If the theater premises will be frequented by minors an alcohol control plan agreement must be signed and submitted to the board during the application process.

(3) A spirits, beer, and wine theater licensee must (~~(serve at least eight complete meals. Establishments shall be maintained in a substantial manner as a place for preparing, cooking, and serving of complete meals.~~

~~(a) "Complete meal" means an entree and at least one side dish.~~

~~(b) "Entree" means the main course of a meal. Some examples of entrees are fish, steak, chicken, pork, pasta, pizza, hamburgers, seafood salad, Cobb salad, chef's salad, sandwiches, and breakfast items (as long as they include a side dish). Entrees do not include snack items, or menu items which consist solely of precooked frozen food that is reheated, or consist solely of carry-out items obtained from another business.~~

~~(c) Examples of side dishes are soups, vegetables, salads, potatoes, french fries, rice, fruit, and bread. Garnishes such as, but not limited to, pickles, salsa, and dips do not qualify as a side dish.~~

~~(d) The restaurant must maintain the kitchen equipment necessary to prepare the complete meals required under this section.~~

~~(e) The complete meals must be prepared on the restaurant premises.~~

~~(f) A chef or cook must be on duty while complete meals are offered.~~

~~(g) A menu must be available to customers.~~

~~(h) The food items required to maintain the menu must be on the restaurant premises. These items must be edible)) meet the same food~~

service requirements that apply to spirits, beer, and wine restaurant licensees in WAC 314-02-035.

(4) The alcohol control plan agreement will be provided on a form by the board and includes the following requirements:

(a) Ensure that alcoholic beverages are not sold to persons under the age of (~~twenty-one~~) 21, staff will request identification from any patron who appears to be age (~~thirty~~) 30 or under and who is attempting to purchase an alcoholic beverage.

(b) Alcoholic beverages must be served in containers that differ significantly from containers utilized for nonalcoholic beverages.

(c) All alcoholic beverages sold under this license must be sold by the individual drink.

(d) If staff observes a patron who is in the possession of or who is consuming an alcoholic beverage, who appears to be of questionable age, staff will request identification from that patron. If the patron is unable to produce an acceptable form of identification verifying their age, the alcohol will be confiscated.

(e) Staff will accept only those forms of identification that are acceptable per WAC 314-11-025 to verify a person's age for the purpose of selling, serving, or allowing a person to possess or consume alcohol.

(f) All employees involved in the sale, service, and/or supervision of alcoholic beverages will be required to attend MAST to obtain the appropriate permit for their level of service.

(g) Sufficient lighting must be maintained at the point of sale so that identification can be confirmed and patrons observed for signs of intoxication.

(h) To ensure alcoholic beverages are served in a safe, responsible, and controlled manner, sales and service of alcoholic beverages will be limited to one serving per person per transaction.

(i) If a patron is accompanied by another patron who wants to pay for both people's drinks, they may do so, provided that both patrons are of legal age to purchase, and have proper identification, if requested, and are not displaying signs of intoxication.

(j) Alcohol may only be sold, served, and consumed in areas designated in the alcohol control plan agreement and approved by the board.

(k) Staff will refuse to sell an alcoholic beverage to any person who appears to be intoxicated. Alcoholic beverages will be removed from any person who appears to be intoxicated.

(l) This alcohol control plan agreement will be prominently posted on the licensed premises.

(5) Penalties are doubled for a violation involving minors or the failure to follow the signed alcohol control plan agreement.

(6) If the theater premises has a restaurant located outside of the actual theater screening areas, spirits, beer, and wine may be served and consumed in the restaurant area.

(a) Spirits may be sold by the individual drink.

(b) Beer may be sold by the pitcher as well as by individual serving for consumption in the restaurant area.

(c) Wine may be sold by the bottle as well as by the individual serving for consumption in the restaurant area.

**WAC 314-02-112 ((What is a)) Caterer's license((?)).** (1) A caterer's license allows the licensee to sell spirits, beer, and wine by the individual serving for consumption on the premises at a catered event location.

(2) The catered event location must be owned, leased, or operated by:

(a) The holder of the caterer's license; or

(b) The sponsor of the event for which the catering services are being provided.

(3) The caterer licensee is responsible for all areas of a location where alcohol is sold, served, consumed, or stored.

(4) If the catered event is open and advertised to the public, the event must be sponsored by a nonprofit society or organization as defined in RCW 66.24.375.

(a) A registered nonprofit holding a public or civic event may invite a caterer to provide alcohol service at a location within the parameters of the event.

(b) If attendance at the catered event is limited to members or invited guests of the sponsoring individual, society, or organization, the requirement in subsection (2) of this section does not apply.

(5) A spirits, beer, and wine caterer licensee must have the ability to serve at least ~~((eight))~~ four complete meals. A commissary kitchen, licensed by the city and/or county health department, shall be maintained in a substantial manner as a place for preparing and cooking complete meals. The caterer licensee must maintain the kitchen equipment necessary to prepare the complete meals required under this section. The complete meals must be prepared at the licensed commissary kitchen premises. ~~((For the purposes of this title:~~

~~(a) "Complete meal" means an entrée and at least one side dish.~~

~~(b) "Entrée" means the main course of a meal. Some examples of entrées are fish, steak, chicken, pork, pasta, pizza, hamburgers, sea-food salad, Cobb salad, chef's salad, sandwiches, and breakfast items (as long as they include a side dish). Entrées do not include snack items, or menu items which consist solely of precooked frozen food that is reheated, or consist solely of carry-out items obtained from another business.~~

~~(c) Examples of side dishes are soups, vegetables, salads, potatoes, french fries, rice, fruit, and bread.))~~ "Complete meal" is defined in WAC 314-02-010.

(6) A beer and wine caterer licensee must have the ability to provide minimum food service. A commissary kitchen shall be maintained in a substantial manner as a place for preparing and cooking minimum food service. The caterer licensee must maintain the kitchen equipment necessary to prepare minimum food service required under this section. The minimum food service must be prepared at the licensed commissary kitchen premises. ~~((For purposes of this title:~~

~~"Minimum food service" means items such as sandwiches, salad, soup, hamburgers, pizza, and fry orders.))~~ "Minimum food service" is defined in WAC 314-02-010.

(7) Licensees holding a caterer's license may share a commissary kitchen under the following conditions:

(a) Each licensee has their own secure area for their own liquor stock. Liquor stock cannot be shared.

(b) If using a shared commissary kitchen, each applicant/licensee must provide a sketch of the commissary kitchen to licensing indicating the separate secured area for each licensee.

~~((7))~~ (8) The applicant must provide the liquor and cannabis board with a copy of their commissary kitchen license issued by the city or county health department.

~~((8))~~ (9)(a) The licensee is required to send a list of scheduled catered events to their regional enforcement office on the first of each month. The licensee must provide the following information:

~~((a))~~ (i) Date of the catered events;

~~((b))~~ (ii) Time of the catered events; and

~~((c))~~ (iii) Place and location of catered events.

(b) Any changes to the information provided to the board must be reported to the regional enforcement office (~~seventy-two~~) 72 hours prior to the catered event.

~~((9))~~ (10) A caterer's license holder is not allowed to cater events at a liquor licensed premises.

~~((10))~~ (11) The holder of the caterer's license may store liquor on other premises operated by the licensee if the licensee owns or has a leasehold interest at the other premises. Documentation must be provided to the board showing the licensee owns or has a leasehold interest in the property.

~~((11))~~ (12) All employees that sell or serve alcohol must hold MAST permits.

~~((12))~~ (13) The annual fee for the caterer's license is as follows:

(a) The annual fee for beer is (~~two hundred dollars~~) \$200;

(b) The annual fee for wine is (~~two hundred dollars~~) \$200; and

(c) The annual fee for a combined spirits, beer, and wine is (~~one thousand dollars~~) \$1,000.

AMENDATORY SECTION (Amending WSR 14-20-048, filed 9/24/14, effective 10/25/14)

**WAC 314-02-114 ((What is a)) Senior center license(?).** (1) A senior center license can only be issued to a nonprofit organization whose primary service is providing recreational and social activities for seniors on the licensed premises.

(2) The senior center license permits the sale of spirits by the individual glass, including mixed drinks and cocktails mixed on the premises only, beer and wine, at retail for consumption on the licensed premises.

(3) To qualify for the senior center license, the applicant must:

(a) Be a nonprofit organization under RCW 24.03.005;

(i) "Corporation" or "domestic corporation" means a corporation not for profit subject to the provisions of this chapter, except a foreign corporation.

(ii) "Foreign corporation" means a corporation not for profit organized under laws other than the laws of this state.

(iii) "Not for profit corporation" or "nonprofit corporation" means a corporation no part of the income of which is distributable to its members, directors or officers.

(b) Only serve alcohol between the hours of 6 a.m. and 2 a.m.; and

(c) Provide ((limited)) at least minimum food service anytime alcohol is sold. "Minimum food service" is defined in WAC 314-02-010.  
(~~Limited food service means foods such as:~~

- ~~(i) Appetizers;~~
- ~~(ii) Sandwiches;~~
- ~~(iii) Salads and soups;~~
- ~~(iv) Pizza;~~
- ~~(v) Hamburgers; and~~
- ~~(vi) Fry orders.)~~

(4) Alcohol may be sold and served at the following types of events:

(a) Events hosted by the senior center; and

(b) Private events where the facility is rented by a private party for an event such as a wedding reception, family reunion, etc.

(5) If minors are allowed on the premises, floor plans must meet the requirements in WAC 314-02-025.

(6) All alcohol servers must have a valid mandatory alcohol server training permit.

(7) The annual fee for this license is ((seven hundred twenty dollars)) \$720.