



CR 102 Memorandum

Regarding implementation of 2022 legislation SB 5940 creating a contract packaging services endorsement for breweries, wineries, and distilleries.

Date: July 20, 2022
Presented by: Audrey Vasek, Policy and Rules Coordinator

Background

On April 27, 2022, the Washington State Liquor and Cannabis Board (WSLCB) filed a CR 101 preproposal statement of inquiry (WSR# 22-10-035) to consider creating new rule sections to implement 2022 legislation SB 5940 (chapter 64, Laws of 2022; codified as [RCW 66.24.248](#)). SB 5940 created a new endorsement allowing breweries, wineries, and distilleries to contract with each other, and with other non-liquor licensed businesses if the contract does not include alcohol products, to provide certain packaging services, such as canning, bottling, bagging, mixing, and repacking.

Stakeholder Engagement

The CR 102 rule proposal was developed through a collaborative rule development process. Conceptual draft rule language was developed through a series of internal project team meetings including WSLCB staff from the Licensing Division, Enforcement and Education Division, and Finance Division, and the conceptual draft rules were shared publicly through GovDelivery with feedback requested between June 9 and June 24, 2022. This messaging is included as Attachment A to this memorandum.

In response to the GovDelivery messaging requesting feedback on the conceptual draft rules, the agency received five public comments. These comments are included in Attachment B to this memorandum and were taken into consideration as the rule proposal was developed. One response was outside the scope of this rule project, three responses were in support of the rulemaking, and another response was against the idea of more regulations.

Estimated Costs of Compliance

Under the Regulatory Fairness Act (RFA) in chapter 19.85 RCW, agencies are required to consider the costs that complying with the proposed rules will impose on businesses.

The CR 102 form describes this analysis in more detail. In summary, the proposed rules implement a legislatively created endorsement and are largely exempt from the RFA's Small Business Economic Impact Statement (SBEIS) requirement. Overall, the agency anticipates that businesses will have very minor one-time administrative costs related to the time (estimated at 10-15 minutes) needed to apply for the endorsement during the initial application year.

Rule Necessity

New rules are needed to implement SB 5940, align agency rules with the new law, and inform licensees about the availability of the endorsement and its requirements.

Description of Rule Changes

New Section WAC 314-20-350. Contract packaging services endorsement for domestic breweries and microbreweries. The proposed new rule section describes the contract packaging services endorsement and how to submit an application for an endorsement. The term "good standing" is defined as currently licensed, not suspended, and having the proper federal alcohol and tobacco tax and trade bureau permits.

New Section WAC 314-24-350. Contract packaging services endorsement for domestic wineries. The proposed new rule section describes the contract packaging services endorsement and how to submit an application for an endorsement. The term "good standing" is defined as currently licensed, not suspended, and having the proper federal alcohol and tobacco tax and trade bureau permits.

New Section WAC 314-28-350. Contract packaging services endorsement for domestic distilleries and craft distilleries. The proposed new rule section describes the contract packaging services endorsement and how to submit an application for an endorsement. The term "good standing" is defined as currently licensed, not suspended, and having the proper federal alcohol and tobacco tax and trade bureau permits.

Amended WAC 314-11-065. Types of liquor allowed on a licensed premises. The proposed rule amendments to this section would allow licensees with a contract packaging services endorsement to keep other types of liquor on the premises as needed to provide contract packaging services. The proposed rule amendments also make a non-substantive change to the caption, changing it from a question format ("What type of liquor is allowed on a licensed premises?") to a statement format ("Types of liquor allowed on a licensed premises.").

Attachments:

Attachment A. *GovDelivery message requesting public feedback on conceptual draft rules, sent June 9, 2022.*

Attachment B. *Table containing public feedback received on the CR 101 and conceptual draft rules.*



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Feedback requested on Conceptual Draft Rules to implement SB 5940

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June 9, 2022

Feedback requested on Conceptual Draft Rules to implement SB 5940, Contract Packaging Services Endorsement for Breweries, Wineries, and Distilleries

The Liquor and Cannabis Board (LCB) is seeking public feedback on conceptual draft rules to implement 2022 legislation [Senate Bill \(SB\) 5940](#), which created a new endorsement allowing domestic breweries, wineries, and distilleries to provide certain contract packaging services.

Background

On April 27, 2022, the LCB filed a preproposal statement of inquiry (CR 101) to consider creating rules to implement SB 5940. For more information, see:

- [Notice to Stakeholders](#)
- [Memorandum](#)
- [CR 101 Filed as WSR 22-10-035 on April 27, 2022](#)

The LCB invites and encourages feedback on conceptual draft rules to implement SB 5940, located at the following link: [Conceptual Draft Rules for SB 5940](#).

This is **not** a rule proposal (CR 102). These conceptual draft rules are designed for discussion only. All feedback will be considered before a rule proposal is developed.

How to Provide Feedback

Please email feedback to rules@lcb.wa.gov by **June 24, 2022**.

More information about the rulemaking process is available on the [LCB current rulemaking activity webpage](#).

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CR 101 Public Comment Table—SB 5940 Contract Packaging Services Endorsement for Breweries, Wineries, & Distilleries

This table includes comments received on the [CR 101 filed as WSR 22-10-035 on April 27, 2022](#). A request for public feedback on [conceptual draft rules](#) was sent through a [GovDelivery message on June 9, 2022](#), with a response deadline of June 24, 2022.

	Name	Date Received	Comment
1.	Rena Sherrill, Cowlitz Tribal Treatment SUD Program Coordinator- Community Activities	June 9, 2022	<p><u>Email received June 9, 2022—Direct quotation included below:</u></p> <p>“The LCB invites and encourages feedback on conceptual draft rules to implement SB 5940, located at the following link: Conceptual Draft Rules for SB 5940.</p> <p>Hello, I would like to give my feedback on the above discussion. I am very against any type of alcohol to go. Drinking and Driving has gone up since the pandemic, in which they allowed to go wine and beer. People are drinking earlier in the day due to not working and so many lives have been lost, this is not a necessary law to change. It serves no good purpose except to make businesses more money and more lives to be potentially taken in vain. All for the love of money. Once something like this is allowed it is almost impossible to walk it back. There are plenty of ways for people to get alcohol, there are no current ways to replace loved ones who are killed or fix lives that are changed because of this.</p> <p>My son was killed 28 years ago by a drink driver. I’m still not “over” it.</p> <p>Rena Sherrill Cowlitz Tribal Treatment SUD Program Coordinator-Community Activities”</p>
2.	Rob Newsom, owner/winemaker Boudreaux Cellars	June 9, 2022	<p><u>Email received June 9, 2022—Direct quotation included below:</u></p> <p>“Dear LCB Rules:</p> <p>SB5940 seems like a really good idea to me.</p> <p>Thank you for considering these changes.</p> <p>Best regards,</p> <p>Rob Newsom</p>

			owner/winemaker Boudreaux Cellars Leavenworth, WA 98826”
3.	Brad Slusher	June 13, 2022	<u>Email received June 13, 2022—Direct quotation included below:</u> “Can someone please explain why this needs to be regulated? How does this contribute to public safety? It seems like just another revenue grab to me and an unnecessary expansion of power. Brad Slusher”
4.	Mhairi Voelsgen, WA Distillers Guild	June 25, 2022	<u>Email received June 25, 2022—Direct quotation included below:</u> “The rules look good from our perspective. The only thing I would be concerned about is some new way of packaging that is not clearly defined in these rules. But it’s impossible to predict the future, so I guess we’ll have to address that as it comes up. Thanks Mhairi”
5.	Josh McDonald, Washington Wine Institute	June 28, 2022	<u>Email received June 28, 2022—Direct quotation included below:</u> “Hi Audrey. Thank you for sending this my way. We do not have any concerns with the conceptual draft rules for SB 5940. Would it be helpful for us to send something more formal to the LCB Board, or is this adequate for your needs? Josh”