



# PROPOSED RULE MAKING

## CR-102 (July 2022) (Implements RCW 34.05.320) Do NOT use for expedited rule making

CODE REVISER USE ONLY

OFFICE OF THE CODE REVISER  
STATE OF WASHINGTON  
FILED

DATE: August 02, 2023

TIME: 10:25 AM

WSR 23-16-146

**Agency:** Washington State Liquor and Cannabis Board

**Original Notice**

**Supplemental Notice to WSR** \_\_\_\_\_

**Continuance of WSR** \_\_\_\_\_

**Preproposal Statement of Inquiry was filed as WSR 23-11-115 ; or**

**Expedited Rule Making--Proposed notice was filed as WSR \_\_\_\_\_; or**

**Proposal is exempt under RCW 34.05.310(4) or 34.05.330(1); or**

**Proposal is exempt under RCW \_\_\_\_\_.**

**Title of rule and other identifying information:** (describe subject) Washington State Liquor and Cannabis Board (LCB) proposes amendments to existing rules to implement ESHB 1731 (chapter 257, Laws of 2023):

- Amended Section WAC 314-24-180, Wine distributors, wine importers—Certain rights granted;

- Amended Section WAC 314-24-190, Wine suppliers and distributors.

**Hearing location(s):**

Date:	Time:	Location: (be specific)	Comment:
September 13, 2023	10:00 AM	All public Board activity will be held in a "hybrid" environment. This means that the public will have options for in-person or virtual attendance. The Boardroom at the headquarters building in Olympia (1025 Union Avenue, Olympia, WA 98504) will be open for in-person attendance. The public may also login using a computer or device, or call-in using a phone, to listen to the meeting through the Microsoft Teams application. The public may provide verbal comments during the specified public comment and rules hearing segments. TVW also regularly airs these meetings. Please note that although the Boardroom will be staffed during a meeting, Board Members and agency participants may continue to appear virtually	For more information about Board meetings, please visit <a href="https://lcb.wa.gov/Boardmeetings/Board_meetings">https://lcb.wa.gov/Boardmeetings/Board_meetings</a>

**Date of intended adoption:** No earlier than September 27, 2023 (Note: This is **NOT** the **effective** date)

**Submit written comments to:**

Name: Daniel Jacobs, Policy & Rules Coordinator

Address: PO Box 43080, Olympia WA 98504-3080

Email: rules@lcb.wa.gov

Fax: 360 704 5027

Other:

By (date) September 5, 2023

**Assistance for persons with disabilities:**

Contact Anita Bingham, ADA Coordinator, Human Resources

Phone: 360 664 1739

Fax: 360 664 9689

TTY: 7-1-1 or 1-800-833-6388

Email: anita.bingham@lcb.wa.gov

Other:

**Purpose of the proposal and its anticipated effects, including any changes in existing rules:** The purpose of these proposed amended rules are to implement Engrossed Substitute House Bill (ESHB) 1731 (chapter 257, Laws of 2023) passed during the 2023 legislative session. This law allows short term rental operators to obtain permits to allow them to provide a complimentary bottle of wine to rental guests over the age of 21. The new law, enacted in RCW 66.20.010(18), allow short term rental operators to obtain a permit to provide complimentary bottles of wine to rental guests who they verify are 21 years of age or older by way of in-person validation of identification, so long as they provide advanced notice to the rental guests that the complimentary wine will be provided, and an opportunity for the rental guests to decline the bottle of wine. The new law also amends RCW 66.24.200 to allow wine distributors to provide wine to short term rental operators obtaining wine pursuant to this permit.

The proposed changes to WAC 314-24-180 and WAC 314-24-190 reflect that wine distributors are now allowed to sell wine directly to holders of the short term rental permit.

**Reasons supporting proposal:** Amendments to current rule sections are needed to implement ESHB 1731, align agency rules with the law, and inform licensees about the option for short term rental operators to obtain wine directly from wine distributors for use under the newly-created permit.

**Statutory authority for adoption:** RCW 66.08.030

**Statute being implemented:** RCW 66.20.010(18); RCW 66.24.200

**Is rule necessary because of a:**

Federal Law?  Yes  No

Federal Court Decision?  Yes  No

State Court Decision?  Yes  No

If yes, CITATION:

**Agency comments or recommendations, if any, as to statutory language, implementation, enforcement, and fiscal matters:** None

**Type of proponent:**  Private  Public  Governmental

**Name of proponent:** (person or organization) Washington State Liquor and Cannabis Board

**Name of agency personnel responsible for:**

	Name	Office Location	Phone
Drafting: Coordinator	Daniel Jacobs, Rules & Policy	1025 Union Avenue, Olympia WA, 98504	360-480-1238
Implementation: Licensing	Becky Smith, Director of	1025 Union Avenue, Olympia WA, 98504	360-664-1753
Enforcement: Enforcement & Education	Chandra Wax, Director of	1025 Union Avenue, Olympia WA, 98504	360-664-1726

**Is a school district fiscal impact statement required under [RCW 28A.305.135](#)?**

Yes  No

If yes, insert statement here:

The public may obtain a copy of the school district fiscal impact statement by contacting:

Name:

Address:

Phone:

Fax:

TTY:

Email:

Other:

**Is a cost-benefit analysis required under [RCW 34.05.328](#)?**

Yes: A preliminary cost-benefit analysis may be obtained by contacting:

Name:

Address:

Phone:

Fax:

TTY:

Email:

Other:

No: Please explain: The proposed amended rules do not qualify as a type of rule requiring a cost-benefit analysis under RCW 34.05.328(5). The LCB is not a listed agency under RCW 34.05.328(5)(a)(i), so the cost-benefit analysis

requirements in RCW 34.05.328 are not applicable to the proposed rules unless voluntarily applied or made applicable by the joint administrative rules review committee under RCW 34.05.328(5)(a)(ii). In this case, since the proposed amended rules implement a legislatively mandated permit, the agency did not decide to complete a cost-benefit analysis.

**Regulatory Fairness Act and Small Business Economic Impact Statement**

Note: The [Governor's Office for Regulatory Innovation and Assistance \(ORIA\)](#) provides support in completing this part.

**(1) Identification of exemptions:**

This rule proposal, or portions of the proposal, **may be exempt** from requirements of the Regulatory Fairness Act (see [chapter 19.85 RCW](#)). For additional information on exemptions, consult the [exemption guide published by ORIA](#). Please check the box for any applicable exemption(s):

This rule proposal, or portions of the proposal, is exempt under [RCW 19.85.061](#) because this rule making is being adopted solely to conform and/or comply with federal statute or regulations. Please cite the specific federal statute or regulation this rule is being adopted to conform or comply with, and describe the consequences to the state if the rule is not adopted.

Citation and description:

This rule proposal, or portions of the proposal, is exempt because the agency has completed the pilot rule process defined by [RCW 34.05.313](#) before filing the notice of this proposed rule.

This rule proposal, or portions of the proposal, is exempt under the provisions of [RCW 15.65.570\(2\)](#) because it was adopted by a referendum.

This rule proposal, or portions of the proposal, is exempt under [RCW 19.85.025\(3\)](#). Check all that apply:

- |                                                                                                          |                                                                                                                                                                                    |
|----------------------------------------------------------------------------------------------------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <input type="checkbox"/> <a href="#">RCW 34.05.310</a> (4)(b)<br>(Internal government operations)        | <input checked="" type="checkbox"/> <a href="#">RCW 34.05.310</a> (4)(e)<br>(Dictated by statute)                                                                                  |
| <input checked="" type="checkbox"/> <a href="#">RCW 34.05.310</a> (4)(c)<br>(Incorporation by reference) | <input type="checkbox"/> <a href="#">RCW 34.05.310</a> (4)(f)<br>(Set or adjust fees)                                                                                              |
| <input type="checkbox"/> <a href="#">RCW 34.05.310</a> (4)(d)<br>(Correct or clarify language)           | <input type="checkbox"/> <a href="#">RCW 34.05.310</a> (4)(g)<br>((i) Relating to agency hearings; or (ii) process requirements for applying to an agency for a license or permit) |

This rule proposal, or portions of the proposal, is exempt under [RCW 19.85.025\(4\)](#) (does not affect small businesses).

This rule proposal, or portions of the proposal, is exempt under RCW 19.85.025(3) through the exemptions in RCW 34.05.310 (4)(c) and (e).

Explanation of how the above exemption(s) applies to the proposed rule: The proposed amend rules are exempt from the Regulatory Fairness Act's (RFA) Small Business Economic Impact Statement (SBEIS) requirement under RCW 34.05.310(4)(c) and (e) for the following reasons identified below:

The amendment to WAC 314-24-180 reflects the new language in Section 2, chapter 257, Laws of 2023 which amends RCW 66.24.200 to allow wine distributors to sell wine to holders of annual special permits issued under RCW 66.20.010(18), which is the new section of RCW 66.20.010 added by ESHB 1731. The amendment to WAC 314-24-180 is limited to stating that wine distributors may participate in the activity newly permitted by statute. As such, this amended proposed rule is incorporating the new language of Section 2, chapter 257, Laws of 2023, meeting the requirement of RCW 34.05.310(4)(c). The new language of RCW 66.24.200 now permits wine distributors to sell directly to holders of the annual special permit, and if the language of WAC 314-24-180 were left unchanged, the agency rules would no longer align with the statutory language. Therefore, the proposed amendment to WAC 314-24-180 is dictated by statute, meeting the requirement of RCW 34.05.310(4)(e), and thus exempt from the RFA's SBEIS requirement.

The amendment to WAC 314-24-190 reflects the new language in Section 2, chapter 257, Laws of 2023 which amends RCW 66.24.200 to allow wine distributors to sell wine to holders of annual special permits issued under RCW 66.20.010(18), which is the new section of RCW 66.20.010 added by ESHB 1731. The amendment to WAC 314-24-190 amends the definition of "wine distributor" to include the activity newly permitted by statute. As such, this amended proposed rule is incorporating the new language of Section 2, chapter 257, Laws of 2023, meeting the requirement of RCW 34.05.310(4)(c). The new language of RCW 66.24.200 now permits wine distributors to sell directly to holders of the annual special permit, and if the language of WAC 314-24-190 were left unchanged, the agency rules would no longer align with the statutory language. Therefore, the proposed amendment to WAC 314-24-190 is dictated by statute, meeting the requirement of RCW 34.05.310(4)(e), and thus exempt from the RFA's SBEIS requirement.

**(2) Scope of exemptions: Check one.**

The rule proposal is fully exempt (*skip section 3*). Exemptions identified above apply to all portions of the rule proposal.

The rule proposal is partially exempt (*complete section 3*). The exemptions identified above apply to portions of the rule proposal, but less than the entire rule proposal. Provide details here (consider using [this template from ORIA](#)):

The rule proposal is not exempt (*complete section 3*). No exemptions were identified above.


**(3) Small business economic impact statement:** *Complete this section if any portion is not exempt.*

If any portion of the proposed rule is **not exempt**, does it impose more-than-minor costs (as defined by RCW 19.85.020(2)) on businesses?

- No Briefly summarize the agency's minor cost analysis and how the agency determined the proposed rule did not impose more-than-minor costs. \_\_\_\_\_
- Yes Calculations show the rule proposal likely imposes more-than-minor cost to businesses and a small business economic impact statement is required. Insert the required small business economic impact statement here:

The public may obtain a copy of the small business economic impact statement or the detailed cost calculations by contacting:

Name:  
Address:  
Phone:  
Fax:  
TTY:  
Email:  
Other:

<b>Date:</b> August 2, 2023	<b>Signature:</b> 
<b>Name:</b> David Postman	
<b>Title:</b> Chair	

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

**WAC 314-24-180 Wine distributors, wine importers—Certain rights granted.** (1) Wine distributors may sell to retailers, export wine from the state, and purchase wine from or sell wine to another wine distributor.

(2) Wine distributors must sell and deliver product from their licensed premises.

(3) Wine importers may sell to the board, export wine from the state, or sell to wine distributors, but may not sell to another wine importer or to retailers.

(4) Wine distributors may sell to holders of annual special permits for short-term rental operators under RCW 66.20.010.

AMENDATORY SECTION (Amending WSR 18-02-006, filed 12/20/17, effective 1/20/18)

**WAC 314-24-190 Wine suppliers and distributors. (1) Definitions** - For the purposes of this chapter:

(a) A "wine supplier" means a domestic winery, certificate of approval holder, wine importer, wine distributor acting as the first United States importer, or a distributor selling wine to another distributor.

(b) A "wine distributor" means a distributor selling to a retailer or a holder of an annual special permit for short-term rental owners under RCW 66.20.010, a domestic winery acting as a distributor, or a certificate of approval holder with a direct shipping to Washington retailer endorsement selling wine of its own production to a retailer.

(2) **Products** - All products must be made available to all retail licensees to the extent it is reasonably practical to do so.

(3) **Distributor changes:**

(a) The following guidelines apply when a wine supplier makes a distributor change. The supplier must notify the board in writing that he/she wishes to change his/her current distributor and appoint a new distributor.

(b) A wine supplier must notify the board if any of the contracts or agreements listed in this rule are revised or terminated by either party.

(4) **Accommodation sales** - The provisions of this rule do not apply when a wine distributor makes an accommodation sale to another wine distributor and this sale is made at a selling price that does not exceed the laid-in cost of the wine being sold. Accommodation sales may only be made when the distributor purchasing the wine is an appointed distributor of the supplier, when the distributor is an authorized purchaser of the brand and product being sold, and when the supplying distributor is appointed by the supplier.