



Washington State Liquor and Cannabis Board

Topic: Petition for Adoption, Amendment, or Repeal of a State Administrative Rule – Reducing days of operation for beer and/or wine restaurants.

Date: December 4, 2024

Presented by: Denise Laflamme, Policy & Rules Coordinator

Background

On October 10, 2024, Kendra Lawson from Westcott Bay Shellfish Farm in the San Juan Islands submitted a petition for rulemaking to the Washington State Liquor and Cannabis Board (Board) requesting the Board initiate rulemaking to reduce the required number of days/hours of operation to accommodate seasonal fluctuations.

The petition states as follows:

Amend Rule RCW 66.24.320; 66.28.360 Restaurant- Beer and Wine
I am requesting the following change:

We are asking the Liquor and Cannabis Board to allow us to be open to the public two days a week during the months of October - March, as opposed to the current requirement of three days a week. The current requirement is causing unnecessary hardship on small businesses in the San Juan Islands. The ability to be open only two days a week in the offseason would have significant positive impact.

This change is needed because:

The economy of the San Juan Islands has changed dramatically over the last few decades. We have one of the highest concentrations of small business in Washington State, and many of those are dependent on tourism. The Islands have become a seasonal destination where many businesses rely on making enough money in the summer months to carry them through the very slow winter months. Last year, 88% of our sales were done between April-September. As both a farm and a restaurant, we operate with extremely low profit margins- the norm for both industries. At this time, we feel as though we have done our best to capitalize on what we can do in the summer months- which includes employing 25 seasonal workers, serving 300+ people lunch a day, and selling shellfish to over a dozen restaurants. Our business is a significant supporter of our local farmers, bakeries, cheesemakers, breweries, wineries, and dozens of other merchants throughout the islands. We are a shellfish farm that in the last decade has worked diligently to bring aquaculture back to the San Juan Islands, as well as put eating farm to table at the forefront of island living. We get to share the splendors of island living with thousands of visitors in the summer, and for the local community we have become the place to go for special occasions. We are proud to be a leader in our community, but the seasonality of the islands places tremendous pressure on small businesses like ours. We want to remain open and continue to serve our island community and guests, but under the current circumstances our business would be better off completely closing to the public from October through March.

For years we have struggled to attract enough business to stay open through the winter and keep employees on the payroll. Historically, the only day that has been worth being open is Saturdays for lunch, which in the dead of winter is often a stretch. The Farm is located 9.3

miles outside the town of Friday Harbor. We don't have the benefit of foot traffic on the Main Street, or office and other workers in town coming out in the middle of their 30 minute lunch break. We have cultivated an experience, and that has become a cornerstone of our business plan. We need to be able to do what we do best- grow high quality shellfish, make seasonal food with local ingredients, and be an authentic island experience. Year after year we come off of an incredible summer season, followed by a winter that eats up any profits and cushion we have built up. We are determined to operate in the offseason in a way that makes sense for our small business while continuing to serve as a gathering place for local families. We have found a sensible solution, which is simply to be open to the public two days a week during the offseason.

The effect of this rule change would be:

The effect of this rule change cannot be understated. The reality of our situation is fairly dire. On the farm side, we have seen a massive increase of seed prices, coupled with changing weather patterns that have resulted in massive crop losses. On the restaurant side, food prices, employee wages, and affordable housing on the island present unprecedented challenges during the summer season, but are nearly impossible to keep up with in the offseason. After years of being open and keeping a skeleton crew employed to run the restaurant, we would often be paying more in labor than we would bring in sales in a day. With the ability to be open only two days a week through the offseason, our year-round employees would be able to work to capitalize on the business we get while open to the public, while also efficiently harvesting shellfish on the other days in order to expand our commercial market. This would significantly lower our overhead costs and give our small business an opportunity to not only survive, but also to potentially grow in the offseason.

The rule is not clearly or simply stated:

The rule is clearly stated that we must be open a minimum of three days a week, five hours a day. Compliance of this during our peak season is not an issue, but due to both the seasonality of our business and our remote location, the requirement is incompatible with our success as a small business that is driven largely by seasonal visitors. We are asking for a simple change from three days to two days, so that our small shellfish farm and restaurant can run more efficiently, and persevere through the hardships the industries are currently faced with.

Issue

Whether the Board should accept or deny the petition requesting amendments to WAC 314-02-045 to reduce the required number of days a beer and/or wine restaurant license must be open to the public to maintain their license.

Statutes & Regulations

Statutes

[RCW 66.08.030](#) identifies the Board's rulemaking authority over alcohol. This includes (12) Prescribing the conditions, accommodations, and qualifications requisite for the obtaining of licenses to sell beer, wines, and spirits, and regulating the sale of beer, wines, and spirits thereunder.

[RCW 66.24.320](#) Beer and/or wine restaurant license. Describes conditions and fees for beer and/or wine restaurant licenses.

[RCW 66.24.354](#) Combined license – sale of beer and wine for consumption on and off premises. Permits combined beer and wine retailer’s license only with on-premises licenses described in either RCW 66.24.320 or RCW 66.24.330.

[RCW 66.24.360](#) Grocery store license. Identifies the Board’s rulemaking authority over grocery store licenses to sell wine and/or beer and describes conditions and fees for these licenses.

[RCW 66.24.400](#) Liquor by the drink, spirits, beer, and wine restaurant license. Describes license conditions and endorsements.

Regulations

[WAC 314-02-015](#) describes requirements and what service privileges are allowed under a **spirits, beer, and wine restaurant license**. (2) requires that to obtain and maintain a spirits, beer, and wine restaurant license, the restaurant must be open to the public at least five hours a day during the hours of 8 a.m. to 11 p.m., three days a week.

[WAC 314-02-020](#) describes fees for **spirits, beer, and wine restaurant licenses**. (3) Allows fees to be prorated for restaurants outside of an incorporated city or town according to the calendar quarters the licensee is open for business.

[WAC 314-02-045](#) describes requirements and what service privileges are allowed under a **beer and/or wine restaurant licenses** and the annual fees. (2)(b) requires that the restaurant must be open to the public at least five hours a day, three days a week in order to obtain and maintain a beer and/or wine restaurant license.

Analysis

RCW 34.05.330(4) states that when petitioning for repeal or amendment of a rule, a person is encouraged to address whether the rule is authorized, whether it conflicts or duplicates other federal, state, or local laws, and whether the rule is different from a federal law applicable to the same activity or subject matter without adequate justification. See [RCW 34.05.330\(4\)\(a\), \(c\), and \(i\)](#). These factors are repeated in WAC 82-05-220(1)(c). See [WAC 82-05-220\(1\)\(c\)\(i\), \(iii\), and \(i\)\(x\)](#).

[RCW 66.08.030](#) grants LCB the rulemaking authority to set requirements for days and hours of operation for different liquor licenses.

[WAC 314-02-045](#) describes requirements for beer and/or wine restaurant licenses. Under subsection (2)(b), these restaurants are required to remain open to the public at least five hours a day, three days a week in order to maintain their license. WAC 314-02-045 does not provide conditions for a beer and/or wine restaurant to close during the year.

[WAC 314-02-020](#) allows spirits, beer, and wine restaurants outside of an incorporated city or town to prorate their licensing fees based on the calendar quarters they are open for business. This permits these restaurants to close during quarters when business is slow while still maintaining their license.

In 2012, and amended in 2014¹, the presiding LCB Board allowed some regulatory exceptions for existing license holders, including Beer/Wine Restaurant days/hours of operation requirements as part of their [Delegation of Authority](#) to the Licensing and Regulation Division. However, this exception is no longer referenced in the present Delegation of Authority.²

Divisional Coordination

Licensing – While Licensing was able to use the previous Delegation of Authority to allow requests for exceptions to the existing rules prior to its revision in 2021, the Division believes addressing this concern in the Washington Administrative Code provides clear direction and parameters to support requests from licensees. A change in the rules will require some minor modifications to current Licensing processes.

Licensing previously identified the need to update WAC 314-02-045 to provide equity, however due to competing priorities and legislatively required changes, has not had the opportunity to engage in rulemaking.

Enforcement & Education – E & E supports consideration of amending WAC 314-02-045 to allow for a Beer and/or Wine restaurant to request a seasonal exemption to operate 2 days per week rather than the 3 day per week, 5 hours per day requirement to maintain the license. This request does not present any real or perceived threat to public safety. Should this change be adopted, we would like language requiring a formal request to Licensing Division with approval/denial input provided by E & E as needed. The request would clearly stipulate the dates the business wishes to operate with the seasonal exemption.

E&E requests that should this rule change request be adopted that it only apply to Beer and/or Wine Restaurant licenses.

Finance – no impact.

IT – none expected.

Public Health – none expected.

Interagency Coordination

Department of Labor & Industries – no immediate impact identified.

Department of Health - no immediate impact identified.

Sovereign to Sovereign Consultations



There has not been an impact identified to Tribal governments any more so than any other licensee.

Recommendation

In order to better align required operation schedules between different license types and to accommodate seasonal business fluctuations of beer and/or wine restaurants, the Director's office staff recommends the Board accept this petition for rulemaking to consider amending WAC 314-02-045 to allow seasonal adjustments to hours and days of operation for beer and wine restaurants.

Board Action

After considering the recommendation of Director's Office staff, the Board accepts/denies the petition for rulemaking submitted by Kendra Lawson on October 10, 2024.

<u> X </u> Accept <u> </u> Deny	 Ollie Garrett, Board Member	<u>12.04.2024</u> Date
<u> X </u> Accept <u> </u> Deny	 Jim Vollendroff, Board Member	<u>12.04.2024</u> Date

Attachments:

- 1) Petition and email from Petitioner
- 2) Laws and Rules related to Petition Analysis

¹ LCB,2014. Threshold Decision Delegation to the Licensing Division (Amended version Effective April 30, 2014). From: Board Chair and Members, To: Alen Rathbun, Licensing Director. Available at: https://lcb.wa.gov/publications/board/2014_Agendas_Minutes/3B_HANDOUT_1_%28Alan%20R%29_MEMO_Delegation_of_Authority_Website.pdf.

² LCB, 2021. Threshold Decision Delegation to the Licensing Division. Available at: https://lcb.wa.gov/sites/default/files/publications/board/Delegated%20Authority/Delegation%20of%20Authority_Revised_2021%20-%20Signed.pdf

RCW 66.08.030 Regulations—Scope. The power of the board to make regulations under chapter 34.05 RCW extends to:

(1) Prescribing the duties of the employees of the board, and regulating their conduct in the discharge of their duties;

(2) Prescribing an official seal and official labels and stamps and determining the manner in which they must be attached to every package of liquor sold or sealed under this title, including the prescribing of different official seals or different official labels for different classes of liquor;

(3) Prescribing forms to be used for purposes of this title or the regulations, and the terms and conditions to be contained in permits and licenses issued under this title, and the qualifications for receiving a permit or license issued under this title, including a criminal history record information check. The board may submit the criminal history record information check to the Washington state patrol and to the identification division of the federal bureau of investigation in order that these agencies may search their records for prior arrests and convictions of the individual or individuals who filled out the forms. The board must require fingerprinting of any applicant whose criminal history record information check is submitted to the federal bureau of investigation;

(4) Prescribing the fees payable in respect of permits and licenses issued under this title for which no fees are prescribed in this title, and prescribing the fees for anything done or permitted to be done under the regulations;

(5) Prescribing the kinds and quantities of liquor which may be kept on hand by the holder of a special permit for the purposes named in the permit, regulating the manner in which the same is kept and disposed of, and providing for the inspection of the same at any time at the instance of the board;

(6) Regulating the sale of liquor kept by the holders of licenses which entitle the holder to purchase and keep liquor for sale;

(7) Prescribing the records of purchases or sales of liquor kept by the holders of licenses, and the reports to be made thereon to the board, and providing for inspection of the records so kept;

(8) Prescribing the kinds and quantities of liquor for which a prescription may be given, and the number of prescriptions which may be given to the same patient within a stated period;

(9) Prescribing the manner of giving and serving notices required by this title or the regulations, where not otherwise provided for in this title;

(10) Regulating premises in which liquor is kept for export from the state, or from which liquor is exported, prescribing the books and records to be kept therein and the reports to be made thereon to the board, and providing for the inspection of the premises and the books, records and the liquor so kept;

(11) Prescribing the conditions and qualifications requisite for the obtaining of club licenses and the books and records to be kept and the returns to be made by clubs, prescribing the manner of licensing clubs in any municipality or other locality, and providing for the inspection of clubs;

(12) Prescribing the conditions, accommodations, and qualifications requisite for the obtaining of licenses to sell beer, wines, and spirits, and regulating the sale of beer, wines, and spirits thereunder;

(13) Specifying and regulating the time and periods when, and the manner, methods and means by which manufacturers must deliver liquor within the state; and the time and periods when, and the manner, methods and means by which liquor may lawfully be conveyed or carried within the state;

(14) Providing for the making of returns by brewers of their sales of beer shipped within the state, or from the state, showing the gross amount of such sales and providing for the inspection of brewers' books and records, and for the checking of the accuracy of any such returns;

(15) Providing for the making of returns by the wholesalers of beer whose breweries are located beyond the boundaries of the state;

(16) Providing for the making of returns by any other liquor manufacturers, showing the gross amount of liquor produced or purchased, the amount sold within and exported from the state, and to whom so sold or exported, and providing for the inspection of the premises of any such liquor manufacturers, their books and records, and for the checking of any such return;

(17) Providing for the giving of fidelity bonds by any or all of the employees of the board. However, the premiums therefor must be paid by the board;

(18) Providing for the shipment of liquor to any person holding a permit and residing in any unit which has, by election pursuant to this title, prohibited the sale of liquor therein;

(19) Prescribing methods of manufacture, conditions of sanitation, standards of ingredients, quality and identity of alcoholic beverages manufactured, sold, bottled, or handled by licensees and the board; and conducting from time to time, in the interest of the public health and general welfare, scientific studies and research relating to alcoholic beverages and the use and effect thereof;

(20) Seizing, confiscating and destroying all alcoholic beverages manufactured, sold or offered for sale within this state which do not conform in all respects to the standards prescribed by this title or the regulations of the board. However, nothing herein contained may be construed as authorizing the *liquor board to prescribe, alter, limit or in any way change the present law as to the quantity or percentage of alcohol used in the manufacturing of wine or other alcoholic beverages;

(21) Monitoring and regulating the practices of license holders as necessary in order to prevent the theft and illegal trafficking of liquor pursuant to RCW 66.28.350. [2014 c 63 s 2; 2012 c 2 s 204 (Initiative Measure No. 1183, approved November 8, 2011); 2002 c 119 s 2; 1977 ex.s. c 115 s 1; 1971 c 62 s 1; 1943 c 102 s 1; 1933 ex.s. c 62 s 79; RRS s 7306-79. Formerly RCW 66.08.030 and 66.08.040.]

***Reviser's note:** The "state liquor control board" was renamed the "state liquor and cannabis board" by 2015 c 70 s 3.

Finding—Application—Rules—Effective date—Contingent effective date—2012 c 2 (Initiative Measure No. 1183): See notes following RCW 66.24.620.

RCW 66.24.320 Beer and/or wine restaurant license—Containers—Fee—Caterer's endorsement. There shall be a beer and/or wine restaurant license to sell beer, including strong beer, or wine, or both, at retail, for consumption on the premises. A patron of the licensee may remove from the premises, recorked or recapped in its original container, any portion of wine or sake that was purchased for consumption with a meal.

(1) (a) The annual fee shall be two hundred dollars for the beer license, two hundred dollars for the wine license, or four hundred dollars for a combination beer and wine license.

(b) The annual fees in (a) of this subsection are waived during the 12-month period beginning with the second calendar month after February 28, 2021, for:

(i) Licenses that expire during the 12-month waiver period under this subsection (1) (b); and

(ii) Licenses issued to persons previously licensed under this section at any time during the 12-month period prior to the 12-month waiver period under this subsection (1) (b).

(c) The waivers in (b) of this subsection do not apply to any licensee that:

(i) Had their license suspended by the board for health and safety violations of state COVID-19 guidelines; or

(ii) Received an order of immediate restraint or citation from the department of labor and industries for allowing an employee to perform work where business activity was prohibited in violation of an emergency proclamation of the governor under RCW 43.06.220.

(d) Upon request of the department of revenue, the board and the department of labor and industries must both provide a list of persons that they have determined to be ineligible for a fee waiver under (b) of this subsection for the reasons described in (c) of this subsection. Unless otherwise agreed, any list must be received by the department of revenue no later than 15 calendar days after the request is made.

(2) (a) The board may issue a caterer's endorsement to this license to allow the licensee to remove from the liquor stocks at the licensed premises, only those types of liquor that are authorized under the on-premises license privileges for sale and service at event locations at a specified date and, except as provided in subsection (3) of this section, place not currently licensed by the board. If the event is open to the public, it must be sponsored by a society or organization as defined by RCW 66.24.375. If attendance at the event is limited to members or invited guests of the sponsoring individual, society, or organization, the requirement that the sponsor must be a society or organization as defined by RCW 66.24.375 is waived. Cost of the endorsement is three hundred fifty dollars.

(b) The holder of this license with a catering endorsement shall, if requested by the board, notify the board or its designee of the date, time, place, and location of any catered event. Upon request, the licensee shall provide to the board all necessary or requested information concerning the society or organization that will be holding the function at which the endorsed license will be utilized.

(c) The holder of this license with a caterer's endorsement may, under conditions established by the board, store liquor on the premises of another not licensed by the board so long as there is a written agreement between the licensee and the other party to provide for ongoing catering services, the agreement contains no exclusivity

clauses regarding the alcoholic beverages to be served, and the agreement is filed with the board.

(d) The holder of this license with a caterer's endorsement may, under conditions established by the board, store liquor on other premises operated by the licensee so long as the other premises are owned or controlled by a leasehold interest by that licensee. A duplicate license may be issued for each additional premises. A license fee of twenty dollars shall be required for such duplicate licenses.

(3) Licensees under this section that hold a caterer's endorsement are allowed to use this endorsement on a domestic winery premises or on the premises of a passenger vessel and may store liquor at such premises under conditions established by the board under the following conditions:

(a) Agreements between the domestic winery or the passenger vessel, as the case may be, and the retail licensee shall be in writing, contain no exclusivity clauses regarding the alcoholic beverages to be served, and be filed with the board; and

(b) The domestic winery or passenger vessel, as the case may be, and the retail licensee shall be separately contracted and compensated by the persons sponsoring the event for their respective services.

(4) The holder of this license or its manager may furnish beer or wine to the licensee's employees free of charge as may be required for use in connection with instruction on beer and wine. The instruction may include the history, nature, values, and characteristics of beer or wine, the use of wine lists, and the methods of presenting, serving, storing, and handling beer or wine. The beer and/or wine licensee must use the beer or wine it obtains under its license for the sampling as part of the instruction. The instruction must be given on the premises of the beer and/or wine licensee.

(5) If the license is issued to a person who contracts with the Washington state ferry system to provide food and alcohol service on a designated ferry route, the license shall cover any vessel assigned to the designated route. A separate license is required for each designated ferry route. [2021 c 6 s 6; (2022 c 116 s 12 expired December 31, 2023); 2019 c 169 s 2; 2007 c 370 s 9; (2009 c 507 s 1 expired July 1, 2011). Prior: 2006 c 362 s 1; 2006 c 101 s 2; 2005 c 152 s 1; 2004 c 62 s 2; prior: 2003 c 345 s 1; 2003 c 167 s 6; 1998 c 126 s 4; 1997 c 321 s 18; 1995 c 232 s 6; 1991 c 42 s 1; 1987 c 458 s 11; 1981 1st ex.s. c 5 s 37; 1977 ex.s. c 9 s 1; 1969 c 117 s 1; 1967 ex.s. c 75 s 2; 1941 c 220 s 1; 1937 c 217 s 1 (23M) (adding new section 23-M to 1933 ex.s. c 62); Rem. Supp. 1941 s 7306-23M.]

Expiration date—2022 c 116 ss 2-20: See note following RCW 66.24.420.

Effective date—Finding—Intent—2022 c 116: See notes following RCW 66.24.420.

Effective date—2021 c 6: See note following RCW 66.24.140.

Expiration date—2009 c 507: "This act expires July 1, 2011."
[2009 c 507 s 15.]

Effective date—2003 c 167: See note following RCW 66.24.244.

RCW 66.24.354 Combined license—Sale of beer and wine for consumption on and off premises—Conditions—Fee. There shall be a beer and wine retailer's license that may be combined only with the on-premises licenses described in either RCW 66.24.320 or 66.24.330. The combined license permits the sale of beer and wine for consumption off the premises.

(1) Beer and wine sold for consumption off the premises must be in original sealed packages of the manufacturer or bottler.

(2) Beer may be sold to a purchaser in a sanitary container brought to the premises by the purchaser and filled at the tap by the retailer at the time of sale.

(3) Licensees holding this type of license also may sell malt liquor in kegs or other containers that are capable of holding four gallons or more of liquid and are registered in accordance with RCW 66.28.200.

(4) The board may impose conditions upon the issuance of this license to best protect and preserve the health, safety, and welfare of the public.

(5) The annual fee for this license shall be one hundred twenty dollars. [1997 c 321 s 21; (2009 c 507 s 4 expired July 1, 2011).]

Expiration date—2009 c 507: See note following RCW 66.24.320.

Effective date—1997 c 321: See note following RCW 66.24.010.

RCW 66.24.400 Liquor by the drink, spirits, beer, and wine restaurant license—Liquor by the bottle for hotel or club guests—Soju endorsement—Removing unconsumed liquor, when.

(1) There shall be a retailer's license, to be known and designated as a spirits, beer, and wine restaurant license, to sell spirituous liquor by the individual glass, beer, and wine, at retail, for consumption on the premises, including mixed drinks and cocktails compounded or mixed on the premises only. A club licensed under chapter 70.62 RCW with overnight sleeping accommodations, that is licensed under this section may sell liquor by the bottle to registered guests of the club for consumption in guest rooms, hospitality rooms, or at banquets in the club. A patron of a bona fide restaurant or club licensed under this section may remove from the premises recorked or recapped in its original container any portion of wine or sake which was purchased for consumption with a meal, and registered guests who have purchased liquor from the club by the bottle may remove from the premises any unused portion of such liquor in its original container. Such license may be issued only to bona fide restaurants and clubs, and to dining, club and buffet cars on passenger trains, and to dining places on passenger boats and airplanes, and to dining places at civic centers with facilities for sports, entertainment, and conventions, and to such other establishments operated and maintained primarily for the benefit of tourists, vacationers and travelers as the board shall determine are qualified to have, and in the discretion of the board should have, a spirits, beer, and wine restaurant license under the provisions and limitations of this title.

(2) The board may issue an endorsement to the spirits, beer, and wine restaurant license that allows the holder of a spirits, beer, and wine restaurant license to sell bottled wine for off-premises consumption. Spirits and beer may not be sold for off-premises consumption under this section except as provided in subsection (4) of this section. The annual fee for the endorsement under this subsection is one hundred twenty dollars.

(3) The holder of a spirits, beer, and wine license or its manager may furnish beer, wine, or spirituous liquor to the licensee's employees free of charge as may be required for use in connection with instruction on beer, wine, or spirituous liquor. The instruction may include the history, nature, values, and characteristics of beer, wine, or spirituous liquor, the use of wine lists, and the methods of presenting, serving, storing, and handling beer, wine, and spirituous liquor. The spirits, beer, and wine restaurant licensee must use the beer, wine, or spirituous liquor it obtains under its license for the sampling as part of the instruction. The instruction must be given on the premises of the spirits, beer, and wine restaurant licensee.

(4) The board may issue an endorsement to the spirits, beer, and wine restaurant license that allows the holder of a spirits, beer, and wine restaurant license to sell for off-premises consumption malt liquor in kegs or other containers that are capable of holding four gallons or more of liquid and are registered in accordance with RCW 66.28.200. Beer may also be sold under the endorsement to a purchaser in a sanitary container brought to the premises by the purchaser or furnished by the licensee and filled at the tap by the retailer at the time of sale. The annual fee for the endorsement under this subsection is one hundred twenty dollars.

(5) (a) The board shall create a soju endorsement to the spirits, beer, and wine restaurant license that allows the holder of a spirits,

beer, and wine restaurant license to serve soju for on-premises consumption by the bottle to tables of two or more patrons twenty-one years of age or older. Cost of the endorsement is fifty dollars.

(b) The holder of a soju endorsement may serve soju in bottles that are three hundred seventy-five milliliters or less. Empty bottles of soju must remain on the patron's table until the patron has left the premises of the licensee.

(c) The patron of a holder of a soju endorsement may remove from the premises recapped in its original container any unused portion of soju that was purchased for consumption with a meal.

(d) The board must develop additional responsible sale and service of soju training curriculum related to the provisions of the soju endorsement under this subsection (5) that includes but is not limited to certification procedures and enforcement policies. This information must be provided in both Korean and English languages to licensees holding the soju endorsement. Soju endorsement holders must ensure servers providing soju to patrons are trained in the soju curriculum developed under this subsection (5). [2019 c 169 s 3; 2019 c 61 s 2; 2011 c 119 s 401; (2009 c 507 s 8 expired July 1, 2011); 2008 c 41 s 10. Prior: 2007 c 370 s 13; 2007 c 53 s 1; 2005 c 152 s 2; 2001 c 199 s 4; 1998 c 126 s 5; 1997 c 321 s 26; 1987 c 196 s 1; 1986 c 208 s 1; 1981 c 94 s 2; 1977 ex.s. c 9 s 4; 1971 ex.s. c 208 s 1; 1949 c 5 s 1 (adding new section 23-S-1 to 1933 ex.s. c 62); Rem. Supp. 1949 s 7306-23S-1.]

Reviser's note: This section was amended by 2019 c 61 s 2 and by 2019 c 169 s 3, each without reference to the other. Both amendments are incorporated in the publication of this section under RCW 1.12.025(2). For rule of construction, see RCW 1.12.025(1).

Expiration date—2009 c 507: See note following RCW 66.24.320.

Effective date—2008 c 41 ss 3, 10, and 11: See note following RCW 66.20.310.

Effective date—2007 c 370 ss 10-20: See note following RCW 66.04.010.

Effective date—1998 c 126: See note following RCW 66.20.010.

Effective date—1997 c 321: See note following RCW 66.24.010.

Effective date—1986 c 208: "This act is necessary for the immediate preservation of the public peace, health, and safety, the support of state government and its existing public institutions, and shall take effect on May 1, 1986." [1986 c 208 s 2.]

RCW 66.24.360 Grocery store license—Fees—Restricted license—Determination of public interest—Inventory—Endorsements. (1) There is a grocery store license to sell wine and/or beer, including without limitation strong beer at retail in original containers, not to be consumed upon the premises where sold.

(2) There is a wine retailer reseller endorsement of a grocery store license, to sell wine at retail in original containers to retailers licensed to sell wine for consumption on the premises, for resale at their licensed premises according to the terms of the license. However, no single sale may exceed twenty-four liters, unless the sale is made by a licensee that was a contract liquor store manager of a contract-operated liquor store at the location from which such sales are made. For the purposes of this title, a grocery store license is a retail license, and a sale by a grocery store licensee with a reseller endorsement is a retail sale only if not for resale.

(3) Licensees obtaining a written endorsement from the board may also sell malt liquor in kegs or other containers capable of holding less than five and one-half gallons of liquid.

(4) The annual fee for the grocery store license is one hundred fifty dollars for each store.

(5) The annual fee for the wine retailer reseller endorsement is one hundred sixty-six dollars for each store.

(6) (a) Upon approval by the board, a grocery store licensee with revenues derived from beer and/or wine sales exceeding fifty percent of total revenues or that maintains an alcohol inventory of not less than fifteen thousand dollars may also receive an endorsement to permit the sale of beer and cider, as defined in RCW 66.24.210(6), in a sanitary container brought to the premises by the purchaser, or provided by the licensee or manufacturer, and filled at the tap by the licensee at the time of sale by an employee of the licensee holding a class 12 alcohol server permit.

(b) Pursuant to RCW 74.08.580(1)(f), a person may not use an electronic benefit transfer card for the purchase of any product authorized for sale under this section.

(c) The board may, by rule, establish fees to be paid by licensees receiving the endorsement authorized under this subsection (6), as necessary to cover the costs of implementing and enforcing the provisions of this subsection (6).

(7) The board must issue a restricted grocery store license authorizing the licensee to sell beer and only table wine, if the board finds upon issuance or renewal of the license that the sale of strong beer or fortified wine would be against the public interest. In determining the public interest, the board must consider at least the following factors:

(a) The likelihood that the applicant will sell strong beer or fortified wine to persons who are intoxicated;

(b) Law enforcement problems in the vicinity of the applicant's establishment that may arise from persons purchasing strong beer or fortified wine at the establishment; and

(c) Whether the sale of strong beer or fortified wine would be detrimental to or inconsistent with a government-operated or funded alcohol treatment or detoxification program in the area.

If the board receives no evidence or objection that the sale of strong beer or fortified wine would be against the public interest, it must issue or renew the license without restriction, as applicable. The burden of establishing that the sale of strong beer or fortified

wine by the licensee would be against the public interest is on those persons objecting.

(8) Licensees holding a grocery store license must maintain a minimum three thousand dollar inventory of food products for human consumption, not including pop, beer, strong beer, or wine.

(9) A grocery store licensee with a wine retailer reseller endorsement may accept delivery of wine at its licensed premises or at one or more warehouse facilities registered with the board, which facilities may also warehouse and distribute nonliquor items, and from which it may deliver to its own licensed premises and, pursuant to sales permitted by this title, to other licensed premises, to other registered facilities, or to lawful purchasers outside the state. Facilities may be registered and utilized by associations, cooperatives, or comparable groups of grocery store licensees.

(10) Upon approval by the board, the grocery store licensee may also receive an endorsement to permit the international export of beer, strong beer, and wine.

(a) Any beer, strong beer, or wine sold under this endorsement must have been purchased from a licensed beer or wine distributor licensed to do business within the state of Washington.

(b) Any beer, strong beer, and wine sold under this endorsement must be intended for consumption outside the state of Washington and the United States and appropriate records must be maintained by the licensee.

(c) Any beer, strong beer, or wine sold under this endorsement must be sold at a price no less than the acquisition price paid by the holder of the license.

(d) The annual cost of this endorsement is five hundred dollars and is in addition to the license fees paid by the licensee for a grocery store license.

(11) A grocery store licensee holding a snack bar license under RCW 66.24.350 may receive an endorsement to allow the sale of confections containing more than one percent but not more than ten percent alcohol by weight to persons twenty-one years of age or older.

(12) The board may adopt rules to implement this section.

(13) Nothing in this section limits the authority of the board to regulate the sale of beer or cider or container sizes under rules adopted pursuant to RCW 66.08.030.

(14) Any endorsement issued pursuant to this section or RCW 66.24.363 may be issued to a qualified combination spirits, beer, and wine licensee in accordance with RCW 66.24.035(10).

(15)(a) A grocery store licensee that also holds a spirits retail license under RCW 66.24.630 may, upon board approval and pursuant to board rules, transition to a combination spirits, beer, and wine license pursuant to RCW 66.24.035.

(b) An applicant that would qualify for a grocery store license under this section and a spirits retail license under RCW 66.24.630 may apply for a single license pursuant to RCW 66.24.035 instead of applying for a grocery store license under this section in addition to a spirits retail license under to RCW 66.24.630. [2017 c 96 s 2; 2015 c 192 s 1; 2012 c 2 s 104 (Initiative Measure No. 1183, approved November 8, 2011); 2011 c 119 s 203; (2009 c 507 s 5 expired July 1, 2011); 2007 c 226 s 2; 2003 c 167 s 8; 1997 c 321 s 22; 1993 c 21 s 1; 1991 c 42 s 4; 1987 c 46 s 1; 1981 1st ex.s. c 5 s 41; 1967 ex.s. c 75 s 6; 1937 c 217 s 1 (23Q) (adding new section 23-Q to 1933 ex.s. c 62); RRS s 7306-23Q.]

Finding—Application—Rules—Effective date—Contingent effective date—2012 c 2 (Initiative Measure No. 1183): See notes following RCW 66.24.620.

Expiration date—2009 c 507: See note following RCW 66.24.320.

Application to certain retailers—2003 c 167 ss 8 and 9:
"Sections 8 and 9 of this act apply to retailers who hold a restricted grocery store license or restricted beer and/or wine specialty shop license on or after July 1, 2003." [2003 c 167 s 12.]

Effective date—2003 c 167: See note following RCW 66.24.244.

Report to legislature—2003 c 167: See note following RCW 66.24.250.

Effective date—1997 c 321: See note following RCW 66.24.010.

Effective date—1981 1st ex.s. c 5: See RCW 66.98.100.

Effective date—1967 ex.s. c 75: See note following RCW 66.08.180.

Employees under eighteen allowed to handle beer or wine: RCW 66.44.340.

WAC 314-02-015 What is a spirits, beer, and wine restaurant license? (1) Per RCW 66.24.400, this license allows a restaurant to:

(a) Serve spirits by the individual glass or soju by the bottle for on-premises consumption.

(i) Soju served by the bottle may only be served in restaurants holding a soju endorsement and must be served under the provisions outlined in RCW 66.24.400(5);

(ii) Soju endorsement holders must ensure servers providing soju to patrons are trained every five years in the soju curriculum developed by the board.

(b) Serve beer by the bottle or can or by tap for on-premises consumption;

(c) Serve wine and sake for on-premises consumption;

(d) Allow patrons to remove recorked or recapped wine, sake, or soju from the licensed premises;

(e) Sell wine by the bottle for off-premises consumption with the appropriate endorsement; and

(f) Sell kegs of malt liquor with the appropriate endorsement. This endorsement also allows the sale of beer or cider as defined in RCW 66.24.210(6) in a sanitary container brought to the premises by the purchaser or furnished by the licensee and filled at the tap by the retailer at the time of sale.

(2) To obtain and maintain a spirits, beer, and wine restaurant license, the restaurant must be open to the public at least five hours a day during the hours of 8:00 a.m. and 11:00 p.m., three days a week.

(3) All applicants for a spirits, beer, and wine license must establish, to the satisfaction of the board, that the premises will operate as a bona fide restaurant. The term "bona fide restaurant" means a business where the board can clearly determine that the primary purpose of the business is the service of complete meals. "Complete meals" is defined in WAC 314-02-035.

[Statutory Authority: RCW 66.08.030. WSR 20-05-008, § 314-02-015, filed 2/5/20, effective 3/7/20; WSR 17-12-030, § 314-02-015, filed 5/31/17, effective 7/1/17. Statutory Authority: RCW 66.08.030, 66.24.371, and 66.24.590. WSR 15-01-001, § 314-02-015, filed 12/3/14, effective 1/3/15. Statutory Authority: RCW 66.08.030. WSR 13-06-024, § 314-02-015, filed 2/27/13, effective 3/30/13. Statutory Authority: RCW 66.08.030 and chapter 66.24 RCW. WSR 11-23-045, § 314-02-015, filed 11/9/11, effective 12/10/11. Statutory Authority: RCW 66.08.030 and 66.24.363. WSR 11-01-133, § 314-02-015, filed 12/21/10, effective 1/21/11. Statutory Authority: RCW 66.08.030. WSR 09-02-012, § 314-02-015, filed 12/29/08, effective 1/29/09. Statutory Authority: RCW 66.04.010, 66.08.030, 66.24.410, 66.44.310, and 66.44.420. WSR 05-22-022, § 314-02-015, filed 10/24/05, effective 11/24/05. Statutory Authority: RCW 66.08.030, 66.24.010, 66.24.120. WSR 00-07-091, § 314-02-015, filed 3/15/00, effective 4/15/00.]

WAC 314-02-020 What are the fee categories for a spirits, beer, and wine restaurant license? (1) Per RCW 66.24.420, the annual fee for a spirits, beer, and wine restaurant license is graduated, as follows:

Amount of customer service area dedicated to dining	Annual fee
100%	\$1,000
50 - 99%	\$1,600
Less than 50%	\$2,000

(2) In order for an area to qualify as a dedicated dining area it must be a separate and 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. Areas dedicated to live music or entertainment, such as dance floors or stages are not considered dedicated dining areas. Dedicated dining areas may not contain:

- (a) Liquor bars (see definition under WAC 314-02-010(2)); or
- (b) Areas dedicated to games or gaming devices.

(3) The fee for a spirits, beer, and wine restaurant license outside of an incorporated city or town will be prorated according to the calendar quarters the licensee is open for business. This proration does not apply in the case of a suspension or revocation of the license.

(4) A duplicate license is required in order to sell liquor from more than one site on your property. These sites must be located on the same property and owned by the same licensee. The following types of businesses may apply for a duplicate license:

Type of Business	Annual fee per duplicate license
Airport terminal	25% of annual license fee
Civic center (such as a convention center)	\$10
Privately owned facility open to the public	\$20

[Statutory Authority: RCW 66.08.030. WSR 17-12-030, § 314-02-020, filed 5/31/17, effective 7/1/17. Statutory Authority: RCW 66.08.030 and chapter 66.24 RCW. WSR 11-23-045, § 314-02-020, filed 11/9/11, effective 12/10/11. Statutory Authority: RCW 66.08.030 and 66.24.600. WSR 10-01-091, § 314-02-020, filed 12/16/09, effective 1/16/10. Statutory Authority: RCW 66.04.010, 66.08.030, 66.24.410, 66.44.310, and 66.44.420. WSR 05-22-022, § 314-02-020, filed 10/24/05, effective 11/24/05. Statutory Authority: RCW 66.08.030, 66.24.010, 66.24.120. WSR 00-07-091, § 314-02-020, filed 3/15/00, effective 4/15/00.]

WAC 314-02-045 What is a beer and/or wine restaurant license?

(1) Per RCW 66.24.320 and 66.24.354, this license allows a restaurant to:

Privilege	Annual fee
(a) Serve beer by the bottle or can or by tap for on-premises consumption.	\$200
(b) Serve wine or sake for on-premises consumption (see RCW 66.24.320 regarding patrons removing recorked or recapped wine or sake from the premises).	\$200
(c) Sell beer and/or wine in the original, unopened containers for off-premises consumption.	\$120
(d) Sell tap beer for off-premises consumption in a sanitary container holding less than four gallons of beer, and brought to the premises by the purchaser.	In conjunction with off-premises privilege outlined in (c) of this subsection.
(e) Sell cider as defined in RCW 66.24.210(6) for off-premises consumption to a purchaser in a sanitary container brought to the premises by the purchaser or provided by the licensee and filled at the tap in the restaurant at the time of purchase. The licensee must comply with federal regulations.	In conjunction with off-premises privilege outlined in (c) of this subsection.
(f) Sell beer in kegs or other containers holding at least four gallons of beer (see WAC 314-02-115 regarding the requirements for registering kegs).	In conjunction with off-premises privilege outlined in (c) of this subsection.

(2) All applicants for a beer and/or wine restaurant license must establish, to the satisfaction of the board, that the premises will operate as a bona fide restaurant, as defined in RCW 66.04.010.

(a) Minimum food service is required, as defined in WAC 314-02-010.

(b) To obtain and maintain a beer and/or wine restaurant license, the restaurant must be open to the public at least five hours a day, three days a week.

(3) If a beer and/or wine restaurant's dedicated dining area comprises less than fifteen percent of the total customer service area, the premises must maintain a tavern license as described in WAC 314-02-070.

[Statutory Authority: RCW 66.08.030. WSR 20-05-008, § 314-02-045, filed 2/5/20, effective 3/7/20. Statutory Authority: RCW 66.08.030, 66.24.371, and 66.24.590. WSR 15-01-001, § 314-02-045, filed 12/3/14, effective 1/3/15. Statutory Authority: RCW 66.08.030. WSR 13-06-024, § 314-02-045, filed 2/27/13, effective 3/30/13. Statutory Authority: RCW 66.08.030 and chapter 66.24 RCW. WSR 11-23-045, § 314-02-045, filed 11/9/11, effective 12/10/11. Statutory Authority: RCW 66.08.030 and 66.24.363. WSR 11-01-133, § 314-02-045, filed 12/21/10, effective 1/21/11. Statutory Authority: RCW 66.08.030 and 66.24.600. WSR 10-01-091, § 314-02-045, filed 12/16/09, effective 1/16/10. Statutory Authority: RCW 66.04.010, 66.08.030, 66.24.410, 66.44.310, and

66.44.420. WSR 05-22-022, § 314-02-045, filed 10/24/05, effective 11/24/05. Statutory Authority: RCW 66.08.030, 66.24.010, 66.24.120. WSR 00-07-091, § 314-02-045, filed 3/15/00, effective 4/15/00.]