



## CR 103 Memorandum

### Re: Trade Area Rulemaking.

Date: February 28, 2024  
Presented by: Daniel Jacobs, Rules Coordinator

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### Background

[RCW 66.24.630\(3\)\(a\)](#) states that the Liquor & Cannabis Board (Board) may issue spirits retail licenses only for premises comprising at least 10,000 square feet of fully enclosed retail space within a single structure, subject to exceptions in subsection (3)(c). [RCW 66.24.630\(3\)\(c\)\(i\)](#) states that the Board may not deny a spirits retail license to an otherwise qualified applicant on the basis of the size of the premises if, among other things, there is no spirits retail license holder in the *trade area* that the applicant proposes to serve (emphasis added). Because there is no definition of the term “trade area” in statute, the Board defines it in [WAC 314-02-1071](#).

[WAC 314-02-1071\(1\)](#) defines a trade area as an area where there is no spirits retail license within a 20 mile travel distance at the time of application. When this rule was first created following the passage of Initiative 1183, there was discussion about the idea of exempting businesses on tribal land from the 20 mile requirement. See [WSR 13-11-026](#). While this proposal did not become part of the final rule, the Board’s Tribal partners have discussed this notion with the Board ever since, noting how exempting businesses on Tribal land from this requirement would recognize Tribal sovereignty in a manner that state and local governments have not always historically been known to do.

The CR 101 was [filed](#) in May 2023, with no public comment received on that filing. The goal of this rule project has been to address the historical omission of recognizing Tribal sovereignty and to try and address this through making the changes that were initially considered in 2013.

The CR 102 was [filed](#) on January 3, 2024, with the proposed rule changes identified in the table below. No comments were received on the CR 102 or proposed draft rule language. The Public hearing was held on February 14, 2024 and two individuals testified in opposition to the proposed rule language. No alternative rule language was proposed. The LCB’s response is detailed in the Concise Explanatory Statement. Therefore, the proposed rule language in the CR 102 is the same as the rule language filed as permanent with the CR 103.

## Rule Necessity & Description of Rule Changes

Section	Current Rule Language	Proposed New Language	Rule Necessity
Title	What is “trade area”?	Trade Area.	Improving clarity without changing effect.
(2)	<p>The board will use the following criteria when determining to accept a spirits retail license application where the proposed premises location is less than ten thousand square feet of fully enclosed retail space:</p> <p>(a) There is no spirits retail license holder or auction title holder within twenty travel miles at the time of license application; and</p> <p>(b) The board will determine travel distance by a publicly available mapping tool which may be accessed on the board's website. The web address of this site at the time of rule adoption is <a href="http://wslcb.maps.arcgis.com/home/">http://wslcb.maps.arcgis.com/home/</a>.</p>	<p>For a spirits retail license application where the proposed premises is less than 10,000 square feet of fully enclosed retail space, the board will determine if there is an existing spirits retailer within 20 travel miles at the time of license application.</p>	<p>Improving clarity without changing effect.</p> <p>Removing reference to outdated mapping technology. This is no longer necessary due to widespread availability of public mapping tools such as Google Maps, etc.</p>
(3)	Former contract liquor stores and title holders by those who purchased a state store at auction are exempt from the ten thousand square foot minimum required by law. Should either choose to locate within an established trade area and they are in compliance with board relocation criteria, they may be issued a license.	Former contract or state liquor stores owners are exempt from the 10,000 square foot minimum required by law. If either entity chooses to locate within a trade area as defined in this section, they may be issued a licenses as long as they are in compliance with relocation criteria established by the board.	Improving clarity without changing effect.
(4)	The board may make an exception to the twenty mile travel distance for the following: A spirits retail license application is for a location where the significant mode of travel is other than by automobile.	[[5]] The board may make an exception to the 20-mile travel distance requirement for a spirits retail license application where access to the proposed location is by means of travel other than automobile.	<p>Improving clarity without changing effect.</p> <p>This has been renumbered as section (5) with the new language being new section (4) to ease the flow and readability of the rule.</p>
N/A	N/A	<p>[[4]] Stores owned and operated by a Tribe or its tribal enterprise, located in Indian country as defined by 18 U.S.C. Sec. 1151, including reservation and all lands held in trust by the United States for the Tribe or its members, are exempt from the 20 mile travel distance requirement.</p> <p>(a) For purposes of this subsection, “Tribe” means a federally</p>	Returning oversight of entities on tribal land to Tribes.

		recognized tribe as defined by 25 U.S.C. Sec. 4103(13)(B). (b) For purposes of this subsection, “tribal enterprise” means a wholly owned business enterprise of the Tribe.	
All	[Changed written numbers to numeric form.]		Improving clarity without changing effect.

**Variance between proposed rule (CR 102) and final rule:**

No changes have been made between the proposed rule and final rule language.

**Rule Implementation (RCW 34.05.328(3)(a))**

Informing and Educating Persons Impacted by the Rule (RCW 34.05.328(3)(b))

To help inform and educate persons impacted by the rule, the LCB will:

- Email notice with the adoption materials to persons who commented on the rules, the rule making and licensee distribution lists, and the general LCB GovDelivery list;
- Post rule adoption materials, including final rule language, response to comments, final analysis (Concise Explanatory Statement), and any other relevant documents on the rulemaking webpage for public access.

Promoting and Assisting Voluntary Compliance (RCW 34.05.328(3)(c))

LCB will promote and assist voluntary compliance through technical assistance.

- LCB staff are available to respond to phone and email inquiries about the rules.
- Agency leadership and staff have actively participated in rule development and revisions and are familiar with the final product. Internal and external education efforts to share knowledge and assure consistent application of rule will be supported.
- Rule and guidance documents will be available on the LCB website.
- LCB will use available and customary resources to disseminate materials and information to all persons impacted by the rules.

These actions are designed to inform and educate all persons impacted by the rules to support and promote voluntary compliance.

Training and Informing LCB Staff

Several LCB staff responsible for implementing these adopted rules work directly with impacted parties and are already familiar with the nuances of the rule

changes. Additional internal guidance documents may be prepared as necessary. The LCB will also consider:

- Provision of internal and external training and education, as needed. potentially including webinars, training, and videos if appropriate;
- Coordinating and centrally locating decisions to assure consistency between agency, staff, and industry.

#### **Rule Effectiveness Evaluation (RCW 34.05.328(3)(d))**

After the rule becomes effective, the LCB will evaluate the effectiveness of this rule in the following ways, including but not limited to:

- Monitoring questions received after the effective date of this rule, and adjusting training and guidance accordingly;
- Monitoring the number of enforcement actions, including type, resolution, and the outcome;
- Monitoring the number of requests for rule language revisions or changes;
- Monitoring the number of requests for rule interpretation;
- Monitoring licensee feedback including, but not limited to, the number of requests for assistance.