



Notice of Permanent Rules to Prohibit Marijuana Consumption in Liquor Licensed Premises

This explanatory statement concerns the **Washington State Liquor Control Board's adoption of amendments to WAC 314-11-015 What are my responsibilities as a liquor licensee?**

The Administrative Procedure Act (RCW 34.05.325(6)) requires agencies to complete a concise explanatory statement before filing adopted rules with the Office of the Code Reviser. This statement must be provided to anyone who gave comment about the proposed rule making.

Once persons who gave comment during this rule making have had a chance to receive this document, the Liquor Control Board will file the amended rules with the Office of the Code Reviser. These rule changes will become effective 31 days after filing (approximately January 19, 2014).

The Liquor Control Board appreciates your involvement in this rule making process. If you have any questions, please contact Karen McCall, Rules Coordinator, at (360) 664-1631 or e-mail at rules@liq.wa.gov.

What are the agency's reasons for adopting this rule?

Some liquor licensees are allowing customers to consume marijuana and/or marijuana infused products in their liquor licensed premises. There are public safety concerns related to mixing alcohol and marijuana at on premises consumption locations. These include impacts to over-service compliance and increased impaired driving from locations allowing on premises consumption. Initiative 502 also prohibited consumption of marijuana in public view.

Summary of all public comments received on this rule proposal.

Six comments were received at the public hearing held on December 11, 2013 in the Board Room in Olympia, WA. Five comments were opposed to the proposed rule and one comment was in support of the proposed rule. One hundred twenty written

comments were received in support of the proposed rule. Two comments were received opposing the proposed rule.

WAC Changes

AMENDATORY SECTION (Amending WSR 11-22-035, filed 10/26/11, effective 11/26/11)

WAC 314-11-015 What are my responsibilities as a liquor licensee? (1) (a) Liquor licensees are responsible for the operation of their licensed premises in compliance with the liquor laws and rules of the board (Title 66 RCW and Title 314 WAC). Any violations committed or permitted by employees will be treated by the board as violations committed or permitted by the licensee.

(b) The penalties for violations of liquor laws or rules are in: WAC 314-29-015 through 314-29-035, as now or hereafter amended, for licensees; and WAC 314-17-105 and 314-17-110, as now or hereafter amended, for employees who hold mandatory alcohol server training permits. These rules also outline aggravating and mitigating circumstances that may affect what

penalty is applied if a licensee or employee violates a liquor law or rule.

(2) Licensees and their employees also have the responsibility to conduct the licensed premises in compliance with the following laws, as they now exist or may later be amended:

- Titles 9 and 9A RCW, the criminal code laws;
- Title 69 RCW, which outlines the laws regarding controlled substances; and
- Titles 70.155, 82.24 RCW, and RCW 26.28.080 which outline laws regarding tobacco.

(3) Licensees have the responsibility to control their conduct and the conduct of employees and patrons on the premises at all times. Except as otherwise provided by law, licensees or employees may not:

(a) Be disorderly or apparently intoxicated on the licensed premises;

(b) Permit any disorderly person to remain on the licensed premises;

(c) Engage in or allow behavior that provokes conduct which presents a threat to public safety;

(d) Consume liquor of any kind while working on the licensed premises; except that:

(i) Entertainers per WAC 314-02-010 may drink while performing under the following conditions:

(A) Alcohol service must be monitored by MAST servers;

(B) Drinks must be served in unlabeled containers;

(C) Entertainers may not advertise any alcohol brands or products;

(D) Entertainers may not promote drink specials; and

(E) If any member of the entertainment group is under twenty-one years of age, alcohol may not be consumed by any member of the group while performing.

(ii) Licensed beer manufacturers and their employees may sample beer of their own manufacture for manufacturing, evaluating or pricing product in areas where the public is not served, so long as the licensee or employee does not become apparently intoxicated;

(iii) Licensed wine manufacturers and their employees may:

(A) Sample wine for manufacturing, evaluating, or pricing product, so long as the licensee or employee does not become apparently intoxicated; and the licensee or employee who is sampling for these purposes is not also engaged in serving alcohol to the public; and

(B) Sample wine of their own manufacture for quality control or consumer education purposes, so long as the licensee or employee does not become apparently intoxicated.

(e) Engage in, or permit any employee or other person to engage in, conduct on the licensed premises which is prohibited by any portion of Titles 9, 9A, or 69 RCW; (~~or~~)

(f) Engage in or permit any employee or other person to engage in the consumption of any type of marijuana, usable marijuana, or marijuana-infused products in a liquor licensed business, including outdoor service areas or any part of the property owned or controlled by the licensee;

(g) Permit any person consuming, or who has consumed within the licensed premises, any type of marijuana, usable marijuana,

or marijuana-infused products to remain on any part of the licensed premises; or

(h) Sell or serve liquor by means of "drive-in" or by "curb service."

(4) Licensees have the responsibility to control the interaction between the licensee or employee and their patrons. At a minimum, licensees or employees may not:

(a) Solicit any patron to purchase any beverage for the licensee or employee, or allow a person to remain on the premises for such purpose;

(b) Spend time or dance with, or permit any person to spend time or dance with, any patron for direct or indirect compensation by a patron.

(c) See WAC 314-11-050 for further guidelines on prohibited conduct.

[Statutory Authority: RCW 66.08.030. WSR 11-22-035, § 314-11-015, filed 10/26/11, effective 11/26/11. Statutory Authority: RCW 66.08.030 and 66.28.320. WSR 10-01-090, § 314-11-015, filed 12/16/09, effective 1/16/10. Statutory Authority: RCW 66.08.030,

66.12.160, 66.44.010, 66.44.200, 66.44.240, 66.44.270, 66.24.291
[66.44.291], 66.44.310. WSR 04-15-162, § 314-11-015, filed
7/21/04, effective 8/21/04. Statutory Authority: RCW 66.08.030,
66.28.100, 66.28.040, 66.28.090, 66.44.010, 66.44.070,
66.44.200, 66.44.270, 66.44.291, 66.44.292, 66.44.310,
66.44.316, 66.44.318, 66.44.340, and 66.44.350. WSR 02-11-054, §
314-11-015, filed 5/9/02, effective 6/9/02. Statutory Authority:
RCW 66.08.030, 66.28.100, 66.28.040, 66.28.090, 66.44.010,
66.44.070, 66.44.200, 66.44.270, 66.44.291, 66.44.292,
66.44.310, 66.44.316, 66.44.318, 66.44.340, 66.44.350, and
chapter 66.44 RCW. WSR 01-06-014, § 314-11-015, filed 2/26/01,
effective 3/29/01.]