



Notice of Permanent Rules for Spirits Sampling by Spirits Retail Licensees and Changes to the B/W Tasting Endorsement for Grocery Stores

This explanatory statement concerns the **Washington State Liquor Control Board's adoption of amendments to WAC 314-02-102 What are the requirements for a grocery store licensee to conduct beer and wine tastings? and WAC 314-02-106 What is a spirits retailer license?**

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?

Rules are needed to implement the following legislation passed in the 2013 legislative session:

- **SSB 5396 – Spirits Sampling by Spirits Retail Licensees**
- **SSB 5517 – B/W Tasting Endorsement for Grocery Store Licensees**

Summary of all public comments received on this rule proposal.

Two comments were received at the public hearing held on December 11, 2013 in the Board Room in Olympia, WA. Two written comments were received in support of the proposed rules. One comment was received opposing the proposed rule for spirits sampling.

WAC Changes

AMENDATORY SECTION (Amending WSR 11-01-133, filed 12/21/10, effective 1/21/11)

WAC 314-02-102 What are the requirements for a grocery store licensee to conduct beer and wine tastings? (1) To be issued a beer and wine tasting endorsement, the licensee must meet the following criteria:

(a) ~~((The licensee has retail sales of grocery products for off-premises consumption, not to include candy, soda pop, beer or wine, that are more than fifty percent of the licensee's gross sales, or the licensee is a membership organization that requires members to be at least eighteen years of age;~~

~~(b))~~) The licensee operates a fully enclosed retail area encompassing at least ~~((nine))~~ ten thousand square feet. The board may issue the endorsement to a licensee with a retail area with less than ~~((nine))~~ ten thousand square feet if there is no licensee in the community that meets the ~~((nine))~~ ten thousand

square foot requirement under the following conditions: There must be at least two employees on duty any time the licensee is conducting beer and wine tasting events. One employee must be dedicated to beer and wine tastings during these events;

~~((e))~~ (b) The licensee has not had more than one public safety administrative violation within the last two years. The two-year window is counted from two years prior to the date of the application for the beer and wine tasting endorsement. (See WAC 314-29-020 for a list of public safety violations.)

(2) In addition to the conditions in RCW 66.24.363, a beer and wine tasting must be conducted under the following:

(a) The licensee must provide a sketch of the tasting area. Fixed or moveable barriers are required around the tasting area to ensure persons under twenty-one years of age do not possess or consume alcohol;

(b) Signs advertising beer and wine tastings may not be placed in the windows or outside of the premises that can be viewed from the public right of way;

(c) Persons serving beer and wine during tasting events must hold a class 12 alcohol server permit.

(3) Licensees are required to send a list of scheduled beer and wine tastings to their regional enforcement office at the beginning of each month. The date and time for each beer and wine tasting must be included.

[Statutory Authority: RCW 66.08.030 and 66.24.363. WSR 11-01-133, § 314-02-102, filed 12/21/10, effective 1/21/11.]

AMENDATORY SECTION (Amending WSR 12-12-065, filed 6/5/12, effective 7/6/12)

WAC 314-02-106 What is a spirits retailer license? (1) A spirits retailer licensee may not sell spirits under this license until June 1, 2012. A spirits retailer is a retail license. The holder of a spirits retailer license is allowed to:

(a) Sell spirits in original containers to consumers for off-premises consumption;

(b) Sell spirits in original containers to permit holders (see chapter 66.20 RCW);

(c) Sell spirits in original containers to on-premises liquor retailers, for resale at their licensed premises, although no single sale may exceed twenty-four liters, and single sales to an on-premises licensee are limited to one per day; and

(d) Export spirits in original containers.

(2) A spirits retailer licensee that intends to sell to another retailer must possess a basic permit under the Federal Alcohol Administration Act. This permit must provide for purchasing distilled spirits for resale at wholesale. A copy of the federal basic permit must be submitted to the board. A federal basic permit is required for each location from which the spirits retailer licensee plans to sell to another retailer.

(3) A sale by a spirits retailer licensee is a retail sale only if not for resale to an on-premises spirits retailer. On-premises retail licensees that purchase spirits from a spirits retail licensee must abide by RCW 66.24.630.

(4) A spirits retail licensee must pay to the board seventeen percent of all spirits sales. The first payment is due to the board October 1, 2012, for sales from June 1, 2012, to

June 30, 2012 (see WAC 314-02-109 for quarterly reporting requirements).

Reporting of spirits sales and payment of fees must be submitted on forms provided by the board.

(5) A spirits retail licensee may apply for a spirits sampling endorsement to conduct spirits sampling if they meet the following criteria:

(a) Be a participant in the responsible vendor program;

(b) Advertising:

(i) For spirits retail licensees that also hold a grocery store license, signs advertising spirits samplings may not be placed in the windows or outside of the premises that can be viewed from the public right of way;

(ii) For spirits retail licensees that also hold a beer/wine specialty store license, advertising of spirits sampling may be advertised but not state that sampling is free of charge.

(c) Spirits samplings are to be conducted in the following manner:

(i) Spirits samplings service area and facilities must be located within the licensees' fully enclosed retail area and must be of a size and design that the licensee can observe and control persons in the area.

(ii) The licensee must provide a sketch of the sampling area. Fixed or moveable barriers are required around the sampling area to ensure that persons under twenty-one years of age and apparently intoxicated persons cannot possess or consume alcohol. The sketch is to be included with the application for the spirits sampling endorsement.

(iii) Each sample may be no more than one-half ounce of spirits, and no more than a total of one and one-half ounces of spirits samples per person during any one visit to the premises. Spirits samples must be unaltered.

(iv) The licensee must have food available for the sampling participants.

(v) Customers must remain in the service area while consuming samples.

(vi) All employees serving spirits during sampling events must hold a class 12 server permit.

(vii) There must be at least two employees on duty when conducting spirits sampling events.

(viii) Spirits sampling activities are subject to RCW 66.28.305 and 66.28.040.

(d) Licensees are required to send a list of scheduled spirits samplings to their regional enforcement office at the beginning of each month. The date and time for each sampling must be included.

(6) The annual fee for a spirits retail license is one hundred sixty-six dollars.

[Statutory Authority: RCW 66.08.030, 66.24.055, 66.24.160, 66.24.630, and 66.24.640. WSR 12-12-065, § 314-02-106, filed 6/5/12, effective 7/6/12.]