



Notice of Rule Change – Explanatory Statement Retail Liquor Licenses

This explanatory statement concerns the **Washington State Liquor Control Board's adoption of rules regarding Retail Liquor Licenses.**

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 16, 2010).

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 revising these rules?

The following bills were passed during the 2009 legislative sessions that require changes in existing administrative rules (WAC) or the development of new rules:

- **SSB 5367** – Creates a Nightclub liquor license
- **SSB 5834** – Allows Beer/Wine Specialty Shops to sell kegs for off-premises consumption, allows spirits, beer, and wine private clubs and beer and wine private clubs to sell bottled wine for off-premises consumption, allows retail-to-retail product (wine) transfers, and changes the process of electronic fund transfers (EFT)
- **EHB 2358** – Increases most retail liquor license fees

What changes are being made?

Amendatory Section WAC 314-02-005 – What is the purpose of chapter 314-02 WAC? Added nightclubs to the list of liquor licenses and permits.

Amendatory Section WAC 314-02-010 – Definitions. Added definitions for “entertainer”, “entertainment”, “minimum food service”, and “snack food”.

Amendatory Section WAC 314-02-020 – What are the fee categories for a spirits, beer, and wine restaurant license? Revised the fee matrix to implement EHB 2358.

Amendatory Section WAC 314-02-035 – What are the food service requirements for a spirits, beer, and wine restaurant license? Revised the fees listed for this license type per EHB 2358.

New Section WAC 314-02-036 – What is a spirits, beer, and wine nightclub license? Added a new section to explain what is allowed under a nightclub liquor license, and the fee for the license.

New Section WAC 314-02-037 – What are the floor space requirements for a spirits, beer, and wine nightclub license? Added a new section to explain the floor space requirements, such as barriers to separate areas where minors will be allowed, and what information is needed on a floor plan.

New Section WAC 314-02-038 – Can a spirits, beer, and wine nightclub licensee exclude persons under twenty-one years of age from the premises? Added what is required by the licensee if they want to exclude minors from the premises at all times.

New Section WAC 314-02-039 – What type of restrictions may be placed on a spirits, beer, and wine nightclub license? Added language to implement SSB 5367 regarding local governments ability to petition the board for further restrictions on a nightclub liquor license.

Amendatory Section WAC 314-02-045 – What is beer and/or wine restaurant license? Revised license fee and added a requirement for minimum food service.

Amendatory Section WAC 314-02-060 – What is a caterer’s endorsement? Revised the license fee.

Amendatory Section WAC 314-02-065 – What is a snack bar license? Revised license fee and added the seating requirement into the rule.

Amendatory Section WAC 314-02-070 – What is a tavern license? Revised the license fee.

Amendatory Section WAC 314-02-090 – What is a nonprofit arts organization license? Revised the license fee and added the service area requirement into the rule. Changed the word “conducted” to “occur” in subsection (3) based on stakeholder comment.

Amendatory Section WAC 314-02-095 – What is a public house license? Revised the license fee.

Amendatory Section WAC 314-02-100 – What is a grocery store license? Revised the license fee.

Amendatory Section WAC 314-02-105 – What is a beer and/or wine specialty shop license? Revised the license fee, and revised the language regarding keg sales.

Amendatory Section WAC 314-02-125 – What types of activities on a licensed premises require notice to the board? Corrected the WAC reference in subsection (1) to 314-11-050.

Amendatory Section WAC 314-02-130 – What types of changes to a licensed premises require board approval? Added spirits, beer, and wine nightclub to subsection (1).

Amendatory Section WAC 314-16-040 – Drink menu. Changed the title of the section from “Price list” to “Drink menu”.

Amendatory Section WAC 314-16-110 – Liquor purchases by spirits, beer, and wine licensees. Changed the title of the section. Added spirits, beer, and wine nightclub license throughout the section as needed. Plain talked.

Amendatory Section WAC 314-16-160 – Purchases—Reports. Plain talked.

Summary of all public comments received on this rule proposal.

No public comment was received at the public hearing held December 9, 2009. The following comments were submitted regarding the proposed rules to implement 2009 legislation relating to retail liquor licenses:

Michael Transue – Washington Restaurant Association

Comments:

WAC 314-02-010 (6) – “we’re not certain about the broader legal ramification of defining an entertainer as an employee. Clarifying explicitly that the definition is applicable only to this chapter, would help – I suppose we could insert similar language into this section’s preamble. After “An entertainer” insert, “for the purposes of this chapter only.”

Response: Entertainers have always been considered an employee based on the definition of “employee” in WAC 314-01-005. “Employee” means any person performing services on a licensed premises for the benefit of the licensee.” The definition of “entertainer” doesn’t change the fact that they are considered an employee of the licensee.

WAC 314-02-037 (1)(a) – “seems oddly worded.”

Response: The language reads, “Any areas in the licensed premises where alcohol is sold, served, or consumed is classified as off-limits to minors (RCW 66.44.310 (2)). The rulemaking group does not see this language as “oddly worded”.

WAC 314-02-039 (1)(c) – is it intended that only the board enforce local approved restrictions?

Response: No. The proposed language doesn’t state that only the board will enforce local approved restrictions.

WAC 314-02-039 (1)(d) - “change “restriction” to “restrictions” as there may be more than one restriction in a GNA and adopting the entire GNA might not be necessary.”

Response: This subsection refers to the agreement only. The GNA is one restriction.

WAC 314-02-090 (3) - proposed language reads, “sales are “conducted” but is consumption “conducted”? You might consider changing “be conducted” to “occur”. Also, if sales can occur “after” the performance as well you should consider putting that word into this section.”

Response: We agree the word “occur” should replace “are conducted”. The change has been made. There is no need to add the suggested language to the rule. As a liquor licensee alcohol can be sold until 2 am if they choose. The areas of service and consumption are the issue for this license type.

WAC Changes

AMENDATORY SECTION (Amending WSR 08-17-067, filed 8/19/08, effective 9/19/08)

WAC 314-02-005 What is the purpose of chapter 314-02 WAC?

Chapter 314-02 WAC outlines the qualifications for the following liquor licenses and permits:

- (1) Spirits, beer, and wine restaurants;
- (2) Nightclubs;
- (3) Hotels;
- ~~((3))~~ (4) Beer and/or wine restaurants;
- ~~((4))~~ (5) Snack bars;
- ~~((5))~~ (6) Taverns;
- ~~((6))~~ (7) Motels;

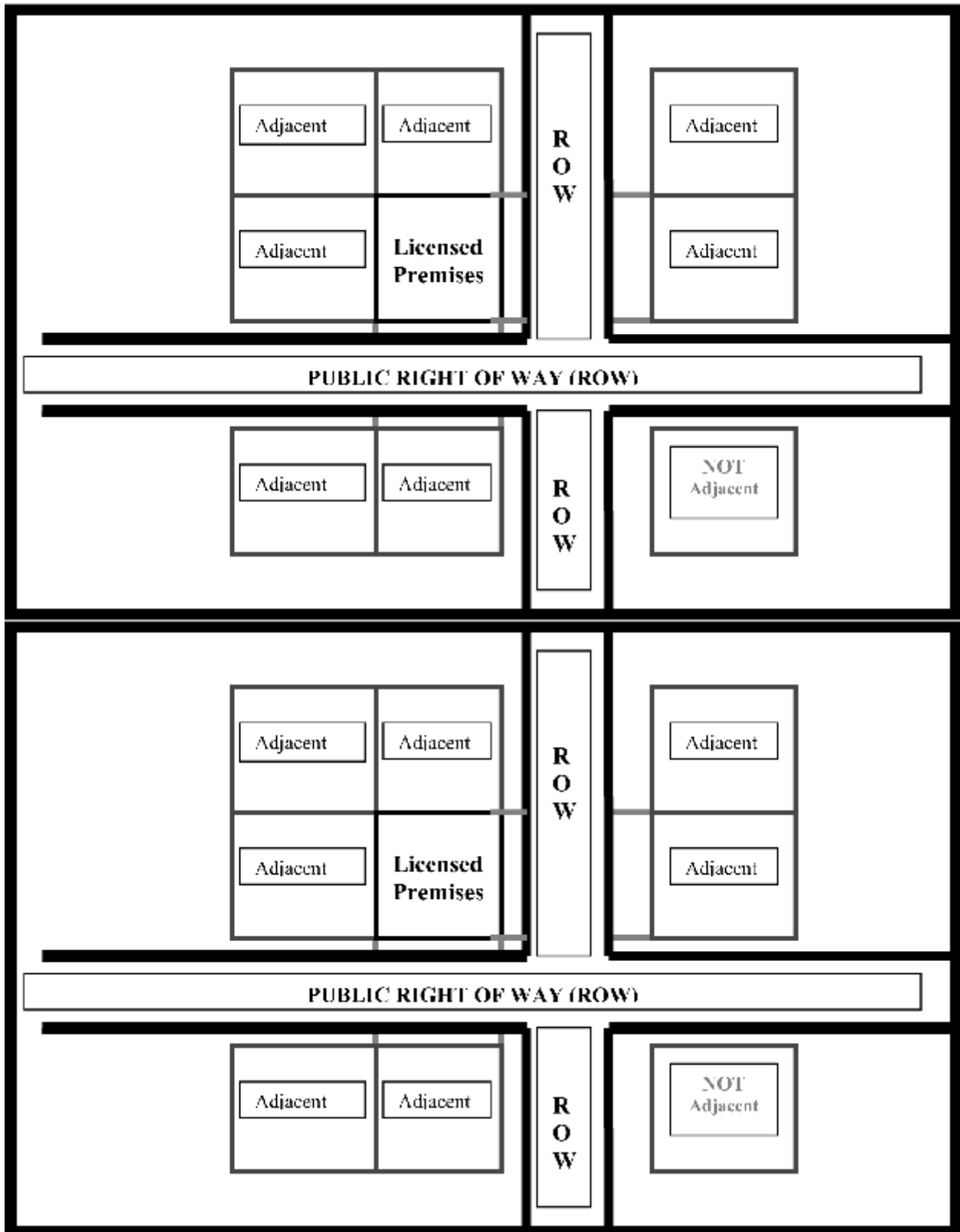
- ~~((7))~~ (8) Bed and breakfasts;
- ~~((8))~~ (9) Nonprofit arts organizations;
- ~~((9))~~ (10) Public houses;
- ~~((10))~~ (11) Grocery stores;
- ~~((11))~~ (12) Beer/wine specialty shops; and
- ~~((12))~~ (13) Beer/wine gift delivery business.

[Statutory Authority: RCW 66.08.030 and 66.24.590. 08-17-067, § 314-02-005, filed 8/19/08, effective 9/19/08. Statutory Authority: RCW 66.08.030, 66.24.010, 66.24.120. 00-07-091, § 314-02-005, filed 3/15/00, effective 4/15/00.]

AMENDATORY SECTION (Amending WSR 08-17-067, filed 8/19/08, effective 9/19/08)

WAC 314-02-010 Definitions. The following definitions are to clarify the purpose and intent of the rules and laws governing liquor licenses and permits. Additional definitions can be found in RCW 66.04.010.

(1) "Adjacent" means having a common endpoint or border where the extension of the property lines of the licensed premises contacts that common border.



(2) "Banquet room" means any room used primarily for the sale and service of food and liquor to private groups.

(3) "Customer service area" means areas where food and/or liquor are normally sold and served to the public, i.e., lounges and dining areas. A banquet room is not considered a customer service area.

(4) "Dedicated dining area." In order for an area to qualify as a dedicated dining area, it must be a distinct portion 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. See WAC 314-02-025 for more information.

(5) "Designated area" means a space where alcohol may be sold, served, or consumed.

(6) "Entertainer" means someone who performs for an audience such as a disc jockey, singer, or comedian, or anyone providing entertainment services for the licensee. An entertainer is considered an employee of the liquor licensee per WAC 314-01-005. Patrons participating in entertainment are not considered employees.

(7) "Entertainment" means dancing, karaoke, singing, comedy shows, concerts, TV broadcasts, contests with patron participation and/or performing for an audience.

(8) "Food counter" means a table or counter set up for the primary purpose of food service to customers who sit or stand at the counter. Any alcohol served is incidental to food service.

~~((7))~~ (9) "Game room" means an area of a business set up for the primary purpose of patrons using games or gaming devices.

~~((8))~~ (10) "Liquor bar" means a table or counter where alcohol is stored or prepared and served to customers who sit or stand at the bar. Liquor bars can only be in lounges or in premises where minors are not allowed at any time.

~~((9))~~ (11) "Lounge" means the portion of a restaurant used primarily for the preparation, sale, and service of beer, wine, or spirits. Minors are not allowed in a lounge (see RCW 66.44.316 for information on employees and professional musicians under twenty-one years of age).

~~((10))~~ (12) "Minimum food service" means items such as sandwiches, salad, soup, hamburgers, and fry orders.

(13) "Minor" means a person under twenty-one years of age.

~~((11))~~ (14) "Service bar" means a fixed or portable table, counter, cart, or similar work station primarily used to prepare, mix, serve, and sell alcohol that is picked up by employees or customers. Customers may not be seated or allowed to consume food or alcohol at a service bar.

(15) "Snack food" means items such as peanuts, popcorn, and chips.

[Statutory Authority: RCW 66.08.030 and 66.24.590. 08-17-067, § 314-02-010, filed 8/19/08, effective 9/19/08. Statutory Authority: RCW 66.04.010, 66.08.030, 66.24.410, 66.44.310, and 66.44.420. 05-22-022, § 314-02-010, filed 10/24/05, effective

11/24/05. Statutory Authority: RCW 66.08.030, 66.24.010, 66.24.120. 00-07-091, § 314-02-010, filed 3/15/00, effective 4/15/00.]

AMENDATORY SECTION (Amending WSR 05-22-022, filed 10/24/05, effective 11/24/05)

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) <u>1,105</u> |
| 50 - 99% | \$(1,600) <u>1,768</u> |
| Less than 50% | \$(2,000) <u>2,210</u> |

(2) In order for an area to qualify as a dedicated dining area it must be a separate and distinct portion 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) | \$ ((40)) <u>11</u> |
| Privately owned facility open to the public | \$20 |

[Statutory Authority: RCW 66.04.010, 66.08.030, 66.24.410, 66.44.310, and 66.44.420. 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. 00-07-091, § 314-02-020, filed 3/15/00, effective 4/15/00.]

AMENDATORY SECTION (Amending WSR 05-22-022, filed 10/24/05, effective 11/24/05)

WAC 314-02-035 What are the food service requirements for a spirits, beer, and wine restaurant license? (1) A spirits, beer, and wine restaurant licensee must serve at least four complete meals. Per RCW 66.24.410(2), a complete meal does not include hamburgers, sandwiches, salads, or fry orders. For purposes of this title:

(a) "Complete meal" means an entree and at least one additional course.

(b) "Entree" means the main course of a meal. To qualify as one of the four required complete meals, the entree must require the use of a dining implement to eat, and cannot consist of a hamburger, sandwich, salad, or fry order.

(2) The restaurant must maintain the kitchen equipment necessary to prepare the complete meals required under this section and RCW 66.24.410(2).

(3) The complete meals must be prepared on the restaurant premises.

(4) A chef or cook must be on duty while complete meals are offered.

(5) A menu must be available to customers that lists, at a minimum, the required complete meals.

(6) The food items required to maintain the menu must be on the restaurant premises. These items must be edible.

(7) Restaurants that have one hundred percent dedicated dining area must maintain complete meal service any time liquor is available for sale, service, or consumption.

(8) Restaurants with less than one hundred percent dedicated dining area (restaurants in the one thousand (~~six~~) seven hundred sixty-eight dollar or two thousand two hundred ten dollar fee category) must maintain complete meal service for a minimum of five hours a day during the hours of 11:00 a.m. and 11:00 p.m. on any day liquor is served. The board may consider written requests for exceptions to this requirement due to demonstrated hardship, under such terms and conditions as the board determines are in the best interests of the public.

(a) Minimum food service, such as sandwiches, hamburgers, or fry orders, must be available outside of these hours.

(b) Snacks such as peanuts, popcorn, and chips do not qualify as minimum food service.

(9) The hours of complete meal service must be conspicuously posted on the premises or listed on the menu. If applicable, a statement that minimum food service is available outside of those hours must also be posted or listed on the menu.

[Statutory Authority: RCW 66.04.010, 66.08.030, 66.24.410, 66.44.310, and 66.44.420. 05-22-022, § 314-02-035, filed 10/24/05, effective 11/24/05. Statutory Authority: RCW

66.08.030, 66.24.010, 66.24.120. 00-07-091, § 314-02-035, filed 3/15/00, effective 4/15/00.]

NEW SECTION

WAC 314-02-036 What is a spirits, beer, and wine nightclub license? (1) This license allows a nightclub as defined in RCW 66.04.010(28) to:

(a) Sell and serve spirituous liquor by the individual drink for on-premises consumption;

(b) Sell and serve beer by the open bottle, can, or by tap for on-premises consumption; and

(c) Sell and serve wine for on-premises consumption.

(2) To obtain and maintain a spirits, beer, and wine nightclub license the nightclub must have primary business hours between 9:00 p.m. and 2:00 a.m.

(3) There are no food requirements for a spirits, beer, and wine nightclub license. Food sales and service are incidental to the sale and service of alcohol.

(4) The annual fee for a spirits, beer, and wine nightclub license is two thousand dollars.

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NEW SECTION

WAC 314-02-037 What are the floor space requirements for a spirits, beer, and wine nightclub license? (1) The liquor control board has the responsibility to classify what licensed premises or what portions of a licensed premises are off limits to minors.

(a) Any areas in the licensed premises where alcohol is sold, served, or consumed is classified as off-limits to minors (RCW 66.44.310(2)).

(b) Minors may be allowed on the licensed premises but only in areas where alcohol is not served or consumed.

(2) **Barriers** - Licensees must place barriers separating restricted areas from areas where minors will be allowed.

(a) The barriers must clearly separate restricted areas and must be at least forty-two inches high.

(b) The barriers may be moveable.

(c) Liquor bars cannot be used as barriers (see definition of liquor bar in WAC 314-02-010(10)).

(d) Entrances to restricted areas may not be wider than ten feet. If a licensee has more than one entrance along one wall, the total entrance areas may not exceed ten feet.

(e) "Minor prohibited" signs, as required under WAC 314-11-060(1), must be posted at each entrance to a restricted area.

(3) If the business allows minors, the primary entrance must open directly into a nonrestricted area. Minors must be able to access restrooms without passing through a restricted area.

(4) **Floor plans** - When applying for a spirits, beer, and wine nightclub license, the applicant must provide to the board's licensing and regulation division two copies of a detailed drawing of the entire premises. If there will be different floor plans for different types of events that change the location and/or dimensions of the restricted area(s), the applicant must provide two copies of a detailed drawing for each floor plan. All restricted areas must be designated on the floor plan(s) and be approved by the board. The drawing must be labeled with the type of event. The drawing must:

(a) Have all rooms labeled according to their use; e.g., lounge, dance floor, stage area, foyer, restrooms, etc.; and

(b) Have all barriers labeled in a descriptive way; e.g., "full wall," "half wall," etc.

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NEW SECTION

WAC 314-02-038 Can a spirits, beer, and wine nightclub license exclude persons under twenty-one years of age from the premises? A spirits, beer, and wine nightclub licensee may exclude minors from the premises at all times.

(1) To exclude minors from the entire licensed premises at all times, the applicant must:

(a) Indicate during the liquor license application process that he/she does not wish to have minors on the entire premises at all times; or

(b) If already licensed as a spirits, beer, and wine nightclub license that allows minors, the licensee may request permission from the board's licensing and regulation division to exclude minors at all times. See WAC 314-02-130 for instructions on requesting this approval.

(2) Spirits, beer, and wine nightclub licensees who exclude minors from the premises may not employ minors. (See WAC 314-11-040 for more information on employing minors.)

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NEW SECTION

WAC 314-02-039 What type of restrictions may be placed on a spirits, beer, and wine nightclub license? (1) Local government may petition the board to request further restrictions be imposed on a spirits, beer, and wine nightclub license in the interest of public safety. Public safety does not include items such as noise ordinances and trash pickup.

(a) The local authority must request any additional restrictions within twenty days from the date of the local authority notice sent by the board.

A request for additional restrictions must be accompanied by a written explanation for the restriction and how the restriction relates to public safety.

(b) If the local authority requests further restrictions on the license, the board will notify the applicant of the local authorities' request.

(c) Any restrictions requested by the local authority and approved by the board may be enforced by the board.

(d) The board may impose the restriction of a "good neighbor agreement" requested by the local authority, but will not enforce agreements between a local authority and liquor licensee or applicant.

(2) The local authority, the applicant, or the licensee may request an administrative hearing per chapter 34.05 RCW if they disagree with the decision the board makes on additional restrictions to the license, based on the interest of public safety.

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AMENDATORY SECTION (Amending WSR 05-22-022, filed 10/24/05, effective 11/24/05)

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)) <u>221</u> |
| (b) Serve wine for on-premises consumption (see RCW 66.24.320 regarding patrons removing recorked wine from the premises). | \$ ((200)) <u>221</u> |
| (c) Sell beer and/or wine in the original, unopened containers for off-premises consumption. | \$ ((120)) <u>133</u> |
| (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 subsection (c). |

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|---|--|
| (e) 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 subsection (c). |
|---|--|

(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(30). Minimum food service is required, as defined in WAC 314-02-010(12).

(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 (see WAC 314-02-070 regarding the tavern license).

[Statutory Authority: RCW 66.04.010, 66.08.030, 66.24.410, 66.44.310, and 66.44.420. 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. 00-07-091, § 314-02-045, filed 3/15/00, effective 4/15/00.]

AMENDATORY SECTION (Amending WSR 00-07-091, filed 3/15/00, effective 4/15/00)

WAC 314-02-060 What is a caterer's endorsement? (1) A spirits, beer, and wine restaurant and a beer and/or wine restaurant applicant or licensee may apply for a caterer's endorsement, in order to extend the on-premises license privilege to allow the sale and service of liquor at approved locations other than the licensed premises. See RCW 66.24.420(6) and RCW 66.24.320(2) for more information about this endorsement.

(2) The annual fee for this endorsement is three hundred (~~fifty~~) eighty-seven dollars.

[Statutory Authority: RCW 66.08.030, 66.24.010, 66.24.120. 00-07-091, § 314-02-060, filed 3/15/00, effective 4/15/00.]

AMENDATORY SECTION (Amending WSR 00-07-091, filed 3/15/00, effective 4/15/00)

WAC 314-02-065 What is a snack bar license? (1) Per RCW 66.24.350, a snack bar license allows a licensee to serve beer by the opened bottle or can for on-premises consumption only.

(2) Snack bar licensees must have snack food, as defined in WAC 314-02-010(15), available whenever beer is sold or served.

(3) Snack bars must have designated seating for on-premises consumption of beer.

(4) The annual fee for this license is one hundred (~~twenty-five~~) thirty-eight dollars.

[Statutory Authority: RCW 66.08.030, 66.24.010, 66.24.120. 00-07-091, § 314-02-065, filed 3/15/00, effective 4/15/00.]

AMENDATORY SECTION (Amending WSR 00-07-091, filed 3/15/00, effective 4/15/00)

WAC 314-02-070 What is a tavern license? (1) Per RCW 66.24.330 and 66.24.354, this license allows a tavern to:

| Privilege | Annual fee |
|--|--|
| (a) Serve beer by the bottle or can or by tap for on-premises consumption. | \$(200) <u>221</u> |
| (b) Serve wine for on-premises consumption. | \$(200) <u>221</u> |
| (c) Sell beer and/or wine in the original, unopened containers for off-premises consumption. | \$(120) <u>133</u> |
| (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 subsection (c). |

| | |
|---|--|
| (e) Sell beer in kegs or other containers holding at least four gallons of beer (see WAC 314-02-110 regarding the requirements for registering kegs). | In conjunction with off-premises privilege outlined in subsection (c). |
|---|--|

(2) A tavern licensee may not allow persons under twenty-one years of age on the premises at any time (see RCW 66.44.316 for information regarding employees and professional musicians under twenty-one years of age).

[Statutory Authority: RCW 66.08.030, 66.24.010, 66.24.120. 00-07-091, § 314-02-070, filed 3/15/00, effective 4/15/00.]

AMENDATORY SECTION (Amending WSR 00-07-091, filed 3/15/00, effective 4/15/00)

WAC 314-02-090 What is a nonprofit arts organization license? (1) Per RCW 66.24.495, this license allows a bona fide nonprofit organization to sell beer, wine, and spirits by the individual serving in conjunction with artistic or cultural exhibitions or performances.

(2) The nonprofit organization must be organized and operated for the purpose of providing artistic or cultural exhibitions, presentations, or performances or cultural or art education programs for viewing by the general public. See RCW 66.24.495(2) for specific organizational requirements.

(3) Alcohol sales and consumption may only occur in the lobby area and/or restricted bar area of the premises prior to the commencement of an exhibition or performance and during intermission.

Alcohol is not allowed in the performance seating areas of the facility.

(4) The annual fee for this license is two hundred fifty dollars.

[Statutory Authority: RCW 66.08.030, 66.24.010, 66.24.120. 00-07-091, § 314-02-090, filed 3/15/00, effective 4/15/00.]

AMENDATORY SECTION (Amending WSR 05-22-022, filed 10/24/05, effective 11/24/05)

WAC 314-02-095 What is a public house license? (1) Per RCW 66.24.580, a public house licensee is allowed to:

(a) Manufacture between two hundred fifty gallons and two thousand four hundred barrels of beer on the premises per year;

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

(c) Serve wine for on-premises consumption (see RCW 66.24.320 regarding patrons removing recorked wine from the premises).

(2) The annual fee for this license is one thousand one hundred five dollars.

(3) If a public house licensee wishes to allow persons under twenty-one years of age on the premises, the licensee must meet the requirements of a beer and/or wine restaurant license, per WAC 314-02-045 and 314-02-025.

(4) Public house licensees may apply for a spirits, beer, and wine restaurant license, in order to sell spirits by the individual serving for on-premises consumption (see WAC 314-02-015).

[Statutory Authority: RCW 66.04.010, 66.08.030, 66.24.410, 66.44.310, and 66.44.420. 05-22-022, § 314-02-095, filed 10/24/05, effective 11/24/05. Statutory Authority: RCW 66.08.030, 66.24.010, 66.24.120. 00-07-091, § 314-02-095, filed 3/15/00, effective 4/15/00.]

AMENDATORY SECTION (Amending WSR 00-07-091, filed 3/15/00, effective 4/15/00)

WAC 314-02-100 What is a grocery store license? (1) Per RCW 66.24.360, a grocery store license allows a licensee to sell beer and/or wine for off-premises consumption.

(2) The annual fee for this license is one hundred (~~fifty~~) sixty-six dollars.

(3) In order to obtain and maintain a grocery store license, the premises must be stocked with an inventory of at least three thousand dollars wholesale value of food for human

consumption, not including soft drinks, beer, or wine. This minimum inventory must be:

(a) Stocked within the confines of the licensed premises;
and

(b) Maintained at the premises at all times the business is licensed, with the exception of:

(i) The beginning and closing inventory for seasonal operations; or

(ii) When the inventory is being sold out immediately prior to discontinuing or selling the business.

(4) A grocery store licensee may sell beer in kegs or other containers holding at least four gallons and less than five and one-half gallons of beer. See WAC 314-02-115 regarding keg registration requirements.

(5) A grocery store applicant or licensee may apply for an international exporter endorsement for five hundred dollars a year, which allows the sale of beer and wine for export to locations outside the United States.

[Statutory Authority: RCW 66.08.030, 66.24.010, 66.24.120. 00-07-091, § 314-02-100, filed 3/15/00, effective 4/15/00.]

AMENDATORY SECTION (Amending WSR 04-19-156, filed 9/22/04, effective 10/23/04)

WAC 314-02-105 What is a beer and/or wine specialty store license? (1) Per RCW 66.24.371, a beer and/or wine specialty store license allows a licensee to sell beer and/or wine for off-premises consumption.

(2) The annual fee for this license is one hundred eleven dollars.

(3) Qualifications for license--To obtain and maintain a beer and/or wine specialty store license, the premises must be stocked with an inventory of beer and/or wine in excess of three thousand dollars wholesale value. This inventory must be:

(a) Stocked within the confines of the licensed premises; and

(b) Maintained on the premises at all times the premises is licensed, with the exception of beginning and closing inventory for seasonal operations or when the inventory is being sold out immediately prior to discontinuing or selling the business.

(4) Qualifications to sample--A beer and/or wine specialty store licensee may allow customers to sample beer and wine for the purpose of sales promotion, if the primary business is the sale of beer and/or wine at retail, and the licensee meets the requirements outlined in either ~~((subsection))~~ (a) or ~~((subsection))~~ (b) of this ~~((rule))~~ subsection:

(a) A licensee's gross retail sales of beer and/or wine exceeds fifty percent of all gross sales for the entire business; or

(b) The licensed premises is a beer and/or wine specialty store that conducts bona fide cooking classes for the purpose of pairing beer and/or wine with food, under the following conditions:

(i) The licensee must establish to the satisfaction of the board that the classes are bona fide cooking courses. The licensee must charge participants a fee for the course(s).

(ii) The sampling must be limited to a clearly defined area of the premises.

(iii) The licensee must receive prior approval from the board's licensing and regulation division before conducting sampling with cooking classes.

(iv) Once approved for sampling, the licensee must provide the board's enforcement and education division a list of all scheduled cooking classes during which beer and/or wine samples will be served. The licensee must notify the board at least forty-eight hours in advance if classes are added.

(5) Licensees who qualify for sampling under subsection (4) of this rule may sample under the following conditions:

(a) No more than a total of eight ounces of alcohol may be provided to a customer during any one visit to the premises;

(b) Each sample must be two ounces or less; and

(c) No more than one sample of any single brand and type of beer or wine may be provided to a customer during any one visit to the premises.

(6) A beer and/or wine specialty store licensee may sell beer in kegs or other containers holding at least four gallons (~~(and less than five and one-half gallons)~~) of beer. See WAC 314-02-115 regarding keg registration requirements.

[Statutory Authority: RCW 66.08.030, 66.24.371. 04-19-156, § 314-02-105, filed 9/22/04, effective 10/23/04; 04-07-020, § 314-02-105, filed 3/8/04, effective 4/8/04. Statutory Authority: RCW 66.08.030, 66.24.010, 66.24.120. 00-07-091, § 314-02-105, filed 3/15/00, effective 4/15/00.]

AMENDATORY SECTION (Amending WSR 00-07-091, filed 3/15/00, effective 4/15/00)

WAC 314-02-125 What types of activities on a licensed premises require notice to the board? Liquor licensees must notify their local enforcement office in writing at least forty-eight hours before conducting the following activities:

(1) Male/female dance reviews, subject to the provisions of WAC (~~(314-16-125)~~) 314-11-050;

(2) Live boxing or wrestling;

(3) Contests or games where patrons are part of the entertainment; and

(4) Hours of operation in between 2:00 a.m. and 6:00 a.m. for licensees that sell liquor for on-premises consumption.

[Statutory Authority: RCW 66.08.030, 66.24.010, 66.24.120. 00-07-091, § 314-02-125, filed 3/15/00, effective 4/15/00.]

AMENDATORY SECTION (Amending WSR 00-07-091, filed 3/15/00, effective 4/15/00)

WAC 314-02-130 What types of changes to a licensed premises require board approval? The following changes to a licensed premises require prior board approval, by submitting a form provided by the board's licensing and regulation division:

| Type of alteration | Approval process and timeline |
|--|--|
| (1) ✎ excluding persons under twenty-one years of age from a spirits, beer, and wine restaurant <u>or a spirits, beer, and wine nightclub</u> ; ✎ excluding persons under twenty-one years of age from the dining area of a beer and/or wine restaurant; ✎ reclassifying a lounge as open to persons under twenty-one years of age; | (a) The board's licensing and regulation division will respond to the request for alteration within five business days. (b) The licensee may begin liquor service in conjunction with the alteration as soon as approval is received. |

✎ extending the location of alcohol service, such as a beer garden or patio/deck service (areas must be enclosed with a barrier a minimum of forty-two inches in height);
✎ storing liquor off of the licensed premises;
✎ initiating room service in a hotel or motel when the restaurant is not connected to the hotel or motel;
✎ installing a pass-through window for walk-up customers; and
✎ using a licensed premises as an access to another business.

(2)

✎ any alteration that affects the size of a premises' customer service area.

(c) Board approval will be based on the alteration meeting the requirements outlined in this title.

(a) The board's licensing and regulation division will respond to the licensee's request for alteration within five business days.

(b) The licensee must contact their local liquor control agent when the alteration is completed.

(c) The licensee may begin liquor service in conjunction with the alteration after the completed alteration is inspected by the liquor control agent.

(d) Board approval will be based on the alteration meeting the requirements outlined in this title.

[Statutory Authority: RCW 66.08.030, 66.24.010, 66.24.120. 00-07-091, § 314-02-130, filed 3/15/00, effective 4/15/00.]

AMENDATORY SECTION (Amending WSR 01-06-014, filed 2/26/01, effective 3/29/01)

WAC 314-16-040 ((~~Price list.~~)) Drink menu. No holder of a beer and/or wine restaurant license shall advertise for sale, nor sell, any mixed drink under the name of "Old Fashioned," "Whiskey Sour," "Singapore Sling," "Martini," "Manhattan," nor any other name which, by long and general usage, has become associated in the public mind as being the name of a mixed drink made from spirituous liquor, unless the name of such drink is prefaced by the word "wine," such as Wine Old Fashioned. The holder of a beer and/or wine restaurant license may advertise for sale, mix, compound or sell upon order, mixed drinks made from one or more wines under a name which does not conflict with this section.

[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. 01-06-014, § 314-16-040, filed 2/26/01, effective 3/29/01. Statutory Authority: RCW 66.08.030, 66.24.010, 66.24.120. 00-12-051, § 314-16-040,

filed 6/5/00, effective 7/6/00. Statutory Authority: RCW
66.08.030, 15.88.030, 19.126.020, 66.04.010, 66.08.180,
66.16.100, 66.20.010, 66.20.300, 66.20.310, 66.24.150,
66.24.170, 66.24.185, 66.24.200, 66.24.206, 66.24.210,
66.24.230, 66.24.240, 66.24.244, 66.24.250, 66.24.375,
66.24.380, 66.24.395, 66.24.400, 66.24.420, 66.24.425,
66.24.440, 66.24.450, 66.24.455, 66.24.495, 66.24.540,
66.28.010, 66.28.040, 66.28.050, 66.28.170, 66.28.180,
66.28.190, 66.28.200, 66.28.310, 66.44.190, 66.44.310, 66.98.060
and 82.08.150. 98-18-097, § 314-16-040, filed 9/2/98, effective
10/3/98. Statutory Authority: RCW 66.08.030. 88-23-100 (Order
261, Resolution No. 270), § 314-16-040, filed 11/22/88; 87-20-
014 (Order 228, Resolution No. 237), § 314-16-040, filed
9/29/87; 86-07-015 (Order 179, Resolution No. 188), § 314-16-
040, filed 3/11/86; 85-06-023 (Order 155, Resolution No. 164), §
314-16-040, filed 2/27/85. Statutory Authority: RCW 66.08.030
and 66.98.070. 84-11-092 (Order 142, Resolution No. 151), §
314-16-040, filed 5/23/84. Statutory Authority: RCW 66.08.030,
66.08.060 and 66.98.070. 80-02-094 (Order 69, Resolution No.
78), § 314-16-040, filed 1/23/80; Rule 19, filed 6/13/63.]

AMENDATORY SECTION (Amending WSR 98-18-097, filed 9/2/98, effective 10/3/98) **WAC 314-16-110 Liquor purchases by spirits, beer, and wine ((restaurant, club and sports/entertainment facility)) licensees.** (1) Any employee authorized by the board may sell spirituous liquor at a discount of fifteen percent from the retail price fixed by the board, together with all taxes, to any spirits, beer and wine restaurant, spirits, beer, and wine nightclub, spirits, beer, and wine club or sports/entertainment facility licensee upon presentation to such employee at the time of purchase of a special permit issued by the board to such licensee or through such other means of insuring identification of the authorized purchaser as are approved by the board(~~(- Provided, however, That))~~). Prior to license delivery, a new licensee ((or transferee)) may, with board authorization, be sold discount liquor and beer and wine purchased under Title 66 RCW for the purpose of stocking the premises. The employee shall at the time of selling any spirituous liquor to a spirits, beer and wine restaurant, spirits, beer, and wine nightclub, spirits, beer, and wine club or sports/entertainment facility licensee make a record of the liquor so sold, together with the name of the spirits, beer and wine restaurant, spirits, beer, and wine nightclub, spirits, beer, and wine club or sports/entertainment facility licensee making the purchase. No sale of beer, wine, or spirituous liquor shall take place until the premises of the new licensee (~~(or transferee))~~ have been inspected by the board and the spirits, beer and wine restaurant, spirits, beer, and wine nightclub, spirits, beer,

and wine club or sports/entertainment facility license is delivered.

(2) Every spirits, beer and wine restaurant, spirits, beer, and wine nightclub, spirits, beer, and wine club or sports/entertainment facility licensee, upon purchasing any spirituous liquor from the board, shall immediately cause such liquor to be delivered to his or her licensed premises, and he or she shall not (~~thereafter~~) remove or permit to be removed from said premises any bottle or other container containing such liquor, except pursuant to chapter 314-70 WAC or to return it to a state liquor store or agency, nor shall he or she dispose or allow to be disposed the liquor contained therein in any manner except as authorized by his or her license(~~(:—Provided, however, That))~~). A delivery service business may pick up more than one liquor order on the same day so long as each of said orders are delivered in the normal course of business on the same day without detour or diversion, except for those stops and deliveries as may be necessary to make deliveries to the other licensees whose order is also on the particular delivery vehicle. The possession of any bottle or other container purchased from the board at a discount by any person other than the licensee or said licensee's agents or employees who purchased the same, or the possession thereof at any place which is not the licensed premises of the licensee who purchased such liquor, shall be prima facie evidence that the licensee unlawfully permitted the removal thereof from his or her licensed premises(~~(:—Provided,))~~). The licensee who permanently

discontinues business, other than as a result of a legal distraint action, may remove open bottles of liquor from the premises for personal use upon payment to the board of an amount to be determined by the board in lieu of the discount and tax exemption in effect at that time.

(3) No licensee shall keep in or on the licensed premises any spirituous liquor which was not purchased from the board at a discount(~~(:—Provided, That))~~). Spirituous liquor not purchased at a discount from the board may be kept in or on the licensed premises under authority of a banquet permit issued pursuant to RCW 66.20.010(3) and chapter 314-18 WAC, but only during the specific date and time for which the banquet permit was issued(~~(:—Provided, further, That))~~). Notwithstanding any other provision of Title 314 WAC, a spirits, beer and wine licensee may display antique, unusual, or unique liquor bottles with or without liquor on the licensed premises if such bottles are used as part of the decor, and any such bottles containing liquor are locked securely in display cases, and are not for sale.

(4) No person, including anyone acting as the agent for another other than a spirits, beer and wine licensee shall keep or possess any bottle or other container containing spirituous liquor which was purchased from the board at a discount except as provided in subsection (2) of this section.

(5) All spirituous liquor in and on the licensed premises shall be made available at all times by every licensee for inspection by the board, and such licensee shall permit any

authorized inspector of the board to make such tests or analyses, by spirit hydrometer or otherwise, as the inspector deems proper. Such inspectors are authorized to seize as evidence any bottles or other containers and the contents thereof which they have determined have been reused, refilled, tampered with, adulterated, diluted, fortified or substituted.

[Statutory Authority: RCW 66.08.030, 15.88.030, 19.126.020, 66.04.010, 66.08.180, 66.16.100, 66.20.010, 66.20.300, 66.20.310, 66.24.150, 66.24.170, 66.24.185, 66.24.200, 66.24.206, 66.24.210, 66.24.230, 66.24.240, 66.24.244, 66.24.250, 66.24.375, 66.24.380, 66.24.395, 66.24.400, 66.24.420, 66.24.425, 66.24.440, 66.24.450, 66.24.455, 66.24.495, 66.24.540, 66.28.010, 66.28.040, 66.28.050, 66.28.170, 66.28.180, 66.28.190, 66.28.200, 66.28.310, 66.44.190, 66.44.310, 66.98.060 and 82.08.150. 98-18-097, § 314-16-110, filed 9/2/98, effective 10/3/98. Statutory Authority: RCW 66.08.070. 87-02-012 (Order 209, Resolution No. 218), § 314-16-110, filed 12/30/86. Statutory Authority: RCW 66.08.030 and 66.98.070. 84-15-061 (Order 147, Resolution No. 156), § 314-16-110, filed 7/18/84; 84-02-066 (Order 136, Resolution No. 145), § 314-16-110, filed 1/4/84; 83-01-029 (Order 116, Resolution No. 125), § 314-16-110, filed 12/8/82; 82-17-022 (Order 109, Resolution No. 118), § 314-16-110, filed 8/9/82; Order 50, § 314-16-110, filed 11/30/76, effective 12/31/76; Order 19, § 314-16-110, filed 8/10/72; Rule 26, filed 6/13/63.]

AMENDATORY SECTION (Amending WSR 07-02-076, filed 12/29/06, effective 1/29/07)

WAC 314-16-160 Purchases--Reports. (1) Failure by ~~((licensees))~~ industry members and retailers to keep accurate accounting records which result in the extension of or receipt of credit from ~~((a manufacturer, importer, or distributor))~~ an industry member through the use of a prior cash deposit which is overextended may result in administrative action being taken against the liquor license.

(2) Prior to license delivery, a new beer and/or wine ~~((licensee or transferee))~~ retailer may, with board authorization, be sold beer and/or wine for the purpose of stocking the premises. No retail sale of beer and/or wine shall take place until the applicant premises have been inspected by the board and the liquor license is delivered.

[Statutory Authority: RCW 66.08.030, 66.20.360 through [66.20].380, 66.20.390, 66.24.170, 66.24.206, 66.24.210, 66.24.240, 66.24.244, 66.24.270, 66.24.290, 66.28.170, 66.28.180, and 42.56.270. 07-02-076, § 314-16-160, filed 12/29/06, effective 1/29/07. 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. 01-06-014, § 314-16-160, filed 2/26/01, effective 3/29/01. Statutory Authority: RCW 66.08.030, 15.88.030, 19.126.020, 66.04.010, 66.08.180, 66.16.100, 66.20.010, 66.20.300, 66.20.310, 66.24.150, 66.24.170, 66.24.185, 66.24.200, 66.24.206, 66.24.210, 66.24.230, 66.24.240, 66.24.244, 66.24.250, 66.24.375, 66.24.380, 66.24.395, 66.24.400, 66.24.420, 66.24.425, 66.24.440, 66.24.450, 66.24.455, 66.24.495, 66.24.540, 66.28.010, 66.28.040, 66.28.050, 66.28.170, 66.28.180, 66.28.190, 66.28.200, 66.28.310, 66.44.190, 66.44.310, 66.98.060 and 82.08.150. 98-18-097, § 314-16-160, filed 9/2/98, effective 10/3/98. Statutory Authority: RCW 66.08.030. 88-23-101 (Order 270, Resolution No. 279), § 314-16-160, filed 11/22/88; 87-04-017 (Order 210, Resolution No. 219), § 314-16-160, filed 1/27/87. Statutory Authority: RCW 66.08.030 and 66.98.070. 82-17-022 (Order 109, Resolution No. 118), § 314-16-160, filed 8/9/82; Order 24, § 314-16-160, filed 6/28/73; Order 5, § 314-16-160, filed 8/7/69, effective 9/8/69; Rule 32, filed 6/13/63.]