



Notice of Permanent Rule for Spirits Sampling by Spirits Retail Licensees

This explanatory statement concerns the Washington State Liquor Control Board's adoption of an amendment to WAC 314-02-106 regarding spirits sampling by spirits retail licensees

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 April 11, 2015).

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?

This rulemaking is a result of a petition for rulemaking submitted by Cindy Zehnder, on behalf of Total Wines & More and Diageo, to delete the sentence "Spirits samples must be unaltered" from WAC 314-02-106. Total Wine & More would like to the ability to alter spirits with mixers, water, and/or ice, and better educate their customers about the unique qualities of their products and provide them with ideas for how those products can be served.

Summary of all public comments received on this rule proposal.

Two comments of support were received at the public hearing held on February 25, 2015, in the Board Room in Olympia, WA. Two written comments were received in support of the rule change.

WAC Changes

AMENDATORY SECTION (Amending WSR 14-02-001, filed 12/18/13,
effective 1/18/14)

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 retailer 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~~) may be altered with mixers, water, and/or ice.

(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 66.24.363, 66.24.660 and 66.08.030. WSR 14-02-001, § 314-02-106, filed 12/18/13, effective 1/18/14. 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.]