



**Washington State  
Liquor and Cannabis Board**

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Date: March 9, 2016

To: Jane Rushford, Board Chair  
Ruthann Kurose, Board Member  
Russ Hauge, Board Member

From: Karen McCall, Agency Rules Coordinator

Copy: Rick Garza, Agency Director  
Peter Antolin, Deputy Director  
Justin Nordhorn, Chief of Enforcement  
Becky Smith, Licensing Director

Subject: **Approval of final rules (CR 103) to creating a new section in Chapter 314-03 WAC Allowed Activities**

At the Board meeting on March 9, 2016, the rules coordinator requests that the Liquor and Cannabis Board approve the final rulemaking (CR 103) for a new section in Chapter 314-03 WAC Allowed Activities.

The Board was briefed on the rule making background and public comment for this rule making. An issue paper and text of the rules is attached.

If approved, the Rules Coordinator will send an explanation of the rule making to all persons who submitted comments.

After sending this explanation, the Rules Coordinator will file the rules with the Office of the Code Reviser. The effective date of the rules will be 31 days after filing.

\_\_\_\_\_ Approve      \_\_\_\_\_ Disapprove      \_\_\_\_\_  
Jane Rushford, Chairman      Date

\_\_\_\_\_ Approve      \_\_\_\_\_ Disapprove      \_\_\_\_\_  
Ruthann Kurose, Board Member      Date

\_\_\_\_\_ Approve      \_\_\_\_\_ Disapprove      \_\_\_\_\_  
Russ Hauge, Board Member      Date

Attachment: Issue Paper

Washington State Liquor and Cannabis Board

## **Issue Paper**

### **Beer/Wine Gift Delivery License**

Date: March 9, 2016

Presented by: Karen McCall, Agency Rules Coordinator

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#### **Description of the Issue**

The purpose of this issue paper is to recommend that the Washington State Liquor and Cannabis Board (WSLCB) proceed with final rule making and adopt rules creating a new section in Chapter 314-03 WAC Allowed Activities.

#### **Why is rule making necessary?**

The Beer/Wine Gift Delivery license allows a business that is primarily engaged in the retail sale of gifts or flowers to deliver beer and/or wine in bottles or original packages. The beer or wine must be delivered in conjunction with the gifts or flowers. Many of the orders are placed via the internet. The board has in the past allowed internet sales for holders of this license but there are currently no rules that outline the requirements for this practice. Becky Smith, Licensing Director, has asked for an interim policy and rules to outline the requirements for internet sales and delivery of beer and wine.

#### **Public Comment**

No public comment was received at the public hearing held on February 10, 2016. No written comments were received.

#### **What changes are being proposed?**

**New Section. WAC 314-03-040 Consumer orders, internet sales, and delivery for beer and/or wine gift delivery licenses.** Created a new rule clarifying the requirements for a beer and/or wine gift delivery licensee to sell over the internet and delivery beer and wine to their customers.

Attachment: Proposed Rules

NEW SECTION

**WAC 314-03-040 Consumer orders, internet sales, and delivery for beer and/or wine gift delivery licenses.** A beer and/or wine gift delivery licensee may accept orders for beer or wine from, and deliver beer or wine to, customers.

(1) **Resale.** Liquor shall not be for resale.

(2) **Stock location.** Liquor must come directly from a licensed retail location.

(3) **How to place an order.** Liquor may be ordered in person at a licensed location, by mail, telephone or internet, or by other similar methods.

(4) **Sales and payment.**

(a) Only a licensee or a licensee's direct employees may accept and process orders and payments. A contractor may not do so on behalf of a licensee, except for transmittal of payment through a third-party service. A third-party service may not solicit customer business on behalf of a licensee.

(b) All orders and payments shall be fully processed before liquor transfers ownership or, in the case of delivery, leaves a licensed premises.

(c) Payment method. Payment methods include, but are not limited to: Cash, credit or debit card, check or money order, electronic funds transfer, or an existing prepaid account. An existing prepaid account may not have a negative balance.

(d) Internet. To sell liquor via the internet, a new license applicant must request internet-sales privileges in his or her application. An existing licensee must notify the board prior to beginning internet sales. A corporate entity representing multiple stores may notify the board in a single letter on behalf of affiliated licensees, as long as the liquor license numbers of all licensee locations utilizing internet sales privileges are clearly identified.

(5) **Delivery location.** Delivery shall be made only to a residence or business that has an address recognized by the United States postal service; however, the board may grant an exception to this rule at its discretion. A residence includes a hotel room, a motel room, or other similar lodging that temporarily serves as a residence.

(6) **Hours of delivery.** Liquor may be delivered each day of the week between the hours of 6:00 a.m. and 2:00 a.m. Delivery must be fully completed by 2:00 a.m.

(7) **Age requirement.**

(a) Per chapter 66.44 RCW, any person under twenty-one years of age is prohibited from purchasing, delivering, or accepting delivery of liquor.

(b) A delivery person must verify the age of the person accepting delivery before handing over liquor.

(c) If no person twenty-one years of age or older is present to accept a liquor order at the time of delivery, the liquor shall be returned.

(8) **Intoxication.** Delivery of liquor is prohibited to any person who shows signs of intoxication.

(9) **Containers and packaging.**

(a) Individual units of liquor must be factory sealed in bottles, cans or other like packaging. Delivery of growlers, jugs or other similar, nonfactory sealed containers is prohibited. For the purposes of

this subsection, "factory sealed" means that a unit is in one hundred percent resalable condition, with all manufacturer's seals intact.

(b) The outermost surface of a liquor package, delivered by a third party, must have language stating that:

(i) The package contains liquor;

(ii) The recipient must be twenty-one years of age or older; and

(iii) Delivery to intoxicated persons is prohibited.

(10) **Required information.**

(a) Records and files shall be retained at the licensed premises. Each delivery sales record shall include the following:

(i) Name of the purchaser;

(ii) Name of the person who accepts delivery;

(iii) Street addresses of the purchaser and the delivery location; and

(iv) Time and date of purchase and delivery.

(b) A private carrier must obtain the signature of the person who receives liquor upon delivery.

(c) A sales record does not have to include the name of the delivery person, but it is encouraged.

(11) **Web site requirements.** When selling over the internet, all web site pages associated with the sale of liquor must display a licensee's registered trade name.

(12) **Accountability.** A licensee shall be accountable for all deliveries of liquor made on its behalf.

(13) **Violations.** The board may impose administrative enforcement action upon a licensee, or suspend or revoke a licensee's delivery privileges, or any combination thereof, should a licensee violate any condition, requirement or restriction.



Date: March 9, 2015

To: Jane Rushford, Board Chair  
Ruthann Kurose, Board Member  
Russ Hauge, Board Member

From: Karen McCall, Agency Rules Coordinator

Copy: Rick Garza, Agency Director  
Peter Antolin, Deputy Director  
Justin Nordhorn, Chief of Enforcement  
Becky Smith, Licensing Director

Subject: **Approval for filing a pre-proposal statement of inquiry (CR 101) for WAC 314-02-130 What types of changes to a licensed premises require board approval?**

The outside service requirements in the current rule need to be revised for clarity. Some stakeholders have commented that the outside service rules need to allow for different types of businesses and business locations an exception from current requirements on a case by case basis.

In March, 2015, the board adopted rules that created an exception in the outside service rules to allow sidewalk café outside service in conjunction with a local sidewalk café permit from the local jurisdiction.

### Process

The Rules Coordinator requests approval to file the pre-proposal statement of inquiry (CR 101) for the rule making described above. An issue paper on this rule was presented at the Board meeting on March 9, 2016, and is attached to this order.

If approved for filing, the tentative timeline for the rule making process is outlined below:

March 9, 2015	Board is asked to approve filing the pre-proposal statement of inquiry (CR 101)
April 6, 2016	Code Reviser publishes notice, LCB sends notice to rules distribution list
April 6, 2016	End of written comment period
May 11, 2016	Board is asked to approve filing the proposed rules (CR 102 filing)
June 1, 2016	Code Reviser publishes notice, LCB sends notice to rules distribution list



**Washington State  
Liquor and Cannabis Board**

June 22, 2016	Public Hearing held
June 22, 2016	End of written comment period
July 6, 2016	Board is asked to adopt rules
July 6, 2016	Agency sends notice to those who commented both at the public hearing and in writing.
July 6, 2016	Agency files adopted rules with the Code Reviser (CR 103)
August 6, 2016	Rules are effective (31 days after filing)

\_\_\_\_\_ Approve      \_\_\_\_\_ Disapprove      \_\_\_\_\_  
Jane Rushford, Chairman      \_\_\_\_\_  
Date

\_\_\_\_\_ Approve      \_\_\_\_\_ Disapprove      \_\_\_\_\_  
Ruthann Kurose, Board Member      \_\_\_\_\_  
Date

\_\_\_\_\_ Approve      \_\_\_\_\_ Disapprove      \_\_\_\_\_  
Russ Hauge, Board Member      \_\_\_\_\_  
Date

Attachment: Issue Paper

Washington State Liquor and Cannabis Board

## **Issue Paper**

# **Outside Liquor Service Requirements**

Date: March 9, 2016

Presented by: Karen McCall, Agency Rules Coordinator

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### **Description of the Issue**

The purpose of this Issue Paper is to request approval from the Board to file the first stage of rule making (CR 101) to revise **WAC 314-02-130 What types of changes to a licensed premises require board approval?**

### **Why is rule making necessary?**

The outside service requirements in the current rule need to be revised for clarity. Some stakeholders have commented that the outside service rules need to allow for different types of businesses and business locations an exception from current requirements on a case by case basis.

In March, 2015, the board adopted rules that created an exception in the outside service rules to allow sidewalk café outside service in conjunction with a local sidewalk café permit from the local jurisdiction.

### **Process**

The rule making process begins by announcing LCB's intent to create new rules by filing a CR 101 form. This allows staff and stakeholders to begin discussing language for the new rules. The public may comment during the designated comment period. Notice will be sent to all who have indicated that they want to receive notice of rule changes. The notice will identify the public comment period and where comments can be sent. Board staff will work closely with stakeholders. Staff will draft proposed rules for presentation to the Board at the next phase of the rule making process.



Date: March 9, 2015

To: Jane Rushford, Board Chair  
Ruthann Kurose, Board Member  
Russ Hauge, Board Member

From: Karen McCall, Agency Rules Coordinator

Copy: Rick Garza, Agency Director  
Peter Antolin, Deputy Director  
Justin Nordhorn, Chief of Enforcement  
Becky Smith, Licensing Director

Subject: **Approval for filing a pre-proposal statement of inquiry (CR 101) for WAC 314-23-085 What type of discounts are not allowed?**

On September 9, 2015, the board adopted new rules around fair trade practices. WAC 314-23-085 in particular addresses what type of discounts are not allowed between a distributor and retailer. Our distributor stakeholders are concerned with the exception allowed in this rule and the effect it will have on their normal business practice.

The board notified stakeholders after the rule was adopted that the board would not be enforcing this rule until the board could re-evaluate the circumstances surrounding the rule and the effect on our stakeholders.

### Process

The Rules Coordinator requests approval to file the pre-proposal statement of inquiry (CR 101) for the rule making described above. An issue paper on this rule was presented at the Board meeting on March 9, 2016, and is attached to this order.

If approved for filing, the tentative timeline for the rule making process is outlined below:

March 9, 2015	Board is asked to approve filing the pre-proposal statement of inquiry (CR 101)
April 6, 2016	Code Reviser publishes notice, LCB sends notice to rules distribution list
April 6, 2016	End of written comment period
May 11, 2016	Board is asked to approve filing the proposed rules (CR 102 filing)
June 1, 2016	Code Reviser publishes notice, LCB sends notice to rules distribution list
June 22, 2016	Public Hearing held





**Washington State  
Liquor and Cannabis Board**

June 22, 2016	End of written comment period
July 6, 2016	Board is asked to adopt rules
July 6, 2016	Agency sends notice to those who commented both at the public hearing and in writing.
July 6, 2016	Agency files adopted rules with the Code Reviser (CR 103)
August 6, 2016	Rules are effective (31 days after filing)

\_\_\_\_\_ Approve      \_\_\_\_\_ Disapprove      \_\_\_\_\_  
Jane Rushford, Chairman      Date

\_\_\_\_\_ Approve      \_\_\_\_\_ Disapprove      \_\_\_\_\_  
Ruthann Kurose, Board Member      Date

\_\_\_\_\_ Approve      \_\_\_\_\_ Disapprove      \_\_\_\_\_  
Russ Hauge, Board Member      Date

Attachment: Issue Paper

Washington State Liquor and Cannabis Board

## **Issue Paper**

# **Rule Making on WAC 314-23-085 What type of discounts are not allowed?**

Date: March 9, 2016

Presented by: Karen McCall, Agency Rules Coordinator

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## **Description of the Issue**

The purpose of this Issue Paper is to request approval from the Board to file the first stage of rule making (CR 101) to revise **WAC 314-23-085 What type of discounts are not allowed?**

## **Why is rule making necessary?**

On September 9, 2015, the board adopted new rules around fair trade practices. WAC 314-23-085 in particular addresses what type of discounts are not allowed between a distributor and retailer. An exception was written into the rule that allows a distributor to combine orders for multiple locations when determining a volume discount and deliver the product to multiple liquor licensed locations owned and operated by the same liquor licensed entity.

The exception is strongly opposed by the distributors because it would essentially require them to completely change the way they do business.

The board notified stakeholders after the rule was adopted that the board would not be enforcing this rule until the board could re-evaluate the circumstances surrounding the rule and the effect on our stakeholders.

## **Process**

The rule making process begins by announcing LCB's intent to create new rules by filing a CR 101 form. This allows staff and stakeholders to begin discussing language for the new rules. The public may comment during the designated comment period. Notice will be sent to all who have indicated that they want to receive notice of rule changes. The notice will identify the public comment period and where comments can be sent. Board staff will work closely with stakeholders. Staff will draft proposed rules for presentation to the Board at the next phase of the rule making process.