



**Washington State
Liquor and Cannabis Board**

Date: January 27, 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 January 26, 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: January 27, 2016

Presented by: Karen McCall, Agency Rules Coordinator

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 January 13, 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.