

Chapter 314-12 WAC

GENERAL—APPLICABLE TO ALL LICENSEES

WAC

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DISPOSITION OF SECTIONS FORMERLY CODIFIED IN THIS CHAPTER

<p>314-12-005 Under what conditions may the board delegate authority to approve liquor licenses as provided in RCW 66.24.-010(2)? [Statutory Authority: RCW 66.08.030 and 66.24.010(2). 98-14-004, § 314-12-005, filed 6/18/98, effective 7/19/98.] Repealed by 05-07-012, filed 3/4/05, effective 4/4/05. Statutory Authority: RCW 66.08.030, 66.24.010, 66.24.015, and 66.24.025. 314-12-025 Applicants for temporary licenses—Fee—Who qualifies. [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, § 314-12-025, filed 9/2/98, effective 10/3/98. Statutory Authority: RCW 66.08.-030, 66.24.010 and 66.24.025. 96-03-004, § 314-12-025, filed 1/4/96, effective 2/4/96. Statutory Authority: RCW 66.08.030. 93-10-070, § 314-12-025, filed 5/3/93, effective 6/3/93. Statutory Authority: RCW 66.08.030 and 1987 c 217. 87-16-002 (Order 226, Resolution No. 235), § 314-12-025, filed 7/23/87.] Repealed by 05-07-012, filed 3/4/05, effective 4/4/05. Statutory Authority: RCW 66.08.030, 66.24.010, 66.24.015, and 66.24.025. 314-12-060 Death or incapacity of licensee. [Rule 5, filed 6/13/63.] Repealed by 05-07-012, filed 3/4/05, effective 4/4/05. Statutory Authority: RCW 66.08.030, 66.24.010, 66.24.015, and 66.24.025. 314-12-080 Limitation on reapplications. [Statutory Authority: RCW 66.08.030, 66.24.010 and 66.24.025. 96-03-004, § 314-12-080, filed 1/4/96, effective 2/4/96. Statutory Authority: RCW 66.08.030. 92-21-061, § 314-12-080, filed 10/19/92, effective 11/19/92; Rule 7, filed 6/13/63.] Repealed by 05-07-012, filed 3/4/05, effective 4/4/05. Statutory Authority: RCW 66.08.030, 66.24.-010, 66.24.015, and 66.24.025. 314-12-090 Managers required—Exceptions. [Statutory Authority: RCW 66.08.030, 66.08.130 and 66.08.140. 88-23-032</p>	<p>314-12-100 Change of name. [Statutory Authority: RCW 66.08.-030. 88-04-028 (Order 236, Resolution No. 245), § 314-12-100, filed 1/27/88; Rule 9, filed 6/13/63.] Repealed by 05-07-012, filed 3/4/05, effective 4/4/05. Statutory Authority: RCW 66.08.030, 66.24.010, 66.24.015, and 66.24.025. 314-12-110 Change of location. [Statutory Authority: RCW 66.08.-030, 66.20.010 and 66.98.070. 83-23-123 (Order 133, Resolution No. 142), § 314-12-110, filed 11/23/83; Rule 10, filed 6/13/63.] Repealed by 05-07-012, filed 3/4/05, effective 4/4/05. Statutory Authority: RCW 66.08.030, 66.24.010, 66.24.015, and 66.24.025. 314-12-115 Expired card of identification is not valid for proof of age. [Statutory Authority: RCW 66.08.030. 92-21-060, § 314-12-115, filed 10/19/92, effective 11/19/92.] Repealed by 01-06-014, filed 2/26/01, effective 3/29/01. 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. 314-12-120 Licensed premises open for inspection—Sampling of liquor. [Rule 11, filed 6/13/63.] Repealed by 01-06-014, filed 2/26/01, effective 3/29/01. 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. 314-12-125 Maintaining operation of licensed premises in accordance with law and rules of the board is responsibility of licensee—Failure to do so is cause for revocation of license. [Statutory Authority: RCW 66.08.030 and 66.98.070. 83-18-070 (Order 126, Resolution No. 135), § 314-12-125, filed 9/7/83.] Repealed by 01-06-014, filed 2/26/01, effective 3/29/01. 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. 314-12-130 No liquor deliveries on Sunday—Exceptions. [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, § 314-12-130, filed 9/2/98, effective 10/3/98. Statutory Authority: RCW 66.08.070. 86-24-028 (Order 203, Resolution No. 212), § 314-12-130, filed 11/25/86; Rule 12, filed 6/13/63.] Repealed by 01-06-014, filed 2/26/01, effective 3/29/01. 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. 314-12-135 Business entertainment—Records. [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,</p>
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- 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, § 314-12-135, filed 9/2/98, effective 10/3/98. Statutory Authority: RCW 66.08.030 and 1990 c 125. 90-14-003, § 314-12-135, filed 6/22/90, effective 7/23/90.] Repealed by 10-01-090, filed 12/16/09, effective 1/16/10. Statutory Authority: RCW 66.08.030 and 66.28.320.
- 314-12-145 Credit on nonliquor food items—Conditions—Record-keeping. [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, § 314-12-145, filed 9/2/98, effective 10/3/98. Statutory Authority: 1988 c 50. 88-10-049 (Order 249, Resolution No. 258), § 314-12-145, filed 5/4/88. Statutory Authority: 1987 c 386 § 2. 87-14-009 (Order 218, Resolution No. 227), § 314-12-145, filed 6/23/87.] Repealed by 10-01-090, filed 12/16/09, effective 1/16/10. Statutory Authority: RCW 66.08.030 and 66.28.320.
- 314-12-160 Near beer. [Order 20, § 314-12-160, filed 12/12/72; Rule 15, filed 6/13/63.] Repealed by 84-11-093 (Order 153, Resolution No. 153), filed 5/23/84. Statutory Authority: RCW 66.08.030 and 66.98.070.
- 314-12-170 What are the penalties if a retail liquor licensee violates the liquor laws or rules? [Statutory Authority: RCW 66.08.030, 66.24.010 and 66.24.120. 99-03-032, § 314-12-170, filed 1/13/99, effective 2/13/99. Statutory Authority: RCW 66.08.030. 95-05-006, § 314-12-170, filed 2/1/95, effective 3/4/95. Statutory Authority: RCW 66.08.030 and 66.98.070. 88-17-023 (Order 258, Resolution No. 267), § 314-12-170, filed 8/10/88; 84-17-117 (Order 148, Resolution No. 157), § 314-12-170, filed 8/22/84.] Repealed by 03-09-015, filed 4/4/03, effective 5/5/03. Statutory Authority: RCW 66.08.030, 66.24.010, 66.24.120. Later promulgation, see chapter 314-29 WAC.
- 314-12-175 Educational activities. [Statutory Authority: RCW 66.08.030. 89-18-005 (Order 281, Resolution No. 290), § 314-12-175, filed 8/24/89, effective 9/24/89.] Repealed by 90-14-012, filed 6/25/90, effective 7/26/90. Statutory Authority: RCW 66.08.030 and 1990 c 125.
- 314-12-180 Suspension notices, posting or advertising of—Other—Closing notices prohibited. [Statutory Authority: RCW 66.08.010. 92-21-059, § 314-12-180, filed 10/19/92, effective 11/19/92.] Repealed by 03-09-015, filed 4/4/03, effective 5/5/03. Statutory Authority: RCW 66.08.030, 66.24.010, 66.24.120. Later promulgation, see chapter 314-29 WAC.
- 314-12-195 Mandatory signs to be posted warning of the possible dangers of consumption of alcohol during pregnancy. [Statutory Authority: RCW 66.08.030. 94-18-078, § 314-12-195, filed 9/2/94, effective 10/5/94.] Repealed by 01-06-014, filed 2/26/01, effective 3/29/01. 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.
- 314-12-300 Group One (1) violations against public safety. [Statutory Authority: RCW 66.08.030, 66.24.010 and 66.24.120. 99-03-032, § 314-12-300, filed 1/13/99, effective 2/13/99.] Repealed by 03-09-015, filed 4/4/03, effective 5/5/03. Statutory Authority: RCW 66.08.030, 66.24.010, 66.24.120. Later promulgation, see chapter 314-29 WAC.
- 314-12-310 Group Two (2) offenses—Conduct violations. [Statutory Authority: RCW 66.08.030, 66.24.010 and 66.24.120. 99-03-032, § 314-12-310, filed 1/13/99, effective 2/13/99.] Repealed by 03-09-015, filed 4/4/03, effective 5/5/03. Statutory Authority: RCW 66.08.030, 66.24.010, 66.24.120. Later promulgation, see chapter 314-29 WAC.
- 314-12-320 Group Three (3) offenses—Regulatory violations. [Statutory Authority: RCW 66.08.030, 66.24.010 and 66.24.120. 99-03-032, § 314-12-320, filed 1/13/99, effective 2/13/99.] Repealed by 03-09-015, filed 4/4/03, effective 5/5/03. Statutory Authority: RCW 66.08.030, 66.24.010, 66.24.120. Later promulgation, see chapter 314-29 WAC.
- 314-12-330 Can the board impose sanctions or penalties other than those indicated in WAC 314-12-170? [Statutory Authority: RCW 66.08.030, 66.24.010 and 66.24.120. 99-03-032, § 314-12-330, filed 1/13/99, effective 2/13/99.] Repealed by 03-09-015, filed 4/4/03, effective 5/5/03. Statutory Authority: RCW 66.08.030, 66.24.010, 66.24.120. Later promulgation, see chapter 314-29 WAC.
- 314-12-340 What are some examples of mitigating and aggravating circumstances? [Statutory Authority: RCW 66.08.030, 66.24.010 and 66.24.120. 99-03-032, § 314-12-340, filed 1/13/99, effective 2/13/99.] Repealed by 03-09-015, filed 4/4/03, effective 5/5/03. Statutory Authority: RCW 66.08.030, 66.24.010, 66.24.120. Later promulgation, see chapter 314-29 WAC.

WAC 314-12-010 License does not grant vested right. The issuance of any license by the board shall not be construed as granting a vested right in any of the privileges so conferred, and a misrepresentation of fact found to have been made by the applicant or a licensee shall be deemed a lack of good faith and shall constitute good and sufficient cause for the disapproval of an application or the revocation or suspension of said license by the board.

[Statutory Authority: RCW 66.08.030 and 66.98.070. 82-04-031 (Order 98, Resolution No. 107), § 314-12-010, filed 1/27/82; Rule 1, filed 6/13/63.]

WAC 314-12-015 Receipt of liquor laws/rules summary. Upon issuance of a liquor license under chapter 66.24 RCW, every licensee shall be issued a guide on liquor laws, regulations, and other pertinent information. Every licensee or designee of a licensee shall be required to sign a form provided by the board acknowledging receipt of the guide. The issuance of the guide to the licensee and the receipt of the licensee's signed acknowledgement signifies that the licensee is aware of the basic liquor law requirements and is able to operate their liquor business in such a fashion as to protect the public health, welfare and safety.

[Statutory Authority: RCW 66.08.030. 93-15-027, § 314-12-015, filed 7/12/93, effective 8/12/93; 92-14-024, § 314-12-015, filed 6/22/92, effective 7/23/92.]

WAC 314-12-020 Applicants—Qualifications—Fingerprinting—Criminal history record information checks—Continuing conditions—Agreements—Reconsideration of denied applications. (1) Where a married person is an applicant for, or holder of a license, the spouse of such applicant, if the parties are maintaining a marital community, shall be required to have the same qualifications as the applicant.

(2) The board may require, as a condition precedent to the original issuance of any annual license, fingerprinting and criminal history record information checks on any person not previously licensed by the board. In addition to the applicant, fingerprinting and criminal history record information checks may be required of the applicant's spouse. In the case of a corporation, fingerprinting and criminal history record information checks may be required of its present and any subsequent officers, manager, and stockholders who hold more than ten percent of the total issued and outstanding stock of the applicant corporation if such persons have not previously had their fingerprints recorded with the board. In the case of a partnership, fingerprinting and criminal history record information

checks may be required of all general partners and their spouses. Such fingerprints as are required by the board shall be submitted on forms provided by the board to the Washington state identification section of the Washington state patrol and to the identification division of the Federal Bureau of Investigation in order that these agencies may search their records for prior arrests and convictions of the individuals fingerprinted. The applicant shall give full cooperation to the board and shall assist the board in all aspects of the fingerprinting and criminal history record information check. The applicant may be required to pay a minimal fee to the agency which performs the fingerprinting and criminal history process.

(3) The restrictions on license issuance specified in RCW 66.24.010(2) shall be construed to be continuing conditions for retaining an existing license and any licensed person who ceases to be eligible for issuance of a license under RCW 66.44.010(2) shall also cease to be eligible to hold any license already issued.

(4) The board, in considering an application for a license, may require, in addition to all other information requested concerning the proposed licensed premises (see WAC 314-12-035), that the applicant justify the issuance of the license sought based on an analysis of population trends compared to licenses in the area, any uniqueness of the proposed operation, any unusual circumstances present, plus any other information the applicant(s) may feel will justify the issuance of the license sought.

The board may, at its discretion and for good cause shown, reconsider an application denied for reasons other than objection upon receipt of new information within sixty days of the original denial date. Such reconsiderations are not considered part of the normal license application procedure and must be justified on an individual basis. Should the board determine to reconsider a denied application, notice of such reconsideration shall be given to those persons and/or entities entitled to receive notice of an original license application pursuant to RCW 66.24.010(8). Such notice shall be given at least twenty days prior to final determination on the reconsideration. Additionally, at the same time the notice is given, a press release will be issued informing the public of the impending reconsideration. The process for applications denied due to objection is outlined in chapter 314-09 WAC.

[Statutory Authority: RCW 66.08.030, 66.24.010, 66.24.015, and 66.24-025. 05-07-012, § 314-12-020, filed 3/4/05, effective 4/4/05. Statutory Authority: RCW 66.08.030, 66.24.010, 66.08.150. 01-03-087, § 314-12-020, filed 1/17/01, effective 2/17/01. Statutory Authority: RCW 66.08.030, 66.24.010 and 66.24.025. 96-03-004, § 314-12-020, filed 1/4/96, effective 2/4/96. Statutory Authority: RCW 66.08.030. 93-15-024, § 314-12-020, filed 7/12/93, effective 8/12/93. Statutory Authority: RCW 66.08.030 and 66.24.010 (2)(b). 90-24-007, § 314-12-020, filed 11/27/90, effective 12/28/90. Statutory Authority: RCW 66.08.030 and 66.08.050(2). 83-18-071 (Order 129, Resolution No. 138), § 314-12-020, filed 9/7/83; Order 58, § 314-12-020, filed 8/9/77, effective 9/12/77; Order 43, § 314-12-020, Rule 1.5, filed 11/20/75; Order 36, § 314-12-020, filed 7/2/75; Rule 1.5, filed 6/13/63.]

WAC 314-12-027 Financial interest and ownership.
Pursuant to the exceptions in chapter 66.28 RCW:

(1) An industry member or affiliate may have a financial interest in another industry member or a retailer, and a retailer or affiliate may have financial interest in an industry

(9/15/10)

member unless such interest has resulted or is more likely than not to result in:

(a) Undue influence over the retailer or the industry member; or

(b) An adverse impact on public health and safety.

(2) The structure of any such financial interest must be consistent with the following:

(a) An industry member in whose name a license or COA has been issued pursuant to this title may wholly own or hold a financial interest in a separate legal entity licensed pursuant to RCW 66.24.320 through 66.24.570, but the industry member must form a separate legal entity to apply for the retail liquor license.

Example: ABC Inc. is the liquor licensee for ABC Winery. ABC Inc. has two officers and stockholders; John Doe, President and 50% stockholder, and Mary Smith, Secretary and 50% stockholder. ABC Inc. wants to purchase stock in a retail restaurant. ABC Inc. is not required to form a separate legal entity if the amount of stock purchased is 10% or less. If the amount of stock purchased is more than 10%, ABC Inc. must form a separate legal entity to purchase the stock. John Doe and/or Mary Smith as a sole proprietor, could purchase any amount of stock in a retail restaurant;

(b) A retailer in whose name a license has been issued pursuant to this title may wholly own or hold a financial interest in manufacturer, importer, or distributor licensed under RCW 66.24.170, 66.24.206, 66.24.240, 66.24.244, 66.24.270(2), 66.24.200, or 66.24.250, but the retailer must form a separate legal entity to apply for the nonretail liquor license.

Example: Joe and Jane Smith own a grocery store and hold a grocery store liquor license under a sole proprietor legal entity. They want to purchase stock in a local winery. Joe and Jane Smith are not required to form a separate legal entity if the amount of stock purchased is 10% or less. If the amount of stock purchased is more than 10%, Joe and Jane Smith must form a separate legal entity (such as a corporation or limited liability company) to purchase the stock in the winery;

(c) A supplier in whose name a license or certificate of approval has been issued pursuant to this title may wholly own or hold a financial interest in a separate legal entity licensed as a distributor or importer under this title, but such supplier may not have a license as a distributor or importer issued in its own name.

Example: ABC Inc. is the liquor licensee for ABC Winery. ABC Inc. has two officers and stockholders; John Doe, President and 50% stockholder, and Mary Smith, Secretary and 50% stockholder. ABC Inc. wants to purchase stock in a distributor. ABC Inc. is not required to form a separate legal entity if the amount of stock purchased is 10% or less. If the amount of stock purchased is more than 10%, ABC Inc. must form a separate legal entity to purchase the stock. John Doe and/or Mary Smith as a sole-proprietor, could purchase any amount of stock in a distributor;

(d) A distributor or importer in whose name a license has been issued pursuant to this title may wholly own or hold a financial interest in a separate legal entity licensed or holding a certificate of approval as a supplier under this title, but such distributor or importer may not have a license or certificate of approval as a supplier issued in its own name.

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Example: B&W Distributing, LLC is the liquor licensee for BW Distributing. B&W Distributing, LLC wants to purchase stock in ABC Winery. B&W Distributing, LLC is not required to form a separate legal entity if the amount of stock purchased is 10% or less. If the amount of stock purchased is more than 10%, B&W Distributing, LLC must form a separate legal entity to purchase the stock in the winery.

(3) Any person may request a determination by the board as to whether a proposed or existing financial interest has resulted or is more likely than not to result in undue influence or has resulted or is more likely than not to result in an adverse impact on public health and safety by filing a complaint or request for determination with the board.

(a) The board may conduct an investigation as it deems appropriate in the circumstances.

(b) If the investigation reveals the financial interest has resulted or is more likely than not to result in undue influence or an adverse impact on public health or safety, the board may issue an administrative violation notice or a notice of intent to deny the license to the industry member, the retailer, or both.

The recipient of the administrative violation notice or notice of intent to deny the license may request an administrative hearing under chapter 34.05 RCW.

[Statutory Authority: RCW 66.08.030 and 66.28.320. 10-01-090, § 314-12-027, filed 12/16/09, effective 1/16/10.]

WAC 314-12-030 License to reflect true party in interest—Display of licenses. (1) Pursuant to the requirements of RCW 66.24.010(1), any license issued shall be issued in the name(s) of the true party or parties in interest.

(2) All licenses (except certificates of approval and agent's licenses) shall be prominently displayed on the licensed premises.

(3) For purposes of this section, "true party" shall apply to any person or entity having a substantial interest in the business conducted on the premises to be licensed.

(4) For purposes of this section, "substantial interest" shall mean any of the following:

(a) Receipt of, or the right to receive, ten percent or more of the gross sales from the licensed business during any calendar or fiscal year of the licensed business. Gross sales, as used in this section, shall include the entire gross receipts of every kind and nature from the sales and services made in, upon, or from the premises, whether on a credit or cash basis, whether operated by the licensee or manager, except:

Any rebates or refunds to customers;

The licensee's cost of meals and beverage provided to employees;

The amount of sales tax receipts or admission taxes;

(b) An investment in the licensed business of ten thousand dollars or more; or

(c) Ownership of stock constituting more than ten percent of the issued or outstanding stock of the licensed business.

(5) For purposes of this section, "substantial interest" shall not mean:

(a) A bonus paid to an employee, if the employee is on a fixed wage or salary and the bonus is not more than twenty-five percent of the employee's prebonus annual compensa-

tion, or the bonus is based on a written incentive/bonus program and is not out of the ordinary for the services rendered;

(b) Repayment of a loan or payment on a contract to purchase property unless the loan or contract holder exercises control over or participates in the management of the licensed business;

(c) Reasonable payment for rent on a fixed or percentage basis under a bona fide lease or rental obligation unless the lessor or property manager exercises control over or participates in the management of the business;

(d) Payment of franchise fees on a fixed or percentage basis under a bona fide franchise agreement;

(e) Payment of dividends to corporate stockholders.

[Statutory Authority: RCW 66.08.030. 93-18-094, § 314-12-030, filed 9/1/93, effective 10/2/93; 93-10-092, § 314-12-030, filed 5/4/93, effective 6/4/93; 86-07-012 (Order 176, Resolution No. 185), § 314-12-030, filed 3/11/86; Order 58, § 314-12-030, filed 8/9/77, effective 9/12/77; Rule 2, filed 6/13/63.]

WAC 314-12-033 Limited partnerships. In the licensing of limited partnerships, the following will apply:

(1) The limited partnership business to be licensed shall be controlled by a general partner or partners who shall qualify as "copartners" under RCW 66.24.010.

(2) A limited partner shall be considered within the meaning of the term "copartner" as used in RCW 66.24.-010(2) when the limited partner has more than [a] ten percent [ownership] interest in the business to be licensed or may exert control over the operation of the business either individually or collectively with other limited partners.

(3) As a required part of an application for the licensing of a limited partnership, all general partners shall submit affidavits specifying the nature of the interests of any and all limited partners in the business and certifying that no limited partner has any control, either individually or collectively with other limited partners, over the operation of the business to be licensed and further certifying that [no] limited partner has any financial interest which would be disqualifying under RCW 66.28.010. Similar affidavits may be required, in the discretion of the board, from any limited partner about whom there exists any question concerning ownership interest in, or control of, the business to be licensed or about whom there exists any question concerning possibly disqualifying financial interests under RCW 66.28.010.

[Statutory Authority: RCW 66.08.030 and 66.24.010 (2)(b). 90-24-009, § 314-12-033, filed 11/27/90, effective 12/28/90. Statutory Authority: RCW 66.08.030 and 66.98.070. 82-13-105 (Order 105, Resolution No. 114), § 314-12-033, filed 6/23/82.]

Reviser's note: RCW 34.05.395 requires the use of underlining and deletion marks to indicate amendments to existing rules, and deems ineffectual changes not filed by the agency in this manner. The bracketed material in the above section does not appear to conform to the statutory requirement.

WAC 314-12-035 Furnishing of information and/or documentation to the board. (1) In order to facilitate the administration and/or enforcement of RCW 66.24.010, licensees, applicants for licenses, or the agents or representatives thereof shall, upon request by the board, furnish to the board copies of all documents affecting the ownership and/or proposed operation of the premises licensed or sought to be licensed. These documents may be required with the original license application, with any additional application, and at

such other times as may be requested by the board. Licensees, applicants for licenses, or the agents or representatives thereof, shall furnish along with these documents a signed written summary of any oral agreements which affect the ownership and/or proposed operation of the premises licensed, or sought to be licensed. Failure or refusal to furnish said requested documentation will be good and sufficient cause for denial of any application in support of which the documentation was requested, and will be good and sufficient cause for revocation of any license held by a licensee who fails or refuses to furnish the said requested documentation.

(2) Written information and/or documentation requested by the board from any person for the purpose of administering and/or enforcing RCW 66.24.010, any person furnishing written information and/or documentation requested by the board may be required to submit an affidavit on a form prescribed by the board, which shall be signed by the person submitting the information, given under oath subject to the penalties of perjury, and certifying that all information and/or documentation being furnished is true, accurate and complete.

[Statutory Authority: RCW 66.08.030, 66.24.010 and 66.24.025. 96-03-004, § 314-12-035, filed 1/4/96, effective 2/4/96. Statutory Authority: RCW 66.08.030. 91-22-114, § 314-12-035, filed 11/6/91, effective 12/7/91. Statutory Authority: RCW 66.08.030 and 66.98.070. 82-04-032 (Order 99, Resolution No. 108), § 314-12-035, filed 1/27/82.]

WAC 314-12-040 Prorating and refunding of fees—Discontinuance of business. (1) Unless otherwise provided by law, there will be no prorating of any license fee.

(2) Upon denial or withdrawal of an application for license, adoption or change of trade name, or change of location, the fee tendered therewith shall be returned: Provided, However, such return shall not apply to the nonrefundable seventy-five dollar fee submitted with an application for a new annual retail license.

(3) When a license is suspended or cancelled, or the licensed business is discontinued, no refund of the license fee shall be made.

(4) Upon discontinuance of business for twenty-one days or more by a licensee, he shall forthwith deliver up his license to the board, or representative of the board. A licensee who is not operating as a seasonal business and who has voluntarily discontinued sale of liquor in excess of forty-five days will not be eligible for renewal of license for a subsequent year unless sale of liquor under the license is resumed on a permanent basis prior to the beginning of the next subsequent licensing period.

[Statutory Authority: RCW 66.08.030. 88-16-025 (Order 257, Resolution No. 266), § 314-12-040, filed 7/27/88. Statutory Authority: RCW 66.08.030 and 66.98.070. 82-10-020 (Order 103, Resolution No. 112), § 314-12-040, filed 4/28/82; Rule 3, filed 6/13/63.]

WAC 314-12-050 Loss or destruction of licenses, permits, etc.—Fee. Upon the loss or destruction of any license or permit to purchase liquor thereunder, application for a duplicate must be made to the board. Fee: \$5.00.

[Statutory Authority: RCW 66.08.030. 85-24-040 (Order 168, Resolution No. 177), § 314-12-050, filed 11/27/85; Rule 4, filed 6/13/63.]

(9/15/10)

WAC 314-12-070 Applications for currently licensed locations. (1) No application for any license shall be made except in conformance with RCW 66.24.010, and subject to the following conditions:

(a) Except as authorized by WAC 314-12-025, the license applicant shall not take possession of the premises, nor exercise any of the privileges of a licensee, nor shall such application be effective until the board shall have approved the same;

(b) In approving any license, the board reserves the right to impose special conditions as to the future connection of the former licensee or any of his employees with the licensed business as in its judgment the circumstances may justify;

(c) A change of trade name may be made coincident with the issuance of the license without any additional fee.

(2) The sale of a partnership interest or any change in the partners, either by withdrawal or addition or otherwise, shall be considered a change of ownership and subject to the applicable regulations.

(3) If the licensee is a corporation, whether as sole licensee or in conjunction with other entities, a change in ownership of any stock shall be deemed a corporate change. The licensed corporation shall report to and obtain written approval from the board, for any proposed change in principal officers and/or the proposed sale of more than ten percent of the corporation's outstanding and/or issued stock before any such changes are made. The board may inquire into all matters in connection with any such sale of stock or proposed change in officers. The board will waive the fee for a corporate change when the proposed change consists solely of dropping an approved officer.

(4) For purposes of this regulation:

(a) "Principal officer" shall mean the president, vice-president, secretary, and treasurer, or the equivalent in title, for a publicly traded corporation, and president, vice-president, secretary, treasurer, or the equivalent in title, and all other officers who hold more than ten percent of the corporate stock, for a privately held corporation.

(b) The "proposed sale of more than ten percent of the stock" will be calculated as a cumulative total and must be reported to the board when the accumulation of stock transfers or newly issued stock totals more than ten percent of the outstanding and/or issued stock of the licensed corporation.

[Statutory Authority: RCW 66.08.030, 66.24.010 and 66.24.025. 96-03-004, § 314-12-070, filed 1/4/96, effective 2/4/96. Statutory Authority: RCW 66.08.030 and 66.24.010. 90-24-008, § 314-12-070, filed 11/27/90, effective 12/28/90. Statutory Authority: RCW 66.08.030 and 1987 c 217. 87-16-002 (Order 226, Resolution No. 235), § 314-12-070, filed 7/23/87. Statutory Authority: RCW 66.08.030 and 66.98.070. 81-22-026 (Order 85, Resolution No. 94), § 314-12-070, filed 10/28/81; Order 55, § 314-12-070, filed 5/31/77, effective 7/1/77; Rule 6, filed 6/13/63.]

WAC 314-12-140 Prohibited practices—Contracts—Gifts—Rebates, etc. (1) No industry member or retailer shall enter into any agreement which causes undue influence over another retailer or industry member. This regulation shall not be construed as prohibiting the placing and accepting of orders for the purchase and delivery of liquor which are made in accordance with the usual and common business practice and which are otherwise in compliance with the regulations.

(2) No industry member shall advance and no retailer, any employee thereof, or applicant for a retail liquor license

shall receive money or money's worth under any written or unwritten agreement or any other business practice or arrangement such as:

- (a) Gifts;
- (b) Discounts;
- (c) Loans of money;
- (d) Premiums;
- (e) Rebates;
- (f) Free liquor of any kind; or

(g) Treats or services of any nature whatsoever except such services as are authorized in this regulation.

(3) Pursuant to RCW 66.28.010 an industry member or licensed agent may perform the following services for a retailer:

(a) Build, rotate, and restock displays, utilizing filled cases, filled bottles or filled cans of its own brands only, from stock or inventory owned by the retailer.

(b) Rotate, rearrange or replenish bottles or cans of its own brands on shelves or in the refrigerators but is prohibited from rearranging or moving displays of its products in such a manner as to cover up, hide or reduce the space of display of the products of any other industry member.

(c) Industry members or any employees thereof may move or handle in any manner any products of any other manufacturer, importer or distributor on the premises of any retail licensee when a two-day notice is given to other interested industry members or their agents and such activity occurs during normal business hours or upon hours that are mutually agreed.

(d) Provide price cards and may also price goods of its own brands in accordance with the usual and common business practice and which are otherwise in compliance with the regulations.

(e) Provide point of sale advertising material and brand signs.

(f) Provide sales analysis of beer and wine products based on statistical sales data voluntarily provided by the retailer involved for the purpose of proposing a schematic display for beer and wine products. Any statistical sales data provided by retailers for this purpose shall be at no charge.

(g) Such services may be rendered only upon the specific approval of the retail licensee. Displays and advertising material installed or supplied for use on a retailer's premises must be in conformity with the board's advertising rules as set forth in chapter 314-52 WAC.

(4) No industry member or employee thereof shall, directly or indirectly, give, furnish, rent or lend to, or receive from, any retailer, any equipment, fixtures, supplies or property of any kind, nor shall any retail licensee, directly or indirectly, receive, lease or borrow from, or give or offer to, any industry member any equipment, fixtures, supplies or property of any kind. Sales authorized in this regulation shall be made on a cash on delivery basis only.

(5) No industry member or employee thereof shall sell to any retail licensee or solicit from any such licensee any order for any liquor tied in with, or contingent upon, the retailer's purchase of some other beverage, alcoholic or otherwise, or any other merchandise, property or service.

(6) In selling equipment, fixtures, supplies or commodities other than liquor, no industry member shall grant to any retailer, nor shall such retailer accept, more favorable prices

than those extended to nonlicensed retailers. The price thereof shall be not less than the industry member's cost of acquisition. In no event shall credit be extended to any retailer.

(7) Any industry member who sells what is commonly referred to as heavy equipment and fixtures, such as counters, back bars, stools, chairs, tables, sinks, refrigerators or cooling boxes and similar articles, shall immediately after making any such sales have on file and available for inspection, records including a copy of the invoice covering each such sale, which invoice shall contain the following information:

(a) A complete description of the articles sold;

(b) The purchase price of each unit sold together with the total amount of the sale;

(c) Transportation costs and services rendered in connection with the installation of such articles; and

(d) The date of such sale and affirm that full cash payment for such articles was received from the retailer as provided in subsection (4) of this section.

(8) If the board finds in any instance that any licensee has violated this regulation, then all licenses involved shall be held equally responsible for such violation.

Note: WAC 314-12-140 is not intended to be a relaxation in any respect of section 90 of the Liquor Act (RCW 66.28.010). As a word of caution to persons desiring to avail themselves of the opportunity to sell to retail licensees fixtures, equipment and supplies subject to the conditions and restrictions provided in section 90 of the act and the foregoing regulation, notice is hereby given that, if at any time such privilege is abused or experience proves that as a matter of policy it should be further curtailed or eliminated completely, the board will be free to impose added restrictions or to limit all manufacturers and distributors solely to the sale of liquor when dealing with retail licensees. WAC 314-12-140 shall not be considered as granting any vested right to any person, and persons who engage in the business of selling to retail licensees property or merchandise of any nature voluntarily assume the risk of being divested of that privilege and they will undertake such business subject to this understanding. The board also cautions that certain trade practices are prohibited by rulings issued under the Federal Alcohol Administration Act by the United States Bureau of Alcohol, Tobacco and Firearms, and WAC 314-12-140 is not intended to conflict with such rulings or other requirements of federal law or regulations.

[Statutory Authority: RCW 66.08.030 and 66.28.320. 10-01-090, § 314-12-140, filed 12/16/09, effective 1/16/10. Statutory Authority: RCW 66.08.030, 66.08.010, 66.16.040, 01-06-015, § 314-12-140, 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, § 314-12-140, filed 9/2/98, effective 10/3/98. Statutory Authority: RCW 66.08.030. 95-17-005, § 314-12-140, filed 8/3/95, effective 9/3/95; 93-10-070, § 314-12-140, filed 5/3/93, effective 6/3/93. Statutory Authority: RCW 66.08.030(2). 92-02-014, § 314-12-140, filed 12/23/91, effective 1/23/92. Statutory Authority: RCW 66.28.010. 87-04-018 (Order 211, Resolution No. 220), § 314-12-140, filed 1/27/87. Statutory Authority: RCW 66.28.010 and 66.08.030 (2)(l). 86-09-019 (Order 181, Resolution No. 190), § 314-12-140, filed 4/9/86. Statutory Authority: RCW 66.08.030. 86-04-003 (Order 167, Resolution No. 176), § 314-12-140, filed 1/23/86. Statutory Authority: RCW 66.08.030 and 66.98-070. 84-22-060 (Order 150, Resolution No. 159), § 314-12-140, filed 11/7/84; Order 46, § 314-12-140, Rule 13, filed 6/9/76; Rule 13, filed 6/13/63.]

WAC 314-12-141 Courses of instruction. Industry members conducting courses of instruction as authorized by RCW 66.28.150 may provide alcohol at no charge to licens-

ees of the board, their employees, and invited guests who have a legitimate business interest in the manufacturing, importing, distributing and retailing of liquor.

[Statutory Authority: RCW 66.08.030 and 66.28.320. 10-01-090, § 314-12-141, filed 12/16/09, effective 1/16/10. 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, § 314-12-141, filed 9/2/98, effective 10/3/98. Statutory Authority: RCW 66.08.030. 91-19-071, § 314-12-141, filed 9/16/91, effective 10/17/91.]

WAC 314-12-150 Definitions—"Pasteurized beer," "gallon." (1) "Pasteurized beer" shall mean beer which has been subjected to such process or processes in manufacture and packaging that in all cases all yeast cells or other microorganisms are killed, inactivated, or removed, thereby preventing any further fermentation or microbiological decomposition of the packaged beer which might otherwise take place.

(2) In addition to the usual and customary meaning above, "pasteurized beer" shall include bottle conditioned beer which has been fermented partially or completely in the container and which may contain residual active yeast.

(3) A "gallon," when used in computing any tax, shall mean the United States standard gallon of 231 cubic inches.

[Statutory Authority: 1987 c 46. 87-14-010 (Order 219, Resolution No. 228), § 314-12-150, filed 6/23/87, effective 7/26/87; Resolution No. 4, filed 5/5/65, effective 6/7/65; Rule 14, filed 6/13/63.]

WAC 314-12-200 Converting a public house license (RCW 66.24.580) to a domestic brewery, microbrewery or domestic winery license. (1) Can a person who holds a public house license (class Q) convert to a domestic brewery, microbrewery or domestic winery license (class B1 or W1)?

Yes, if the licensee has held a public house license for at least six months.

(2) If a person holds several different retail liquor licenses, are those licenses affected by the conversion?

Yes. All other retail liquor licenses must either be converted to a domestic brewery, microbrewery or domestic winery license at the same time or the licensee must discontinue business or divest themselves of all interest in those non-brewery/winery licenses.

For instance, if a licensee holds three public house licenses, two grocery licenses and a tavern license and only wants to convert the three public house licenses to brewery or winery license, they must discontinue business or divest themselves of all interest in the other three businesses or they must convert them to a brewery or winery license as well.

Additionally, if the licensee has held any public house licenses for less than six months, they must discontinue business or divest themselves of all interest in that business as well.

(3) If a person currently holds a restaurant license (class H) in conjunction with their public house license, will the restaurant license be affected?

(9/15/10)

No. If the restaurant remains on the same or contiguous property as the brewery or winery, the restaurant license will be unaffected.

(4) Is there a waiting period between the closure of the public house business and the opening of the brewery or winery?

No. The licensee does not have to close the existing business before the domestic brewery, microbrewery or domestic winery license can be issued.

[Statutory Authority: RCW 66.08.030 and 66.24.580. 98-15-068, § 314-12-200, filed 7/13/98, effective 8/13/98.]

WAC 314-12-210 Chronic public inebriation and alcohol impact areas—Purpose. (1) What is the purpose of the rules concerning chronic public inebriation and alcohol impact areas?

(a) The enabling statutes for the board are contained in chapter 66.08 RCW. These statutes authorize the board to exercise the police powers of the state for the protection of the welfare, health, peace, and safety of the people of Washington.

(b) The board's mandate to protect the welfare, health, peace, and safety of the people is to ensure that a liquor licensee conducts his or her business in a lawful manner and that the presence of a licensee's liquor sales does not unreasonably disturb the welfare, health, peace or safety of the surrounding community.

(c) The purpose of the rules concerning chronic public inebriation and alcohol impact areas is to establish a framework under which the board, in partnership with local government and community organizations, may act to mitigate negative impacts on a community's welfare, health, peace or safety that result from the presence of chronic public inebriation.

(d) For the purpose of these rules, chronic public inebriation exists when the effects of the public consumption of liquor or public intoxication occur in concentrations that endanger the welfare, health, peace or safety of a neighborhood or community.

(2) What do the rules concerning chronic public inebriation and alcohol impact areas seek to do? WAC 314-12-210 and 314-12-215 seek to:

(a) Establish an expanded local review process for liquor license applications, license assumptions, and renewals of active liquor licenses for businesses located within a recognized alcohol impact area;

(b) Establish standards under which the board may refuse to issue a liquor license; may refuse to permit a license assumption or renewal of a liquor license; may place conditions or restrictions upon the issuance, assumption or renewal of a license; or may place conditions or restrictions on an existing license located within the geographical boundaries of a recognized alcohol impact area; and

(c) Allow the board in specific circumstances to restrict the off-premises sale of certain liquor products or liquor product containers inside a recognized alcohol impact area.

[Statutory Authority: RCW 66.08.030. 10-19-065, § 314-12-210, filed 9/15/10, effective 10/16/10. Statutory Authority: RCW 66.08.030 and 66.24.010. 99-13-042, § 314-12-210, filed 6/8/99, effective 7/9/99.]

WAC 314-12-215 Alcohol impact areas—Definition—Guidelines. (1) What is an alcohol impact area, and how is it different?

(a) An alcohol impact area is a geographic area located within a city, town or county, and that is adversely affected by chronic public inebriation or illegal activity associated with liquor sales or consumption.

(b) The board may place special conditions or restrictions upon off-premises sales privileges, liquor products, applicants, license assumptions or licensees that sell liquor for off-premises consumption (see subsection (3) of this section).

(c) The board applies a unique investigative and review process when evaluating liquor license applications, license assumptions or renewals for businesses located in an alcohol impact area.

(2) **How is an alcohol impact area formed?** A local authority (that is, a city, town or county) must first designate an alcohol impact area by ordinance and make good faith efforts for at least six months to mitigate the effects of chronic public inebriation with such ordinance before petitioning the board to recognize an alcohol impact area. The board must recognize an alcohol impact area before any unique review process, condition or restriction described in this rule may be applied. A local authority must meet certain conditions to achieve recognition.

(a) The geographic area of an alcohol impact area must not include the entire territory of a local authority. However, when a local authority designates a street as a boundary, the board encourages that the local authority include both sides of the street for greater effectiveness.

(b) Local authority ordinance must explain the rationale of the proposed boundaries, and describe the boundaries in such a way that:

(i) The board can determine which liquor licensees are in the proposed alcohol impact area; and

(ii) The boundaries are understandable to the public at large.

(c) A local authority must:

(i) Submit findings of fact that demonstrate a need for an alcohol impact area and how chronic public inebriation or illegal activity associated with liquor sales or consumption within a proposed alcohol impact area:

(A) Contributes to the deterioration of the general quality of life within an alcohol impact area; or

(B) Threatens the welfare, health, peace or safety of an alcohol impact area's visitors or occupants;

(ii) Submit findings of fact that demonstrate a pervasive pattern of public intoxication or public consumption of liquor as documented in crime statistics, police reports, emergency medical response data, detoxification reports, sanitation reports, public health records, other similar records, community group petitions, public testimony or testimony by current or former chronic public inebriants;

(iii) Submit documentation that demonstrates a local authority's past good faith efforts to control the problem through voluntary measures (see subsection (4) of this section);

(iv) Explain why past voluntary measures failed to sufficiently resolve the problem; and

(v) Request additional conditions or restrictions and explain how the conditions or restrictions will reduce chronic public inebriation or illegal activity associated with off-premises sales or liquor consumption (see subsection (3) of this section).

(3) What conditions or restrictions may the board recognize for an alcohol impact area?

(a) Restrictions may include, but are not limited to:

(i) Business hours of operation for off-premises liquor sales;

(ii) Off-premises sale of certain liquor products within an alcohol impact area; or

(iii) Container sizes available for off-premises sale.

(b) Product restrictions (for example, prohibition of certain liquor products or container sizes) must originate from a local authority's law enforcement agency or public health authority, whereas restrictions affecting business operations (for example, hours of operation) may originate from a local authority's law enforcement agency, public authority or governing body.

(c) Product restrictions must be reasonably linked to problems associated with chronic public inebriation or illegal activity. Reasonable links include, but are not limited to: Police, fire or emergency medical response statistics; photographic evidence; law enforcement, citizen or medical-provider testimonial; testimony by current or former chronic public inebriants; litter pickup; or other statistically documented evidence that a reasonable person may rely upon to determine whether a product is associated with chronic public inebriation or illegal activity.

(d) Restricted beer and wine products must have minimum alcohol content of five and seven-tenths percent by volume and twelve percent by volume, respectively.

(e) Upon board approval and upon an individual product by individual product basis, a local authority may restrict a product that is already restricted in another board-recognized alcohol impact area provided that a product is significantly materially similar (for example, comparable alcohol percent content, container size or liquor category such as alcoholic energy drinks) to products already restricted in its own alcohol impact area. Upon board approval and upon an individual product by individual product basis, a local authority may also restrict a product that is significantly materially similar to products already restricted in its own alcohol impact area. In both cases, a local authority must demonstrate to the board, in writing, the material similarities and need for product inclusion, but the board will not require a local authority to submit extensive documented evidence as described in (c) of this subsection.

(f) A local authority may propose the removal of a condition, restriction or product from its alcohol impact area's restricted product list provided that a local authority demonstrates its reason (such as, a product is no longer produced or bottled) to the board in writing.

(4) What types of voluntary efforts must a local authority attempt before the board will recognize an alcohol impact area?

(a) A local authority must notify all off-premises sales licensees in a proposed alcohol impact area that:

(i) Behavior associated with liquor sales and associated illegal activity is impacting chronic public inebriation; and

(ii) Existing voluntary options are available to them to remedy the problem.

(b) A local authority's efforts must include additional voluntary actions. Examples include, but are not limited to:

(i) Collaborative actions with neighborhood citizens, community groups or business organizations to promote business practices that reduce chronic public inebriation;

(ii) Voluntary agreements with off-premises sales licensees to promote public welfare, health, peace or safety;

(iii) Licensees voluntarily discontinuing to sell a product;

(iv) Distribution of educational materials to chronic public inebriants or licensees;

(v) Detoxification services;

(vi) Business incentives to discourage the sale of problem products; or

(vii) Change in land use ordinances.

(c) A local authority must implement these voluntary agreements for at least six months before a local authority may present documentation to the board that voluntary efforts failed to adequately mitigate the effects of chronic public inebriation and need augmentation.

(5) What will the board do once it recognizes an alcohol impact area?

(a) The board will notify, in a timely manner, the appropriate liquor distributors of the product restrictions.

(b) No state liquor store or agency located within an alcohol impact area may sell that alcohol impact area's restricted products.

(c) The board will notify, in a timely manner, all off-premises sales licensees in a proposed or existing alcohol impact area whenever the board recognizes, or recognizes changes to, an alcohol impact area (see subsection (7) of this section).

(6) What is the review process for liquor license applications, license assumptions, and renewals inside an alcohol impact area?

(a) When the board receives an application for a new liquor license or a license assumption that includes an off-premises sales privilege, the board will establish an extended time period of sixty calendar days for a local authority to comment upon the application.

(i) A local authority may, and is encouraged to, submit comment before the end of a comment period. A local authority may request an extension of a comment period when unusual circumstances, which must be explained in the request, require additional time for comment.

(ii) A local authority will notify a licensee or applicant when a local authority requests the board to extend a sixty-day comment period.

(b) For renewals, the board will notify a local authority at least ninety calendar days before a current license expires. The same requirements in (a)(i) and (ii) of this subsection apply to the ninety-day comment period for problem renewals. For the purposes of this section, a problem renewal means a licensee, a licensed business or a licensed location with a documented history of noncompliance or illegal activity.

(7) When and for how long will an alcohol impact area be in effect, and may an alcohol impact area be changed?

(a) An alcohol impact area takes effect on the day that the board passes a resolution to recognize an alcohol impact area. However, product prohibitions take effect no less than thirty calendar days after the board passes such resolution in order to give retailers and distributors sufficient time to remove products from their inventories.

(b) An alcohol impact area remains in effect until:

(i) A local authority repeals the enabling ordinance that defines an alcohol impact area;

(ii) A local authority requests that the board revoke its recognition of an alcohol impact area;

(iii) The board repeals its recognition of an alcohol impact area of its own initiative and following a public hearing; or

(iv) A local authority fails to comply with subsection (8) of this section.

(c) A local authority may petition the board to modify an alcohol impact area's geographic boundaries, repeal or modify an existing condition or restriction, or create a new condition or restriction. The board may agree to do so provided that a local authority shows good cause and submits supporting documentation (see subsections (2) and (3) of this section).

(d) Prohibition of a new product added to an existing prohibited products list takes effect no less than thirty calendar days following the board's recognition of a modified prohibited products list.

(8) Reporting requirements and five-year assessments.

(a) A local authority shall submit annual reports to the board that clearly demonstrate the intended effectiveness of an alcohol impact area's conditions or restrictions. Reports are due no later than sixty calendar days following each anniversary of the board's recognition of an alcohol impact area.

(b) The board will conduct an assessment of an alcohol impact area once every five years following the fifth, tenth, fifteenth, et cetera, anniversary of the board's recognition of an alcohol impact area. The five-year assessment process is as follows:

(i) Within ten calendar days of receiving a local authority's fifth, tenth, fifteenth, et cetera, annual report, the board shall notify affected parties of the upcoming assessment, whereupon an affected party has twenty calendar days to comment upon, or petition the board to discontinue its recognition of, an alcohol impact area (see (d) of this subsection). Affected parties may include, but are not limited to: Licensees, citizens or neighboring local authorities.

(ii) An affected party may submit a written request for one twenty calendar-day extension of the comment/petition period, which the board may grant provided that an affected party provides sufficient reason why he or she is unable to meet the initial twenty-day deadline.

(iii) The board will complete an assessment within sixty calendar days following the close of the final comment/petition period.

(c) An assessment shall include an analysis of:

(i) Comments or petitions submitted by affected parties; and

(ii) Each annual report submitted during a five-year period.

An assessment shall also include modifications that a local authority must make to an alcohol impact area as

required by the board, or the board's reasons for revoking recognition of an alcohol impact area.

(d) To successfully petition the board to discontinue its recognition of an alcohol impact area, an affected party must:

(i) Submit findings of fact that demonstrate how chronic public inebriation, or illegal activity associated with liquor sales or consumption, within a proposed alcohol impact area does not or no longer:

(A) Contributes to the deterioration of the general quality of life within an alcohol impact area; or

(B) Threatens the welfare, health, peace or safety of an alcohol impact area's visitors or occupants;

(ii) Submit findings of fact that demonstrate the absence of a pervasive pattern of public intoxication or public consumption of liquor as documented in crime statistics, police reports, emergency medical response data, detoxification reports, sanitation reports, public health records or similar records; and

(iii) Demonstrate how the absence of conditions or restrictions will reduce chronic public inebriation or illegal activity associated with off-premises sales or liquor consumption (see subsection (3) of this section).

(e) An affected party may submit a written request for one twenty-day extension of the comment period, which the board may grant provided that an affected party provides sufficient reason why he or she is unable to meet the twenty-day deadline.

[Statutory Authority: RCW 66.08.030, 10-19-065, § 314-12-215, filed 9/15/10, effective 10/16/10. Statutory Authority: RCW 66.08.030 and 66.24.010, 99-13-042, § 314-12-215, filed 6/8/99, effective 7/9/99.]

WAC 314-12-220 General review. The board will initiate a study of the effectiveness of WAC 314-12-210 and 314-12-215 one year following recognition of the first AIA under these rules. The study, which shall take no more than ninety days, will recommend the continuation, modification, or repeal of these rules.

[Statutory Authority: RCW 66.08.030 and 66.24.010, 99-13-042, § 314-12-220, filed 6/8/99, effective 7/9/99.]

WAC 314-12-225 Severability. If any provision of WAC 314-12-210 through 314-12-220 or the application thereof to any person or circumstance shall be held invalid, such invalidity shall not affect the provisions or the application of these rules which can be given effect without the invalid provision or application, and, to this end, the provisions of these rules are declared to be severable.

[Statutory Authority: RCW 66.08.030 and 66.24.010, 99-13-042, § 314-12-225, filed 6/8/99, effective 7/9/99.]