

WSR 23-14-121
PROPOSED RULES
LIQUOR AND CANNABIS
BOARD

[Filed July 5, 2023, 10:25 a.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 23-08-040.

Title of Rule and Other Identifying Information: The Washington state liquor and cannabis board (board) proposes to amend WAC 314-40-040 to allow private clubs to add additional membership drives and host consecutive membership drives.

Hearing Location(s): On August 16, 2023, at 10:00 a.m. All public board activity will be held in a "hybrid" environment. This means that the public will have options for in-person or virtual attendance. The boardroom at the headquarters building in Olympia (1025 Union Avenue, Olympia, WA 98504) will be open for in-person attendance. The public may also login using a computer or device, or call-in using a phone, to listen to the meeting through the Microsoft Teams application. The public may provide verbal comments during the specified public comment and rules hearing segments. TVW also regularly airs these meetings. Please note that although the Boardroom will be staffed during a meeting, board members and agency participants may continue to appear virtually. For more information about board meetings, please visit <https://lcb.wa.gov/Boardmeetings/Boardmeetings>.

Date of Intended Adoption: No earlier than August 30, 2023.

Submit Written Comments to: Rules Coordinator, P.O. Box 43080, Olympia, WA 98504-3080, email rules@lcb.wa.gov, fax 360-704-5027, by August 16, 2023.

Assistance for Persons with Disabilities: Contact Anita Bingham, ADA coordinator, human resources director, phone 360-664-1739, fax 360-664-9689, TTY 711 or 1-800-833-6388, email anita.bingham@lcb.wa.gov, by August 9, 2023.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: The purpose of this rule proposal is to extend the number of days per quarter that a private club may hold membership functions from one to two days per calendar quarter and provide that membership drives may be held on two consecutive days, rather than one, per calendar year. The proposal also provides that there must be at least seven days between membership events. The board anticipates that the proposed rule changes will provide more opportunities for community service organizations, fraternal clubs, and other private clubs to recruit new members. The ability to expand membership drives is anticipated to support continuation, expansion, and sustainability of needed community service provision.

Reasons Supporting Proposal: While this proposal was initiated as the result of a rule petition accepted on September 14, 2022, related to private club membership drives, there are additional reasons to support this proposal. Specifically, as a result of the COVID-19 pandemic and other limiting factors, community service organization membership has declined. The rule revision would provide more opportunity and flexibility to promote and recruit members. These organizations support and host a variety of community services, such as school supply drives, community health programs, high school scholarships, and community-specific fundraisers. Expanding membership will allow these organizations to continue and expand these activities.

Statutory Authority for Adoption: RCW 66.06.030, 66.24.450.

Statute Being Implemented: RCW 66.06.030, 66.24.450.

Rule is not necessitated by federal law, federal or state court decision.

Name of Proponent: Washington state liquor and cannabis board, governmental.

Name of Agency Personnel Responsible for Drafting: Dr. Kathy Hoffman, Research Manager, 1025 Union Avenue, Olympia, WA 98501, 360-664-1622; Implementation: Rebecca Smith, Director of Licensing, 1025 Union Avenue, Olympia, WA 98501, 360-664-1753; and Enforcement: Chandra Brady, Director of Education and Enforcement, 1025 Union Avenue, Olympia, WA 98501, 360-664-1726.

A school district fiscal impact statement is not required under RCW 28A.305.135.

A cost-benefit analysis is not required under RCW 34.05.328. Consistent with RCW 34.05.328 (5)(a), these proposed rules are not subject to cost-benefit analysis requirements unless requested by the joint administrative rules review committee or voluntarily applied. Additionally, the proposed rules do not qualify as significant legislative rules under RCW 34.05.328(5).

This rule proposal, or portions of the proposal, is exempt from requirements of the Regulatory Fairness Act because the proposal:

Is exempt under RCW 19.85.025(4).

Explanation of exemptions: The proposed rules are exempt from the Regulatory Fairness Act's (RFA) small business economic impact statement (SBEIS) requirement under RCW 19.85.025(4) because they do not impose more-than-minor costs to businesses as demonstrated below.

Scope of exemption for rule proposal:

Is fully exempt.

The proposed rule does not impose more-than-minor costs on businesses. Following is a summary of the agency's analysis showing how costs were calculated. *Estimated Cost of Compliance.* The proposed rule revisions extend the number of days per quarter that a private club may hold membership functions from one to two days per calendar quarter and provide that membership drives may be held on two consecutive days, rather than one, per calendar year. The proposal also provides that there must be at least seven days between membership events. These proposed rule revisions are anticipated to support continuation, expansion, and sustainability of needed community service provision.

The agency anticipates that licensees will not incur additional compliance costs as a result of these rule revisions. The agency anticipates that licensees may need to spend a small amount of time (less than 30 minutes of administrative time) to apply for permitting for the additional membership drive days.

According to the 2019 Occupational Employment Statistics (OES) Databook available in the employment security department (ESD) labor market report library (<https://esd.wa.gov/labormarketinfo/report-library>), the average hourly wage in Washington state for secretaries and administrative assistants, except legal, medical, and executive (using the standard occupational classification (SOC) Code 43-6014) is \$21.31. Based on that [those] data, the estimated cost for the administrative activity of familiarization with the rule revisions is \$10.66 ($\$21.31 \text{ average hourly wage} \times .5 \text{ hours} = \text{approximately } \10.66).

Minor Cost Threshold Estimates: The board applied North American Industry Classification System (NAICS) codes 81341 for civil and social organizations to estimate the minor cost thresholds for private clubs. According to the 2017 NAICS Manual (<https://www.census.gov/library/publications/2017/econ/2017-naics-manual.html>), civic and so-

cial organizations (81341) "comprises establishments primarily promoting the civic and social interests of their members. Establishments in this industry may operate bars and restaurants for their members." There are no separate NAICS codes available for private clubs.

As shown in the table below, the estimated one-time cost of compliance for distilleries and craft distilleries (\$10.66) does not exceed the minor cost estimate for this industry (\$3,309.70), so an SBEIS is not required under RCW 19.85.030.

2017 Industry NAICS Code	Estimated Cost of Compliance	Industry Description	NAICS Code Title	Minor Cost Estimate Max of 1% Pay, 0.3% Rev, and \$100	1% of Avg Annual Payroll (0.01*AvgPay)	0.3% of Avg Annual Gross Business Income (0.003*AvgGBI)
81341	\$10.66	Civic and Social Organizations	Distilleries	\$3,309.70	\$3,309.70 2020 Dataset pulled from ESD	\$812.76 2020 Dataset pulled from DOR

July 5, 2023
David Postman
Chair

OTS-4661.1

AMENDATORY SECTION (Amending WSR 17-16-072, filed 7/26/17, effective 8/26/17)

WAC 314-40-040 Guest and courtesy cards—Visitors. (1) Guest cards are intended for invited guests residing outside of the immediate area.

(a) Guest cards shall be issued no more than three times per year for a period not to exceed (~~fourteen~~) 14 consecutive days, and must be numbered serially, with a record of the issuance of each such card to be filed in a manner as to be readily accessible to the agents of the board;

(b) Contestants in golf or tennis tournaments conducted on the grounds of a licensed club will be considered a visitor for the day(s) of the event.

(2) Visitors may be introduced when accompanied at all times by a member, who is not an on duty employee, and may remain as long as such member is present in the club. Any such visitor may only enjoy the privileges of the club six times in any one calendar year unless a different number of times is allowed in the club by-laws.

(3) Persons who are members in good standing of a national veterans organization may enjoy the privileges of any licensed club affiliated with any national veterans organization, and persons who are members in good standing of a national fraternal organization may enjoy the privileges of any club affiliated with that particular national fraternal organization if the bylaws of such clubs authorize reciprocal privileges. Subsections (1) and (2) of this section shall not apply to members of such organizations.

(4) Persons who are members in good standing of organizations licensed as private nonfraternal clubs may enjoy the privileges of other licensed nonfraternal clubs if the bylaws of such clubs authorize reciprocal privileges. Subsections (1) and (2) of this section shall not apply to members of such clubs.

(5) Courtesy cards may be issued to the adult members of the immediate family of any member with or without charge upon application being made to the club by the member.

(6) In order to recruit new members and build club membership, a private club may hold a public membership function for ~~((one))~~ two days per calendar quarter where club liquor may be given or sold to those attending as a part of the membership drive activities. The function must be advertised as a membership drive. ~~((Membership drives may not be held on consecutive days.))~~ A membership drive may be held on two consecutive days per calendar year. There must be at least seven days between membership events.

(7) A person issued a guest card by the club manager pursuant to subsection (1) of this section may introduce visitors into the club provided:

(a) The visitors are accompanied at all times by the sponsoring guest card holder;

(b) The visitors remain in the club only as long as the sponsoring guest card holder is present; and

(c) The house rules or bylaws of the club provide guest card holders the privilege of introducing visitors into the club.

[Statutory Authority: RCW 66.24.450. WSR 17-16-072, § 314-40-040, filed 7/26/17, effective 8/26/17. Statutory Authority: RCW 66.08.030 and 66.24.450. WSR 11-23-048, § 314-40-040, filed 11/9/11, effective 12/10/11; WSR 10-16-056, § 314-40-040, filed 7/28/10, effective 8/28/10. Statutory Authority: RCW 66.08.030. WSR 95-16-030, § 314-40-040, filed 7/21/95, effective 8/21/95; WSR 88-07-060 (Order 239, Resolution No. 248), § 314-40-040, filed 3/16/88; WSR 88-01-016 (Order 235, Resolution No. 244), § 314-40-040, filed 12/8/87; WSR 86-07-013 (Order 177, Resolution No. 186), § 314-40-040, filed 3/11/86. Statutory Authority: RCW 66.08.030 and 66.98.070. WSR 85-06-020 (Order 152, Resolution No. 161), § 314-40-040, filed 2/27/85; WSR 82-04-028 (Order 92, Resolution No. 101), § 314-40-040, filed 1/27/82; Rule 106, filed 6/13/63.]