

Title 314 WAC

LIQUOR CONTROL BOARD

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Reviser's note: As of August 26, 1977, the Liquor Control Board of-
fice address is as follows:

Capitol Plaza Building
1025 East Union Avenue
Olympia, WA 98504

Chapter 314-04 WAC HEARINGS

WAC

- 314-04-005 Prehearing summary disposition.
- 314-04-010 Method.

WAC 314-04-005 Prehearing summary disposition.
Prior to a hearing pursuant to WAC 314-04-010, the

licensee may be afforded an alternative under the terms of RCW 34.04.090(3) to waive an opportunity for such a hearing and agree to a proposed summary disposition of the charges. The summary disposition may include suspension or cancellation of a license or imposition of a monetary penalty in lieu of the proposed summary suspension. The proposed summary disposition shall be determined and administered in the following manner:

(1) Upon receipt by the board of an investigative report, referred complaint or other information indicating a possible violation on the part of a licensee, such report shall be processed by the enforcement division and be forwarded to the assistant attorney general assigned to the board, hereafter referred to as attorney, to determine if reasonable cause exists to believe that a violation has occurred.

(2) If the attorney determines that reasonable cause exists to believe that a violation has occurred, he shall propose a course of action to the board for its consideration, and the board shall determine whether to accept the initial proposal or order another proposed disposition. After review by the board, the board may direct that a written notice of its proposed order of summary disposition, hereafter notice, be served upon the licensee.

(3) The notice will be prepared by the hearing division. Such notice shall fully advise the licensee of all charges reasonably believed to have been committed and specify the board's summary disposition. The notice shall also include an explanation that any proposed penalty is not final but will automatically become final if the licensee does not request a hearing within ten days of receipt of the notice.

(4) The board may in its discretion offer the licensee an opportunity for payment of a monetary penalty in lieu of suspension. Such an opportunity shall be explained on the notice and the notice will include either the monetary penalty or, by attachment, a certificate of gross profit from liquor sales, hereafter referred to as certificate, to compute the monetary penalty. The certificate must be returned within ten days of receipt of the notice along with payment, unless additional time is requested in writing, or the suspension will not be vacated.

(5) The notice shall include by attachment a form upon which a request for a hearing can be made. The notice shall be signed by the board, after which the hearing division shall serve the notice and attachments upon the licensee.

(6) If the licensee requests a hearing, written acknowledgment of the request will be sent the licensee by the hearing division and the hearing will proceed as described by the terms of WAC 314-04-010.

(7) The licensee may request in writing, and the hearing division may grant an extension of time, not to

exceed ten days, in which to make a determination whether to request a hearing.

(8) If a licensee fails to request a hearing within the prescribed period and the proposed summary penalty becomes effective, the licensee may petition the board in writing to set aside the penalty for good cause shown. Mere inattention on the part of a licensee is not, by itself, grounds to set aside a penalty.

(9) The board, in its discretion, may determine to issue letters of caution or admonition in lieu of directing that notice with penalty be served on a licensee or determine that a formal hearing be instituted in lieu of serving a notice with penalty on the licensee.

[Order 35, § 314-04-005, filed 7/2/75.]

WAC 314-04-010 Method. Hearings which may involve the suspension or cancellation of a license, or the imposition of a monetary penalty, shall be called and conducted in the following manner:

(1) Before any such hearing shall be called, some member of the board shall give written approval to the holding of it. When it has been determined that a hearing shall be held, the entire record of the licensed premises involved and of the licensees shall be given to the assistant attorney general assigned to the board, who will hereinafter be referred to as the attorney.

(2) The attorney shall prepare a written complaint which shall fully advise the licensees of all charges which will be considered at the hearing. The complaint shall be signed by a member of the board, after which the attorney shall deliver the original and such copies as may be necessary to the examiner appointed by the board pursuant to section 27(2-A) of the Washington State Liquor Act (RCW 66.24.040).

(3) The examiner shall conduct the hearing, which shall be held as soon as feasible. Each licensee charged shall be served with a copy of the complaint together with written notice of the time and place of the hearing and the issues involved. Such notice and complaint shall be served not less than ten days prior to the hearing unless the licensee consents to shorter notice.

(4) All subpoenas shall be issued by the examiner, who shall issue them when requested by the attorney, a licensee or a licensee's attorney, and he may issue them on his own motion.

(5) Nothing herein contained shall prevent the board from exercising the power given it by section 27(2-A) of the Washington State Liquor Act (RCW 66.24.010(3)), to summarily suspend or cancel any license.

[Resolution No. 1, filed 6/13/63; Rule 114, filed 6/13/63.]

Chapter 314-08 WAC PRACTICE AND PROCEDURE

WAC

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DISPOSITION OF SECTIONS FORMERLY CODIFIED IN THIS CHAPTER

314-08-075	Waiver of hearing. [Resolution No. 2, Rule 08.075, filed 6/13/63.] Repealed by Order 35, filed 7/2/75.
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WAC 314-08-001 Promulgation for rules. The Washington state liquor control board by virtue of the authority vested in it under chapter 66.08 RCW, after due notice and public hearing, held in Olympia, Washington, on June 6, 1963, as provided by chapter 42.32 RCW, does hereby promulgate the following resolution relating to practice and procedure before the Washington state liquor control board, being Title XIV of the regulations of the board.

[Promulgation, filed 6/13/63.]

WAC 314-08-010 Appearance and practice before the board—Who may appear. No person may appear in a representative capacity before the Washington state liquor control board, hereinafter referred to in WAC 314-08-010 through 314-08-590, as the board, or its designated hearing officer other than the following:

(1) Attorneys at law duly qualified and entitled to practice before the supreme court of the state of Washington.

(2) Attorneys at law duly qualified and entitled to practice before the highest court of record of any other state, if the attorneys at law of the state of Washington are permitted to appear in a representative capacity before administrative agencies of such other state, and if not otherwise prohibited by our state law.

(3) A bona fide officer, authorized manager, partner, or full time employee of an individual firm, association, partnership, or corporation who appears for such individual firm, association, partnership, or corporation.

[Resolution No. 2, Rule 08.010, filed 6/13/63.]

WAC 314-08-020 Appearance in certain proceedings may be limited to attorneys. In all hearings involving the taking of testimony and the formulation of a record subject to review by the courts, where the board or its designated hearing officer determines that representative activity in such hearing requires a high degree of legal training, experience, and skill, the board or its designated hearing officer may limit those who may appear in a representative capacity to attorneys at law.

[Resolution No. 2, Rule 08.020, filed 6/13/63.]

WAC 314-08-030 Solicitation of business unethical. It shall be unethical for persons acting in a representative capacity before the board to solicit business by circulars, advertisements or by personal communication or

interviews not warranted by personal relations, provided that such representatives may publish or circulate business cards. It is equally unethical to procure business indirectly by solicitors of any kind.

[Resolution No. 2, Rule 08.030, filed 6/13/63.]

WAC 314-08-040 Standards of ethical conduct. All persons appearing in proceedings before the board in a representative capacity shall conform to the standards of ethical conduct required of attorneys before the courts of Washington. If any such person does not conform to such standards, the board may decline to permit such person to appear in a representative capacity in any proceeding before the board.

[Resolution No. 2, Rule 08.040, filed 6/13/63.]

WAC 314-08-050 Appearance by former employee of board or former member of attorney general's staff. No former employee of the board or member of the attorney general's staff may at any time after severing his employment with the board or the attorney general appear, except with the written permission of the board, in a representative capacity on behalf of other parties in a formal proceeding wherein he previously took an active part as a representative of the board.

[Resolution No. 2, Rule 08.050, filed 6/13/63.]

WAC 314-08-070 Computation of time. In computing any period of time prescribed or allowed by the board rules, by order of the board or by any applicable statute, the day of the act, event, or default after which the designated period of time begins to run is not to be included. The last day of the period so computed is to be included, unless it is a Saturday, Sunday or a legal holiday, in which event the period runs until the end of the next day which is neither a Saturday, Sunday nor a holiday. When the period of time prescribed or allowed is less than seven days, intermediate Saturdays, Sundays and holidays shall be excluded in the computation. This section shall not apply to periods of license suspension.

[Resolution No. 2, Rule 08.070, filed 6/13/63.]

WAC 314-08-080 Notice and opportunity for hearing in contested cases. In any contested case, all parties shall be served with a notice at least ten days before the date set for the hearing. The notice shall state the time, place, and issues involved, as required by RCW 34.04.090(1) and WAC 314-04-010.

[Resolution No. 2, Rule 08.080, filed 6/13/63.]

WAC 314-08-090 Service of process—By whom served. The board shall cause to be served all orders, notices and other papers issued by it, together with any other papers which it is required by law to serve. Every other paper shall be served by the party filing it.

[Resolution No. 2, Rule 08.090, filed 6/13/63.]

WAC 314-08-100 Service of process—Upon whom served. All papers served by either the board or any party shall be served upon all counsel of record at the

time of such filing and upon parties not represented by counsel or upon their agents designated by them or by law. Any counsel entering an appearance subsequent to the initiation of the proceeding shall notify all other counsel then of record and all parties not represented by counsel of such fact.

[Resolution No. 2, Rule 08.100, filed 6/13/63.]

WAC 314-08-110 Service of process--Service upon parties. The final order and any other paper required to be served by the agency upon a party, shall be served upon such party or upon the agent designated by him or by law to receive service of such papers, and a copy shall be furnished to counsel of record.

[Resolution No. 2, Rule 08.110, filed 6/13/63.]

WAC 314-08-120 Service of process--Method of service. Service of papers shall be made personally or, unless otherwise provided by law, by first class, registered, or certified mail; or by telegraph.

[Resolution No. 2, Rule 08.120, filed 6/13/63.]

WAC 314-08-130 Service of process--When service complete. Service upon parties shall be regarded as complete: By mail, upon deposit in the United States mail properly stamped and addressed; by telegraph, when deposited with a telegraph company properly addressed and with charges prepaid.

[Resolution No. 2, Rule 08.130, filed 6/13/63.]

WAC 314-08-140 Service of process--Filing with agency. Papers required to be filed with the board shall be deemed filed upon actual receipt by the board at the place specified in its rules accompanied by proof of service upon parties required to be served.

[Resolution No. 2, Rule 08.140, filed 6/13/63.]

WAC 314-08-150 Subpoenas--Form. Every subpoena shall state the name of the board and the title of the proceeding, if any, and shall command the person to whom it is directed to attend and give testimony or produce designated books, documents or things under his control at a specified time and place.

[Resolution No. 2, Rule 08.150, filed 6/13/63.]

WAC 314-08-160 Subpoenas--Issuance to parties. (1) Upon application of counsel or other representative appearing before the board pursuant to WAC 314-08-010(3) for any party to a contested case, there shall be issued to such party subpoenas requiring the attendance and testimony of witnesses or the production of evidence in such proceeding: *Provided, however,* That such subpoenas may be issued with like effect by the attorney of record of the party to the contested case in whose behalf the witness is required to appear, and the form of such subpoena in each case may be the same as when issued by the board except that it shall only be subscribed by the signature of such attorney.

(2) The board may issue subpoenas to licensees in contested case proceedings who are not represented by

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counsel or other representative upon request and or upon a showing of general relevance and reasonable scope of the testimony or evidence sought.

[Statutory Authority: RCW 66.08.030 and 66.98.070. 81-19-116 (Order 81, Resolution No. 90), § 314-08-160, filed 9/23/81; Resolution No. 2, Rule 08.160, filed 6/13/63.]

WAC 314-08-170 Subpoenas--Service. Unless the service of a subpoena is acknowledged on its face by the person subpoenaed, service shall be made by delivering a copy of the subpoena to such person.

[Resolution No. 2, Rule 08.170, filed 6/13/63.]

WAC 314-08-180 Subpoenas--Fees. As provided by RCW 66.24.010(3), witnesses shall be allowed fees and mileage each way to and from any such inquiry, investigation, hearing, or proceeding at the rate authorized by RCW 34.04.105, as now or hereafter amended. Fees need not be paid in advance of appearance of witnesses to testify or to produce books, records, or other legal evidence.

[Statutory Authority: RCW 66.08.030 and 66.98.070. 81-19-116 (Order 81, Resolution No. 90), § 314-08-180, filed 9/23/81; Resolution No. 2, Rule 08.180, filed 6/13/63.]

WAC 314-08-190 Subpoenas--Proof of service. The person serving the subpoena shall make proof of service by filing the subpoena and the required return, affidavit, or acknowledgment of service with the board or the officer before whom the witness is required to testify or produce evidence. If service is made by a person other than an officer of the board, and such service has not been acknowledged by the witness, such person shall make an affidavit of service. Failure to make proof of service does not affect the validity of the service.

[Resolution No. 2, Rule 08.190, filed 6/13/63.]

WAC 314-08-200 Subpoenas--Quashing. Upon motion made promptly and in any event at or before the time specified in the subpoena for compliance, by the person to whom the subpoena is directed (and upon notice to the party to whom the subpoena was issued) the board or its authorized member or officer may (1) quash or modify the subpoena if it is unreasonable or requires evidence not relevant to any matter in issue, or (2) condition denial of the motion upon just and reasonable conditions.

[Resolution No. 2, Rule 08.200, filed 6/13/63.]

WAC 314-08-210 Subpoenas--Enforcement. Upon application and for good cause shown, the board will seek judicial enforcement of subpoenas issued to parties and which have not been quashed.

[Resolution No. 2, Rule 08.210, filed 6/13/63.]

WAC 314-08-220 Subpoenas--Geographical scope. Such attendance of witnesses and such production of evidence may be required from any place in the state of Washington, at any designated place of hearing.

[Resolution No. 2, Rule 08.220, filed 6/13/63.]

WAC 314-08-230 Depositions and interrogatories in contested cases—Right to take. Except as may be otherwise provided, any party may take the testimony of any person, including a party, by deposition upon oral examination or written interrogatories for use as evidence in the proceeding. The attendance of witnesses may be compelled by the use of a subpoena. Depositions shall be taken only in accordance with this rule and the rule on subpoenas.

[Resolution No. 2, Rule 08.230, filed 6/13/63.]

WAC 314-08-240 Depositions and interrogatories in contested cases—Scope. Unless otherwise ordered, the deponent may be examined regarding any matter not privileged, which is relevant to the subject matter involved in the proceeding.

[Resolution No. 2, Rule 08.240, filed 6/13/63.]

WAC 314-08-250 Depositions and interrogatories in contested cases—Officer before whom taken. Within the United States or within a territory or insular possession subject to the dominion of the United States depositions shall be taken before an officer authorized to administer oaths by the laws of the state of Washington or of the place where the examination is held; within a foreign country, depositions shall be taken before a secretary of an embassy or legation, consul general, vice consul or consular agent of the United States, or a person designated by the board or agreed upon by the parties by stipulation in writing filed with the board. Except by stipulation, no deposition shall be taken before a person who is a party or the privy of a party, or a privy of any counsel of a party, or who is financially interested in the proceeding.

[Resolution No. 2, Rule 08.250, filed 6/13/63.]

WAC 314-08-260 Depositions and interrogatories in contested cases—Authorization. A party desiring to take the deposition of any person upon oral examination shall give reasonable notice of not less than three days in writing to the board and all parties. The notice shall state the time and place for taking the deposition, the name and address of each person to be examined, if known, and if the name is not known, a general description sufficient to identify him or the particular class or group to which he belongs. On motion of a party upon whom the notice is served, the hearing officer may for cause shown, enlarge or shorten the time. If the parties so stipulate in writing, depositions may be taken before any person, at any time or place, upon any notice, and in any manner and when so taken may be used as other depositions.

[Resolution No. 2, Rule 08.260, filed 6/13/63.]

WAC 314-08-270 Depositions and interrogatories in contested cases—Protection of parties and deponents. After notice is served for taking a deposition, upon its own motion or upon motion reasonably made by any party or by the person to be examined and upon notice and for good cause shown, the board or its designated

hearing officer may make an order that the deposition shall not be taken, or that it may be taken only at some designated place other than that stated in the notice, or that it may be taken only on written interrogatories, or that certain matters shall not be inquired into, or that the scope of the examination shall be limited to certain matters, or that the examination shall be limited to certain matters, or that the examination shall be held with no one present except the parties to the action and their officers or counsel, or that after being sealed, the deposition shall be opened only by order of the board, or that business secrets or secret processes, developments, or research need not be disclosed, or that the parties shall simultaneously file specified documents or information enclosed in sealed envelopes to be opened as directed by the board, or the board may make any other order which justice requires to protect the party or witness from annoyance, embarrassment, or oppression. At any time during the taking of the deposition, on motion of any party or of the deponent and upon a showing that the examination is being conducted in bad faith or in such manner as unreasonably to annoy, embarrass, or oppress the deponent or party, the board or its designated hearing officer may order the officer conducting the examination to cease forthwith from taking the deposition or may limit the scope and manner of the taking of the deposition as above provided. If the order made terminates the examination, it shall be resumed thereafter only upon the order of the agency. Upon demand of the objecting party or deponent, the taking of the deposition shall be suspended for the time necessary to make a motion for an order.

[Resolution No. 2, Rule 08.270, filed 6/13/63.]

WAC 314-08-280 Depositions and interrogatories in contested cases—Oral examination and cross-examination. Examination and cross examination shall proceed as at an oral hearing. In lieu of participating in the oral examination, any party served with notice of taking a deposition may transmit written cross interrogatories to the officer who, without first disclosing them to any person, and after the direct testimony is complete, shall propound them seriatim to the deponent and record or cause the answers to be recorded verbatim.

[Resolution No. 2, Rule 08.280, filed 6/13/63.]

WAC 314-08-290 Depositions and interrogatories in contested cases—Recordation. The officer before whom the deposition is to be taken shall put the witness on oath and shall personally or by someone acting under his direction and in his presence, record the testimony by typewriter directly or by transcription from stenographic notes, wire or record recorders, which record shall separately and consecutively number each interrogatory. Objections to the notice, qualifications of the officer taking the deposition, or to the manner of taking it, or to the evidence presented or to the conduct of the officer, or of any party, shall be noted by the officer upon the deposition. All objections by any party not so made are waived.

[Resolution No. 2, Rule 08.290, filed 6/13/63.]

WAC 314-08-300 Depositions and interrogatories in contested cases--Signing attestation and return. (1) When the testimony is fully transcribed the deposition shall be submitted to the witness for examination and shall be read to or by him, unless such examination and reading are waived by the witness and by the parties. Any changes in form or substance which the witness desires to make shall be entered upon the deposition by the officer with a statement of the reasons given by the witness for making them. The deposition shall then be signed by the witness, unless the parties by stipulation waive the signing or the witness is ill or cannot be found or refuses to sign. If the deposition is not signed by the witness, the officer shall sign it and state on the record the fact of the waiver or of the illness or absence of the witness or the fact of the refusal to sign together with the reason, if any, given therefor; and the deposition may then be used as fully as though signed, unless a motion to suppress the board holds that the reasons given for the refusal to sign require rejection of the deposition in whole or in part.

(2) The officer shall certify on the deposition that the witness was duly sworn by him and that the deposition is a true record of the testimony given by the witness. He shall then securely seal the deposition in an envelope indorsed with the title of proceeding and marked "Deposition of (here insert name of witness)" and shall promptly send it by registered or certified mail to the board, or its designated hearing officer, for filing. The party taking the deposition shall give prompt notice of its filing to all other parties. Upon payment of reasonable charges therefor, the officer shall furnish a copy of the deposition to any party or to the deponent.

[Resolution No. 2, Rule 08.300, filed 6/13/63.]

WAC 314-08-310 Depositions and interrogatories in contested cases--Use and effect. Subject to rulings by the hearing officer upon objections a deposition taken and filed as provided in this rule will not become a part of the record in the proceeding until received in evidence by the hearing officer upon his own motion or the motion of any party. Except by agreement of the parties or ruling of the hearing officer, a deposition will be received only in its entirety. A party does not make a party, or the privy of a party, or any hostile witness his witness by taking his deposition. Any party may rebut any relevant evidence contained in a deposition whether introduced by him or any other party.

[Resolution No. 2, Rule 08.310, filed 6/13/63.]

WAC 314-08-320 Depositions and interrogatories in contested cases--Fees of deponents--Costs of deposition. Deponents whose depositions are taken shall be entitled to the same fees as are allowed by WAC 314-08-180: *Provided*, That all costs incidental thereto shall be paid by the party desiring such deposition.

[Resolution No. 2, Rule 08.320, filed 6/13/63.]

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WAC 314-08-330 Depositions upon interrogatories--Submission of interrogatories. Where the deposition is taken upon written interrogatories, the party offering the testimony shall separately and consecutively number each interrogatory and file and serve them with a notice stating the name and address of the person who is to answer them and the name or descriptive title and address of the officer before whom they are to be taken. Within 10 days thereafter a party so served may serve cross-interrogatories upon the party proposing to take the deposition. Within five days thereafter, the latter may serve redirect interrogatories upon the party who served cross-interrogatories.

[Resolution No. 2, Rule 08.330, filed 6/13/63.]

WAC 314-08-340 Depositions upon interrogatories--Interrogation. Where the interrogatories are forwarded to an officer authorized to administer oaths as provided in WAC 314-08-250 the officer taking the same after duly swearing the deponent, shall read to him seriatim, one interrogatory at a time and cause the same and the answer thereto to be recorded before the succeeding interrogatory is asked. No one except the deponent, the officer and the court reporter or stenographer recording and transcribing it shall be present during the interrogation.

[Resolution No. 2, Rule 08.340, filed 6/13/63.]

WAC 314-08-350 Depositions upon interrogatories--Attestation and return. The officer before whom interrogatories are verified or answered shall (1) certify under his official signature and seal that the deponent was duly sworn by him, that the interrogatories and answers are a true record of the deponent's testimony, that no one except deponent, the officer and the stenographer were present during the taking, and that neither he nor the stenographer, to his knowledge, is a party, privy to a party, or interested in the event of the proceedings, and (2) promptly send by registered or certified mail the original copy of the deposition and exhibits with his attestation to the board, or its designated hearing officer, one copy to the counsel who submitted the interrogatories and another copy to the deponent.

[Resolution No. 2, Rule 08.350, filed 6/13/63.]

WAC 314-08-360 Depositions upon interrogatories--Provisions of deposition rule. In all other respects, depositions upon interrogatories shall be governed by the previous deposition rule.

[Resolution No. 2, Rule 08.360, filed 6/13/63.]

WAC 314-08-370 Official notice--Matters of law. The board or its hearing officer, upon request made before or during a hearing, will officially notice:

(1) **Federal law.** The Constitution; congressional acts, resolutions, records, journals and committee reports; decisions of federal courts and administrative agencies; executive orders and proclamations; and all rules, orders and notices published in the Federal Register;

(2) **State law.** The Constitution of the state of Washington, acts of the legislature, resolutions, records, journals and committee reports; decisions of administrative agencies of the state of Washington, executive orders and proclamations by the governor; and all rules, orders and notices filed with the code reviser;

(3) **Governmental organization.** Organization, territorial limitations, officers, departments, and general administration of the government of the state of Washington, the United States, the several states and foreign nations;

(4) **Agency organization.** The board's organization, administration, officers, personnel, official publications, and practitioners before its bar.

[Resolution No. 2, Rule 08.370, filed 6/13/63.]

WAC 314-08-380 Official notice--Material facts.

In the absence of controverting evidence, the board and its hearing officers, upon request made before or during a hearing, may officially notice:

(1) **Agency proceedings.** The pendency of, the issues and position of the parties therein, and the disposition of any proceeding then pending before or theretofore concluded by the board;

(2) **Business customs.** General customs and practices followed in the transaction of business;

(3) **Notorious facts.** Facts so generally and widely known to all well informed persons as not to be subject to reasonable dispute, or specific facts which are capable of immediate and accurate demonstration by resort to accessible sources of generally accepted authority, including but not exclusively, facts stated in any publication authorized or permitted by law to be made by any federal or state officer, department, or agency;

(4) **Technical knowledge.** Matters within the technical knowledge of the board as a body of experts, within the scope or pertaining to the subject matter of its statutory duties, responsibilities or jurisdiction;

(5) **Request or suggestion.** Any party may request, or the hearing officer or the board may suggest, that official notice be taken of a material fact, which shall be clearly and precisely stated, orally on the record, at any prehearing conference or oral hearing or argument, or may make such request or suggestion by written notice, any pleading, motion, memorandum, or brief served upon all parties, at any time prior to a final decision;

(6) **Statement.** Where an initial or final decision of the board rests in whole or in part upon official notice of a material fact, such fact shall be clearly and precisely stated in such decision. In determining whether to take official notice of material facts, the hearing officer of the board may consult any source of pertinent information, whether or not furnished as it may be, by any party and whether or not admissible under the rules of evidence;

(7) **Controversion.** Any party may controvert a request or a suggestion that official notice of a material fact be taken at the time the same is made if it be made orally, or by a pleading, reply or brief in response to the pleading or brief or notice in which the same is made or suggested. If any decision is stated to rest in whole or in

part upon official notice of a material fact which the parties have not had a prior opportunity to controvert, any party may controvert such fact by appropriate exceptions if such notice be taken in an initial or intermediate decision or by a petition for reconsideration if notice of such fact be taken in a final report. Such controversion shall concisely and clearly set forth the sources, authority and other data relied upon to show the existence or nonexistence of the material fact assumed or denied in the decision;

(8) **Evaluation of evidence.** Nothing herein shall be construed to preclude the board or its authorized agents from utilizing their experience, technical competence, and specialized knowledge in the evaluation of the evidence presented to them.

[Resolution No. 2, Rule 08.380, filed 6/13/63.]

WAC 314-08-390 Presumptions. Upon proof of the predicate facts specified in the following six subdivisions hereof without substantial dispute and by direct, clear, and convincing evidence, the board, with or without prior request or notice, may make the following presumptions, where consistent with all surrounding facts circumstances:

(1) **Continuity.** That a fact of a continuous nature, proved to exist at a particular time, continues to exist as of the date of the presumption, if the fact is one which usually exists for at least that period of time;

(2) **Identity.** That persons and objects of the same name and description are identical;

(3) **Delivery.** Except in a proceeding where the liability of the carrier for nondelivery is involved, that mail matter, communications, express or freight, properly addressed, marked, billed and delivered respectively to the post office, telegraph, cable or radio company, or authorized common carrier of property with all postage, tolls and charges properly prepaid, is or has been delivered to the addressee or consignee in the ordinary course of business;

(4) **Ordinary course.** That a fact exists or does not exist, upon proof of the existence or nonexistence of another fact which in the ordinary and usual course of affairs, usually and regularly coexists with the fact presumed;

(5) **Acceptance of benefit.** That a person for whom an act is done or to whom a transfer is made has, does or will accept same where it is clearly in his own self-interest so to do;

(6) **Interference with remedy.** That evidence, with respect to a material fact which in bad faith is destroyed, removed, suppressed or withheld by a party in control thereof, would if produced, corroborate the evidence of the adversary party with respect to such fact.

[Resolution No. 2, Rule 08.390, filed 6/13/63.]

WAC 314-08-400 Stipulations and admissions of record. The existence or nonexistence of a material fact, as made or agreed in a stipulation or in an admission of record, will be conclusively presumed against any party bound thereby, and no other evidence with respect

thereto will be received upon behalf of such party, provided:

(1) **Upon whom binding.** Such a stipulation or admission is binding upon the parties by whom it is made, their privies and upon all other parties to the proceeding who do not expressly and unequivocally deny the existence or nonexistence of the material fact so admitted or stipulated, upon the making thereof, if made on the record at a prehearing conference, oral hearing, oral argument or by a writing filed and served upon all parties within five days after a copy of such stipulation or admission has been served upon them;

(2) **Withdrawal.** Any party bound by a stipulation or admission of record at any time prior to final decision may be permitted to withdraw the same in whole or in part by showing to the satisfaction of the hearing officer or the board that such stipulation or admission was made inadvertently or under a bona fide mistake of fact contrary to the true fact and that its withdrawal at the time proposed will not unjustly prejudice the rights of other parties to the proceeding.

[Resolution No. 2, Rule 08.400, filed 6/13/63.]

WAC 314-08-410 Form and content of decisions in contested cases and proposed orders. Every decision and order, whether proposed, initial, or final, shall:

(1) Be correctly captioned as to name of agency and name of proceeding;

(2) Designate all parties and counsel to the proceeding;

(3) Include a concise statement of the nature and background of the proceeding;

(4) Be accompanied by appropriate numbered findings of fact and conclusions of law;

(5) Whenever practical, include the reason or reasons for the particular order or remedy afforded;

(6) Wherever practical, be referenced to specific provisions of the law and/or regulations appropriate thereto;

(7) Whenever the board considers that any matter or proceeding will be best handled by the issuance of a proposed order by the board or by the examiner conducting the hearing, such an order shall be issued and the parties so notified. Upon receipt of such notice and proposed order, any party may file exceptions to the same within twenty days after the date of the service of the proposed order, unless a greater or less time for filing exceptions is designated by the board at the time of issuance of the proposed order. Exceptions shall be filed in triplicate and a copy thereof shall be served upon all other parties who have appeared in the cause, or their attorneys of record together with proof of such service in accordance with the rules governing service of process. Any party may answer the exceptions so filed and served within ten days after service of said exceptions upon him. Briefs may accompany the exceptions or answers thereto and shall be filed and served in the same manner. After a full consideration of the proposed order, the exceptions and the answers to exceptions so filed and briefs, the board may affirm its proposed order by service of an order of affirmance upon the parties, or, if it

deems the exceptions well taken, may revise the proposed order and issue a final order differing from the proposed order: *Provided*, That the board may revise the proposed order and issue a final order differing from the proposed order notwithstanding the fact that neither its counsel nor the licensee or his/her counsel have filed exceptions in said case.

[Statutory Authority: Chapters 34.04 and 66.08 RCW. 80-12-021 (Order 74, Resolution No. 83), § 314-08-410, filed 8/27/80; Resolution No. 2, Rule 08.410, filed 6/13/63.]

WAC 314-08-415 Written arguments. At the conclusion of the evidentiary portion of a field hearing, the examiner may call for an oral legal argument on the record, after which the examiner shall render his oral proposals; or, the examiner may call for written arguments to be submitted to his office by the licensee or his attorney and the board's attorney. Such written arguments shall be submitted in triplicate to the hearing examiner and may not be exchanged by opposing counsel. When both arguments have been received, the hearing examiner will deliver one of the copies of the licensee's argument to the board's attorney, and one copy of the board's argument will be forwarded to the licensee or his attorney. Unless a different time is fixed at the field hearing, written arguments must be filed within ten days after the conclusion of the taking of the testimony at the field hearing. After the receipt of both written arguments, the hearing examiner will render his written proposals which will be served on the licensee or his attorney and the attorney for the board.

[Order 55, § 314-08-415, filed 5/31/77, effective 7/1/77.]

WAC 314-08-420 Definition of issues before hearing. In all proceedings the issues to be adjudicated shall be made initially as precise as possible, in order that hearing officers may proceed promptly to conduct the hearings on relevant and material matter only.

[Resolution No. 2, Rule 08.420, filed 6/13/63.]

WAC 314-08-430 Prehearing conference rule-- Authorized. In any proceeding the board or its designated hearing officer upon its or his own motion, or upon the motion of one of the parties or their qualified representatives, may in its or his discretion direct the parties or their qualified representatives to appear at a specified time and place for a conference to consider:

(1) The simplification of the issues;

(2) The necessity of amendments to the pleadings;

(3) The possibility of obtaining stipulations, admissions of facts and of documents;

(4) The limitation of the number of expert witnesses;

(5) Such other matters as may aid in the disposition of the proceeding.

[Resolution No. 2, Rule 08.430, filed 6/13/63.]

WAC 314-08-440 Prehearing conference rule-- Record of conference action. The board or its designated hearing officer shall make an order or statement which recites the action taken at the conference, the amendments allowed to the pleadings and the agreements made

by the parties or their qualified representatives as to any of the matters considered, including the settlement or simplification of issues, and which limits the issues for hearing to those not disposed of by admissions or agreements; and such order or statement shall control the subsequent course of the proceeding unless modified for good cause by subsequent order.

[Resolution No. 2, Rule 08.440, filed 6/13/63.]

WAC 314-08-450 Submission of documentary evidence in advance. Where practicable the board or its designated hearing officer may require:

(1) That all documentary evidence which is to be offered during the taking of evidence be submitted to the hearing examiner and to the other parties to the proceeding sufficiently in advance of such taking of evidence to permit study and preparation of cross-examination and rebuttal evidence;

(2) That documentary evidence not submitted in advance, as may be required by subdivision (1), be not received in evidence in the absence of a clear showing that the offering party had good cause for his failure to produce the evidence sooner;

(3) That the authenticity of all documents submitted in advance in a proceeding in which such submission is required, be deemed admitted unless written objection thereto is filed prior to the hearing, except that a party will be permitted to challenge such authenticity at a later time upon a clear showing of good cause for failure to have filed such written objection.

[Resolution No. 2, Rule 08.450, filed 6/13/63.]

WAC 314-08-460 Excerpts from documentary evidence. When portions only of a document are to be relied upon, the offering party shall prepare the pertinent excerpts, adequately identified, and shall supply copies of such excerpts, together with a statement indicating the purpose for which such materials will be offered, to the hearing examiner and to the other parties. Only the excerpts, so prepared and submitted, shall be received in the record. However, the whole of the original document shall be made available for examination and for use by all parties to the proceeding.

[Resolution No. 2, Rule 08.460, filed 6/13/63.]

WAC 314-08-470 Expert or opinion testimony and testimony based on economic and statistical data--Number and qualifications of witnesses. That the hearing examiner or other appropriate officer in all classes of cases where practicable make an effort to have the interested parties agree upon the witness or witnesses who are to give expert or opinion testimony, either by selecting one or more to speak for all parties or by limiting the number for each party; and, if the interested parties cannot agree, require them to submit to him and to the other parties written statements containing the names, addresses and qualifications of their respective opinion or expert witnesses, by a date determined by him and fixed sufficiently in advance of the hearing to permit the other interested parties to investigate such qualifications.

(1986 Ed.)

[Resolution No. 2, Rule 08.470, filed 6/13/63.]

WAC 314-08-480 Expert or opinion testimony and testimony based on economic and statistical data--Written sworn statements. That the hearing examiner or other appropriate officer, in all classes of cases in which it is practicable and permissible, require, and when not so permissible, make every effort to bring about by voluntary submission, that all direct opinion or expert testimony and all direct testimony based on economic or statistical data be reduced to written sworn statements, and, together with the exhibits upon which based, be submitted to him and to the other parties to the proceeding by a date determined by the hearing officer and fixed a reasonable time in advance of the hearing; and that such sworn statements be acceptable as evidence upon formal offer at the hearing, subject to objection on any ground except that such sworn statements shall not be subject to challenge because the testimony is not presented orally, and provided that witnesses making such statements shall not be subject to cross-examination unless a request is made sufficiently in advance of the hearing to insure the presence of the witnesses.

[Resolution No. 2, Rule 08.480, filed 6/13/63.]

WAC 314-08-490 Expert or opinion testimony and testimony based on economic and statistical data--Supporting data. That the hearing examiner or other appropriate officer, in his discretion but consistent with the rights of the parties, cause the parties to make available for inspection in advance of the hearing, and for purposes of cross-examination at the hearing, the data underlying statements and exhibits submitted in accordance with WAC 314-08-480, but, wherever practicable that he restrict to a minimum the placing of such data in the record.

[Resolution No. 2, Rule 08.490, filed 6/13/63.]

WAC 314-08-500 Expert or opinion testimony and testimony based on economic and statistical data--Effect of noncompliance with WAC 314-08-470 or 314-08-480. Whenever the manner of introduction of opinion or expert testimony or testimony based on economic or statistical data is governed by requirements fixed under the provisions of WAC 314-08-470 or 314-08-480, such testimony not submitted in accordance with the relevant requirements shall not be received in evidence in the absence of a clear showing that the offering party had good cause for his failure to conform to such requirements.

[Resolution No. 2, Rule 08.500, filed 6/13/63.]

WAC 314-08-510 Continuances. Any party who desires a continuance shall, immediately upon receipt of notice of a hearing, or as soon thereafter as facts requiring such continuance come to his knowledge, notify the board or its designated hearing officer of said desire, stating in detail the reasons why such continuance is necessary. The board or its designated hearing officer, in passing upon a request for continuance, shall consider whether such request was promptly and timely made.

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For good cause shown, the board or its designated hearing officer may grant such a continuance and may at any time order a continuance upon its or his own motion. During a hearing, if it appears in the public interest or in the interest of justice that further testimony or argument should be received, the examiner or other officer conducting the hearing may in his discretion continue the hearing and fix the date for introduction of additional evidence or presentation of argument. Such oral notice shall constitute final notice of such continued hearing.

[Resolution No. 2, Rule 08.510, filed 6/13/63.]

WAC 314-08-520 Rules of evidence--Admissibility criteria. Subject to the other provisions of these rules, all relevant evidence is admissible which, in the opinion of the officer conducting the hearing, is the best evidence reasonably obtainable, having due regard for its necessity, availability and trustworthiness. In passing upon the admissibility of evidence, the officer conducting the hearing shall give consideration to, but shall not be bound to follow, the rules of evidence governing civil proceedings, in matters not involving trial by jury, in the superior court of the state of Washington.

[Resolution No. 2, Rule 08.520, filed 6/13/63.]

WAC 314-08-530 Rules of evidence--Tentative admission--Exclusion--Discontinuance--Objections.

When objection is made to the admissibility of evidence, such evidence may be received subject to a later ruling. The officer conducting the hearing may, in his discretion, either with or without objection, exclude inadmissible evidence or order cumulative evidence discontinued. Parties objecting to the introduction of evidence shall state the precise grounds of such objection at the time such evidence is offered.

[Resolution No. 2, Rule 08.530, filed 6/13/63.]

WAC 314-08-540 Petitions for rule making, amendments or repeal--Who may petition. Any interested person may petition the board requesting the promulgation, amendment, or repeal of any rule.

[Resolution No. 2, Rule 08.540, filed 6/13/63.]

WAC 314-08-550 Petitions for rule making, amendments or repeal--Requisites. Where the petition requests the promulgation of a rule, the requested or proposed rule must be set out in full. The petition must also include all the reasons for the requested rule together with briefs of any applicable law. Where the petition requests the amendment or repeal of a rule presently in effect, the rule or portion of the rule in question must be set out as well as a suggested amended form, if any. The petition must include all reasons for the requested amendment or repeal of the rule.

[Resolution No. 2, Rule 08.550, filed 6/13/63.]

WAC 314-08-560 Petitions for rule making, amendments or repeal--Agency must consider. All petitions shall be considered by the board and the board

may, in its discretion, order a hearing for the further consideration and discussion of the requested promulgation, amendment, repeal, or modification of any rule.

[Resolution No. 2, Rule 08.560, filed 6/13/63.]

WAC 314-08-570 Petitions for rule making, amendments or repeal--Notice of disposition. The board shall notify the petitioning party within a reasonable time of the disposition, if any, of the petition.

[Resolution No. 2, Rule 08.570, filed 6/13/63.]

WAC 314-08-580 Declaratory rulings. (1) As prescribed by RCW 34.04.080, any interested person may petition the board for a declaratory ruling. The board shall consider the petition and within a reasonable time shall:

- (a) Issue a nonbinding declaratory ruling; or
- (b) Notify the person that no declaratory ruling is to be issued; or
- (c) Set a reasonable time and place for hearing argument upon the matter, and give reasonable notification to the person of the time and place for such hearing and of the issues involved.

(2) If a hearing as provided in subsection (1)(c) is conducted, the board shall within a reasonable time:

- (a) Issue a binding declaratory rule; or
- (b) Issue a nonbinding declaratory ruling; or
- (c) Notify the person that no declaratory ruling is to be issued.

[Resolution No. 2, Rule 08.580, filed 6/13/63.]

WAC 314-08-590 Forms. (1) Any interested person petitioning the board for a declaratory ruling pursuant to RCW 34.04.080, shall generally adhere to the following form for such purpose.

(2) At the top of the page shall appear the wording "Before the Washington state liquor control board." On the left side of the page below the foregoing the following caption shall be set out: "In the matter of the petition of (name of petitioning party) for a declaratory ruling." Opposite the foregoing caption shall appear the word "petition."

(3) The body of the petition shall be set out in numbered paragraphs. The first paragraph shall state the name and address of the petitioning party. The second paragraph shall state all rules or statutes that may be brought into issue by the petition. Succeeding paragraphs shall set out the state of facts relied upon in form similar to that applicable to complaints in civil actions before the superior courts of this state. The concluding paragraphs shall contain the prayer of the petitioner. The petition shall be subscribed and verified in the manner prescribed for verification of complaints in the superior courts of this state.

(4) The original and two legible copies shall be filed with the agency. Petitions shall be on white paper, either 8 1/2" x 11" or 8 1/2" x 13" in size.

(5) Any interested person petitioning the board requesting the promulgation, amendment or repeal of any

rules shall generally adhere to the following form for such purpose.

(a) At the top of the page shall appear the wording "Before the Washington state liquor control board." On the left side of the page below the foregoing the following caption shall be set out: "In the matter of the petition of (name of petitioning party) for (state whether promulgation, amendment or repeal) of rule (or rules)." Opposite the foregoing caption shall appear the word "petition."

(b) The body of the petition shall be set out in numbered paragraphs. The first paragraph shall state the name and address of the petitioning party and whether petitioner seeks the promulgation of new rule or rules, or amendment or repeal of existing rule or rules. The second paragraph, in case of a proposed new rule or amendment of an existing rule, shall set forth the desired rule in its entirety. Where the petition is for amendment, the new matter shall be underscored and the matter proposed to be deleted shall appear in double parentheses. Where the petition is for repeal of an existing rule, such shall be stated and the rule proposed to be repealed shall either be set forth in full or shall be referred to by agency rule number. The third paragraph shall set forth concisely the reasons for the proposal of the petitioner and shall contain a statement as to the interest of the petitioner in the subject matter of the rule. Additional numbered paragraphs may be used to give full explanation of petitioner's reason for the action sought.

(c) Petitions shall be dated and signed by the person or entity named in the first paragraph or by his attorney. The original and two legible copies of the petition shall be filed with the agency. Petitions shall be on white paper, either 8 1/2" by 11" or 8 1/2" x 13" in size.

[Resolution No. 2, Rule 08.590, filed 6/13/63.]

Chapter 314-12 WAC

GENERAL—APPLICABLE TO ALL LICENSEES

WAC

314-12-010	License does not grant vested right.
314-12-020	Applicants—Qualifications—Fingerprinting—Criminal history record information checks—Continuing conditions—Agreements—Reconsideration of denied applications.
314-12-030	License to reflect true party in interest—Display of licenses.
314-12-033	Limited partnerships.
314-12-035	Furnishing of information and/or documentation to the board—Oath required—Form of affidavit.
314-12-040	Prorating and refunding of fees—Discontinuance of business.
314-12-050	Loss or destruction of licenses, permits, etc.—Fee.
314-12-060	Death or incapacity of licensee.
314-12-070	Transfer of licenses.
314-12-080	Limitation on transfers and reapplications.
314-12-090	Managers required—Exceptions.
314-12-100	Change of name.
314-12-110	Change of location.
314-12-120	Licensed premises open for inspection—Sampling of liquor.
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.

314-12-130	No liquor deliveries on Sunday—Exceptions.
314-12-140	Prohibited practices—Contracts—Gifts—Rebates, etc.
314-12-150	Definitions—"Pasteurized beer," "gallon."
314-12-170	Minimum monetary penalty.

DISPOSITION OF SECTIONS FORMERLY CODIFIED IN THIS CHAPTER

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.
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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 314-12-020 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 or transfer 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 ten percent or more 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 66.24.010(2) shall also cease to be eligible to hold any license already issued.

(4) An applicant for any license or permit issued by the liquor control board, who employs an attorney or agent in connection with an application for such license or permit, shall, upon request, submit in writing the entire agreement between such applicant for license or permit, and the attorney or agent. No part of any compensation agreed upon, paid or received shall in any manner be contingent upon the outcome of the matter before said board. In the event the compensation agreed upon, paid or received, is determined to be excessive, the board reserves the right to refuse to consider the application for such license or permit.

(5) 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.

(6) The board may, at its discretion and for good cause shown, reconsider a denied application 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.

[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 314-12-030 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 of the true party in interest. No licensee shall pay to any person, as compensation for services or otherwise, more than ten percent of the net profits of the licensed business, unless the name of said person appears on the license.

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

[Statutory Authority: RCW 66.08.030, 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 not be considered within the meaning of the term "copartner" as used in RCW 66.24.010(2) if the limited partner has less than a ten percent ownership interest, of an investment type only, in the business to be licensed and has no 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 66.98.070, 82-13-105 (Order 105, Resolution No. 114), § 314-12-033, filed 6/23/82.]

WAC 314-12-035 Furnishing of information and/or documentation to the board--Oath required--Form of affidavit. (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 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 shall be furnished with the original license application, with any application for transfer of license, 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 shall be submitted to the board along with an affidavit in the form provided in subsection (3) or (4) hereof, whichever

is appropriate, 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.

(3) Where the person furnishing information and/or documentation to the board is a licensee, an applicant for a license, or the agent or representative of such a licensee or applicant, the affidavit referenced in subsection (2) above shall be in the following form:

"AFFIDAVIT OF LICENSEE, APPLICANT FOR LICENSE OR AGENT OR REPRESENTATIVE THEREOF, CONCERNING DOCUMENTATION OF OWNERSHIP INTERESTS IN LICENSED PREMISES AND/OR BUSINESS

I, _____, having been duly sworn upon oath depose and say:

That I have read the following specifically identified application and/or documents which are herewith submitted by me to the board through its authorized representative for the purpose of inducing official action by the board:

(List application by date and documents by type and date)

That I am authorized to submit the application and/or documents on behalf of the licensee or applicant for a license, as the case may be.

That to the best of my knowledge all of the information on said specifically identified application and/or documents is true, accurate and complete.

That there are no oral agreements of any kind whatsoever which modify the provisions of the said specifically identified application and/or documents other than those which are fully disclosed in the said application and/or documents.

That the true identity of all persons or other entities who do, or will, have an interest in the business licensed, or sought to be licensed, have been fully disclosed to the board; all such interests being fully described in the said application and/or documents whether such interests result from open loans, mortgages, conditional sales contracts, silent partnerships, trusts, or from any other source whatsoever except open trade accounts incurred in the ordinary course of business.

That I am aware that RCW 9A.72.030 provides that it is a crime (Class C Felony) for a person, with intent to mislead a public servant in the performance of his duty, to make under an oath required or authorized by law a materially false statement, knowing it to be false.

Name _____

Title _____
Sole Proprietor,
Corporate Officer
Shareholder, Partner,
Manager, Agent, Etc.

Date _____

SUBSCRIBED AND SWORN TO Before me this ____ day of _____ 1981.

Notary Public in and for
the state of _____
residing at _____."

(4) Where the person furnishing information and/or documentation to the board is some person other than a licensee or applicant for a license, and the person is not acting as the agent or representative of such a licensee or applicant, the affidavit referenced in subsection (2) above shall be in the following form:

"AFFIDAVIT OF PERSON OTHER THAN A LICENSEE, OR APPLICANT FOR A LICENSE, RELATING TO INFORMATION AND/OR DOCUMENTATION FURNISHED TO THE BOARD

I, _____, having been duly sworn upon oath depose and say:

That I have read the following specifically identified documents which are herewith submitted by me to the board through its authorized representative for the purpose of inducing official action by the board:

(List documents by type and date)

That to the best of my knowledge all of the information on said specifically identified documents is true, accurate and complete.

That there are no oral agreements of any kind whatsoever which modify the provisions of the said specifically identified documents other than those which are fully disclosed in the said specifically identified documents.

That I am aware that RCW 9A.72.030 provides that it is a crime (Class C Felony) for a person, with intent to mislead a public servant in the performance of his duty, to make under an oath required or authorized by law a materially false statement, knowing it to be false.

Name _____

Title _____

Sole Proprietor,
Corporate Officer
Shareholder, Partner,
Manager, Agent, Etc.

Date _____

SUBSCRIBED AND SWORN TO Before me this ___ day of ___ 1981.

Notary Public in and for
the state of _____
residing at _____."

(5) For the purpose of effectively obtaining information concerning any matter relating to the administration or enforcement of Title 66 RCW, any person providing books, records, or other documents to a person appointed in writing by the board pursuant to RCW 66.08.130 and 66.08.140 for the purposes specified in those statutes, shall provide the board at the same time with an affidavit in the following form:

"AFFIDAVIT OF PERSON PROVIDING BOOKS, RECORDS OR OTHER DOCUMENTS FOR INSPECTION BY THE BOARD PURSUANT TO RCW 66.08.130 OR 66.08.140

I, _____, having been duly sworn upon oath depose and say:

That I have produced the following specifically identified books, records and other documents for inspection by the board, through its authorized representative, in compliance with RCW 66.08.130 and/or 66.08.140:

(List books, records or other documents by type and date)

That I am aware of no other books, records or documents which come within the purview of the request made for production under RCW 66.08.130 or 66.08.140 other than those which have been produced, except the following:

(Insert "none" or describe the other books, records or documents)

That to the best of my knowledge all of the documents which I have provided to the authorized representative of the board are true, correct, and complete, except the following:

(Insert "none" or identify specific documents and describe in what manner they are untrue, incorrect, or incomplete)

That to the best of my knowledge there are no oral agreements of any kind whatsoever which modify the provisions of any of the books, records and/or other documents produced by me other than those which are summarized below:

(Insert "none" or summarize each and every such oral agreement)

That I am aware that RCW 9A.72.030 provides that it is a crime (Class C Felony) for a person, with intent to mislead a public servant in the performance of his duty, to make under an oath required or authorized by law a materially false statement, knowing it to be false.

Name _____

Title _____

Sole Proprietor,
Corporate Officer
Shareholder, Partner,
Manager, Agent, Etc.

Date _____

SUBSCRIBED AND SWORN TO Before me this ___ day of ___ 1981.

Notary Public in and for
the state of _____
residing at _____."

[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.

(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 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.]

WAC 314-12-060 Death or incapacity of licensee. In the event of the incapacity, death, receivership, bankruptcy, or assignment for benefit of creditors of any licensee, then his guardian, executor, administrator, receiver, trustee in bankruptcy or assignee for benefit of creditors may, upon written authority from the board, continue the business of the licensee on the licensed premises for the duration of the license, unless sooner terminated.

[Rule 5, filed 6/13/63.]

WAC 314-12-070 Transfer of licenses. (1) No transfer of any license shall be made except in conformance with RCW 66.24.010, and subject to the following conditions:

(a) The holder of the license shall execute an assignment and transfer upon a form prescribed by the board, and the assignee and transferee shall then make application for approval of such assignment and transfer;

(b) The transferee shall not take possession of the premises, nor exercise any of the privileges of a licensee, nor shall such assignment and transfer be effective until the board shall have approved the same;

(c) In approving any assignment and transfer of licenses, 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;

(d) A change of trade name may be made coincident with the transfer 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 an assignment and transfer of the licenses held by the partnership and subject to the regulations applicable to assignment and transfer of licenses.

(3) If the licensee is a corporation, a change in ownership of any stock shall not be deemed a transfer of a license: *Provided, however,* That pursuant to the provisions of RCW 66.24.025(2), the proposed sale of more than ten percent of the outstanding and/or issued stock of a licensed corporation or any proposed change in the principal officers of a licensed corporation must be reported to the board on forms prescribed by it. The board may inquire into all matters in connection with any such

sale of stock or proposed change in officers, and the written consent of the board must be obtained before any such changes are made.

(4) If a licensee has an unresolved violation charge pending, no action will be taken by the board on an application to transfer the liquor license to another until such time as a final disposition has been made of the pending violation charge.

[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 314-12-080 Limitation on transfers and re-applications. (1) Except as provided herein, no application for transfer of any license shall be made for a period of ninety days following the issuance of transfer of such license.

(2) This limitation shall not apply in any of the circumstances set forth in WAC 314-12-060.

(3) In the event of the withdrawal of a partner, the license may be transferred to the remaining partner or partners within the prohibited period.

(4) No reapplication for a license shall be made within a period of ninety days following a denial of such license.

[Rule 7, filed 6/13/63.]

WAC 314-12-090 Managers required—Exceptions. (1) All businesses licensed under chapter 66.24 RCW shall appoint a manager, such manager to be approved in writing by the board. Provided, however, that this requirement does not apply to those businesses in which the licensee is a sole proprietor or partnership and the sole proprietor, partner or partners are regularly available on the premises engaged in the management of the licensed business.

(2) No change shall be made in the management of any licensed business until written consent of the board has been obtained.

[Statutory Authority: RCW 66.08.030. 86-12-021 (Order 186, Resolution No. 195), § 314-12-090, filed 5/28/86. Statutory Authority: RCW 66.08.030 and 66.98.070. 81-22-026 (Order 85, Resolution No. 94), § 314-12-090, filed 10/28/81; Rule 8, filed 6/13/63.]

WAC 314-12-100 Change of name. No licensee shall adopt or make a change in a trade or corporate name without the written consent of the board. Fee, \$5.00. (See WAC 314-12-070(a).)

[Rule 9, filed 6/13/63.]

WAC 314-12-110 Change of location. No change of location of licensed premises shall be made without the written consent of the board. Fee, \$75.00. This regulation, however, shall not apply to holders of licenses under RCW 66.24.395.

[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.]

WAC 314-12-120 Licensed premises open for inspection—Sampling of liquor. (1) All licensed premises,

or any premises in any way connected physically or otherwise with a licensed business, including vehicles used in connection therewith, shall at all times be open to inspection by the board.

(2) The board may, upon proper receipt given therefor, take for the purpose of analysis samples of liquor possessed by any licensee by virtue of his license.

[Rule 11, filed 6/13/63.]

WAC 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. (1) The licensee of a liquor licensed premises is responsible for operation of the licensed premises in compliance with the liquor laws (Title 66 RCW) and rules of the board (Title 314 WAC). If the licensee chooses to employ others in the operation of the business, any violations committed, or permitted, by those employees shall be treated by the board as violations committed, or permitted, by the licensee.

(2) Failure by a licensee to accomplish compliance with the liquor laws or rules of the board, for whatever reason, will constitute good and sufficient cause for revocation of license privileges.

[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.]

WAC 314-12-130 No liquor deliveries on Sunday--Exceptions. No liquor shall be delivered to any retail licensee between midnight on Saturday and midnight on Sunday; nor shall any retail licensee receive or accept delivery of any liquor between midnight on Saturday and midnight on Sunday: *Provided*, That if delivery of beer and/or wine cannot be accomplished prior to Sunday, nothing in this section shall prohibit a wholesaler from delivering and a Class G, J, or I retail liquor licensee from receiving beer and/or wine for a licensed special occasion event occurring between midnight on Saturday and midnight on Sunday. Upon license approval, beer and/or wine may be ordered by a Class G, J, or I licensee and delivered by the wholesaler to the location specified by the Class G, J, or I licensee or directly to such licensed retailer at the wholesaler's licensed premises.

[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.]

WAC 314-12-140 Prohibited practices--Contracts--Gifts--Rebates, etc. (1) No contract shall be made or entered into whereby any retail licensee agrees to handle any particular brand or brands of liquor to the exclusion of any other brand or brands of liquor.

(2) No contract shall be made or entered into for the future delivery of liquor to any retail licensee: *Provided*, That 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.

(3) No manufacturer, wholesaler, or importer, or his employee, shall directly or indirectly solicit, give or offer to, or receive from any retail licensee, any employee thereof, or an applicant for a license, any gifts, discounts, loans of money, premiums, rebates, free liquor of any kind, treats or services of any nature whatsoever; nor shall any retail licensee, employee thereof, or an applicant for a license, directly or indirectly, solicit, receive from, or give or offer to any manufacturer, wholesaler or importer, or his employee, any gifts, discounts, loans of money, premiums, rebates, free liquor of any kind, treats or services of any nature whatsoever, except such services as are authorized in this regulation. It shall be a violation of this section for:

(a) Any retail licensee who has paid for beer or wine with a check which was dishonored upon presentation to thereafter refuse to make good on the check by immediate payment in cash.

(b) Any retail licensee to purchase beer and/or wine from any source after having received notice that a previous check given in payment for beer and/or wine has been dishonored until that dishonored check has been made good in cash.

(4) Pursuant to RCW 66.28.010 a manufacturer, wholesaler, importer, or his 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 his own brands only, from stock or inventory owned by the retailer.

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

(c) Provide price cards and may also price goods of his own brands.

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

(e) 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.

(f) No manufacturer, wholesaler, importer, or any employee thereof, shall move or handle in any manner any products other than his own brands on the premises of any retail licensee.

(5) No manufacturer, wholesaler, importer, or employee thereof shall, directly or indirectly, give, furnish, rent or lend to, or receive from, any retail licensee 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 manufacturer, wholesaler or importer any equipment, fixtures, supplies or property of any kind. Sales authorized in this regulation shall be made on a cash on delivery basis only.

(6) No manufacturer or wholesaler 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.

(7) In selling equipment, fixtures, supplies or commodities other than liquor, no manufacturer, wholesaler or importer shall grant to retail licensees, nor shall such licensees accept, more favorable prices than those extended to nonlicensed retailers. The price thereof shall be in conformity with the open market price in the locality where sold. In no event shall credit be extended to any retail licensee.

(8) Any manufacturer, wholesaler or importer 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 in accordance with WAC 314-20-050 a copy of the invoice covering each such sale, which invoice shall contain a complete description of the articles sold, the purchase price of each unit sold together with the total amount of the sale, transportation costs and services rendered in connection with the installation of such articles. Such invoice shall list the date of such sale and affirm that full cash payment for such articles was received from the retailer as provided in subsection (5) of this regulation.

(9) 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 wholesalers 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 66.28.010 and 66.08.030 (2)(1). 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 314-12-150 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) A "gallon," when used in computing any tax, shall mean the United States standard gallon of 231 cubic inches.

[Resolution No. 4, filed 5/5/65, effective 6/7/65; Rule 14, filed 6/13/63.]

WAC 314-12-170 Minimum monetary penalty. If the board, pursuant to RCW 66.24.120, determines to provide in either its prehearing summary disposition or final order of suspension that such suspension shall be vacated upon payment of a monetary penalty, then such penalty shall not, in any event, be less than \$500.00.

[Statutory Authority: RCW 66.08.030 and 66.98.070. 84-17-117 (Order 148, Resolution No. 157), § 314-12-170, filed 8/22/84.]

Chapter 314-16 WAC RETAIL LICENSEES

WAC

- 314-16-010 Booths.
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- 314-16-025 "Minor prohibited" posting required in classified premises.
- 314-16-030 Sanitation, equipment and lighting.
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- 314-16-080 Food and beverage service workers—Permit.
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- 314-16-110 Liquor purchases by Class H licensees.
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- 314-16-140 Entertainment license displayed.
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- 314-16-150 No sale of liquor to minors, intoxicated persons, interdicted persons, etc.
- 314-16-155 Licensee's certification card—Evidence of age.
- 314-16-160 Records—Purchases—Reports.
- 314-16-170 Suspension notices, posting of—Other closing notices prohibited.
- 314-16-180 Alterations and changes of premises and activities—Outside storage.
- 314-16-190 Class H restaurant—Qualifications.
- 314-16-195 Class H restricted—Qualifications.
- 314-16-196 Class H license issued to premises without a cocktail lounge.
- 314-16-197 Minimum qualifications for applicants who apply for Class A and/or D licenses in lieu of presently held Class B license.
- 314-16-200 Minimum qualifications for issuance of Class E, F, and Classes EF licenses.

- 314-16-205 Minimum qualifications for issuance for a Class P license.
- 314-16-210 Class H license fees in unincorporated areas—Seasonal operations—Prorating fees.
- 314-16-220 Class F licensees—Principal business sale of wine for off-premises consumption—Authorization for selling or serving samples.
- 314-16-230 Authorization for sale of wine in unopened bottles for off-premises consumption under Class J license.

Advertising—For regulation pertaining to advertising by retail licensees, see WAC 314-52-110.

DISPOSITION OF SECTIONS FORMERLY CODIFIED IN THIS CHAPTER

- 314-16-100 Treating. [Order 53, § 314-16-100, filed 2/15/77, effective 3/18/77; Order 19, § 314-16-100, filed 8/10/72; Rule 25, filed 6/13/63.] Repealed by 86-07-014 (Order 178, Resolution No. 187), filed 3/11/86. Statutory Authority: RCW 66.08.030.

WAC 314-16-010 Booths. No retail licensee shall conduct a licensed premises where booths are part of the equipment unless such booths are open at all times at one end so as to provide a clear view from without the same.

[Order 4, § 314-16-010, filed 7/9/69, effective 8/11/69; Order 1, § 314-16-010, filed 5/16/68; Rule 16, filed 6/13/63.]

WAC 314-16-020 Dispensing apparatus and containers—Furnishing of certain devices. (1) No retail licensee shall draw any beer from any faucet, spigot or other dispensing apparatus unless the brand name of the beer drawn shall appear in legible lettering, visible from both the front and rear, upon such faucet, spigot or other dispensing apparatus. Brewers and beer wholesalers may furnish "tap marking devices" to retail dispensers as hereinabove provided at a nominal value or cost to the brewer or beer wholesaler. Brewers and beer wholesalers may also furnish can and bottle openers to retail licensees at a nominal value or cost to the brewer or beer wholesaler: *Provided*, That said openers do not bear any brand name or the name of any beer manufacturer or wholesaler or liquor advertising of any kind.

(2) Every bottle or other container from which wine is sold by a retail licensee for consumption on the licensed premises shall be truly labeled with the brand name, type and manufacturer's name of said wine. Wineries and wine wholesalers may furnish said labels to retail dispensers as hereinabove provided at a value or cost to the winery or wine wholesaler not to exceed forty cents each.

[Rule 17, filed 6/13/63.]

WAC 314-16-025 "Minor prohibited" posting required in classified premises. (1) Licensees of licensed premises classified by the board pursuant to RCW 66.44.310(2) shall post a notice in a conspicuous location at each entryway to each such classified tavern or cocktail lounge informing persons under twenty-one years of age that they are not permitted to enter or remain on such classified premises.

(2) The board will provide the notices required by subsection (1) of this section to licensees without charge: *Provided, however*, That licensees may design and post

their own notices. Licensees choosing to do so must ensure that the notices are legible and that they contain, at a minimum, the following language:

(a) For a premises classified as a tavern: "Persons under twenty-one years of age not permitted on these premises."

(b) For a premises classified as the cocktail lounge portion of a class H licensed premises: "Persons under twenty-one years of age not permitted in this area."

[Statutory Authority: RCW 66.08.030. 86-09-074 (Order 182, Resolution No. 191), § 314-16-025, filed 4/22/86.]

WAC 314-16-030 Sanitation, equipment and lighting. (1) Every retail licensee shall keep his premises and equipment in a clean, wholesome and sanitary condition.

(2) All cups, mugs, steins or glasses used for serving liquor must, after being used, be cleaned, washed and sterilized in the manner prescribed by the state board of health sanitation regulations. Any sterilizing process and chemical sterilizing agents used in connection therewith shall meet the requirements of the state board of health.

(3) All holders of retail licenses for the sale of liquor for consumption on the premises shall provide in and about the parts of said premises, which are open to and used by the public, sufficient lighting so that all objects are plainly visible at all times and all parts of such premises shall be illuminated so that patrons on any part of the premises on which intoxicating liquor is served shall be able to read a menu or liquor list printed in eight point type.

[Rule 18, filed 6/13/63.]

WAC 314-16-040 Service limited to license and order—Removal of liquor in open containers—Room service—Price list. (1) No retail licensee shall possess or allow any person to consume or possess any liquor other than that permitted by his license in or on the licensed premises, or on any public premises adjacent thereto which are under his control except under authority of a banquet permit.

(2) Beer and/or wine only licensees may keep spirituous liquor on the premises for use in the manufacture of confection or food products provided that prior written permission of the board is obtained, all confection or food products manufactured contain one percent or less of alcohol by weight, and customers are made aware that such confection or food products contain liquor and the alcohol content is one percent or less of the weight of the product.

(3) No retail licensee or employee thereof shall permit the removal of any liquor in an open container from the licensed premises except that liquor brought on a licensed premises under authority of a banquet permit shall be recorked, recapped or resealed in its original container and shall be removed at the termination of such banquet permit function. Further, wine may be removed as authorized by RCW 66.24.340 and 66.24.400.

(4) No holder of a Class H license shall be permitted to hold any other class of retail license covering the premises so licensed. Upon the granting of a Class H license, all other classes of retail licenses which may be

held by such new Class H licensee at that time at the premises to be so licensed must be surrendered to the board for cancellation.

(5) Hotel room service is included in on-premises licenses.

(6) No licensee shall sell or serve any spirituous liquor, beer, or wine other than ordered, or substitute a nonalcoholic beverage when an alcoholic beverage has been ordered. A Class H licensee shall display prices for all liquor either by posting a price list or by using menus listing such prices, or by both.

(7) No holder of a Class C license shall advertise for sale, nor sell, any mixed drink under the name of "Old Fashioned," "Whiskey Sour," "Singapore Sling," "Martini," "Manhattan," nor any other name which, by long and general usage, has become associated in the public mind as being the name of a mixed drink made from spirituous liquor, unless the name of such drink is prefaced by the word "wine," such as Wine Old Fashioned. The holder of a Class C license may advertise for sale, mix, compound or sell upon order, mixed drinks made from one or more wines under a name which does not conflict with this section.

[Statutory Authority: RCW 66.08.030, 86-07-015 (Order 179, Resolution No. 188), § 314-16-040, filed 3/11/86; 85-06-023 (Order 155, Resolution No. 164), § 314-16-040, filed 2/27/85. Statutory Authority: RCW 66.08.030 and 66.98.070, 84-11-092 (Order 142, Resolution No. 151), § 314-16-040, filed 5/23/84. Statutory Authority: RCW 66.08.030, 66.08.060 and 66.98.070, 80-02-094 (Order 69, Resolution No. 78), § 314-16-040, filed 1/23/80; Rule 19, filed 6/13/63.]

WAC 314-16-050 Closing hours--Sunday closing. No retail licensee, or employee thereof, shall sell, deliver, offer for sale, serve or allow to be consumed upon the licensed premises any liquor, nor permit the removal of any liquor from the licensed premises in any manner whatsoever between the hours of 2 a.m. and 6 a.m., except on New Year's Day when the hour of closing shall not be later than 3 a.m. Any municipality may fix later opening hours or earlier closing hours than those specified in this rule: *Provided, however,* That such later opening hours or earlier closing hours shall apply to all licensed premises.

[Order 53, § 314-16-050, filed 2/15/77 and 2/16/77, effective 3/18/77; Order 45, § 314-16-050, Rule 20, filed 6/1/76; Order 16, § 314-16-050, filed 8/5/71, effective 9/7/71; Order 11, § 314-16-050, filed 11/13/70, effective 12/14/70; Resolution No. 7, filed 7/19/67, effective 8/19/67; Rule 20, filed 6/13/63.]

WAC 314-16-060 Curb service prohibited. No retail liquor licensee, or employee thereof, shall provide, furnish, sell, or supply liquor by means of "drive-in" and/or "curb service."

[Statutory Authority: RCW 66.08.030 and 66.98.070, 81-21-024 (Order 87, Resolution No. 96), § 314-16-060, filed 10/14/81; 80-15-111 (Order 75, Resolution No. 84), § 314-16-060, filed 10/22/80; Order 53, § 314-16-060, filed 2/15/77, effective 3/18/77; Order 4, § 314-16-060, filed 7/9/69, effective 8/11/69; Rule 21, filed 6/13/63.]

WAC 314-16-070 Minors--Employment. No person under the age of 21 years shall be employed in any service in connection with the sale, handling or serving of any liquor, either on a paid or voluntary basis, in, on

or about any licensed premises except as otherwise authorized by law. Employees 18 years of age or over of Class A, C, D and/or H licensees may take orders for, serve and sell liquor for consumption on premises as authorized by, and under the conditions provided in, chapter 66.44 RCW. Employees 18 years of age or over of Class E and/or F licensees exclusively, may sell beer and/or wine not to be consumed upon the premises as authorized by, and under the conditions provided in, RCW 66.44.340.

(1) All licensees shall have a person 21 years of age or over on duty supervising the sale, service and consumption of liquor at the licensed premises.

(2) Persons under 21 years of age may not serve food or liquor in any area of Class A, C, D, or H licensed premises at any time such area is classified by the board as off-limits to persons under 21 years of age.

(3) Persons under 21 years of age shall not be permitted to perform activities or functions of a bartender. For the purposes of this section, activities or functions of a bartender include, but are not limited to: Mixing drinks or cocktails; drawing beer or wine; pouring beer or wine anywhere on the premises except at the patrons table; supplying or providing to 18, 19, or 20 year old employees for delivery to the customer spirituous liquor by the glass, beer by the pitcher or glass; or wine by the carafe or glass.

[Order 43, § 314-16-070, Rule 22, filed 11/20/75; Order 4, § 314-16-070, filed 7/9/69, effective 8/11/69; Rule 22, filed 6/13/63.]

WAC 314-16-075 Musicians, disc jockeys, sound or lighting technicians, persons performing janitorial services, employees of amusement device companies, security officers, fire fighters and law enforcement officers employment. Pursuant to the provisions of chapter 250, Laws of 1969 ex. sess. (RCW 66.44.316), professional musicians 18 years of age and older are permitted to enter and to remain in liquor licensed establishments during and in the course of their employment as musicians. The following definitions and requirements shall be applicable.

(1) Definitions:

(a) The term "professional minor musician" shall be construed as a person between 18 and 21 years of age who is employed to perform in his or her capacity as a musician at a retail liquor licensed establishment.

(b) The term "professional minor musician" shall include a person who plays a musical instrument and/or is a vocalist, professional disc jockeys, or professional sound or lighting technicians actively engaged in support of professional musicians or professional disc jockeys.

(c) To assure that the professional minor musician employed is engaged for that purpose, he or she shall be compensated at a rate not less than the minimum wage provided for by state law.

(2) Areas in licensed establishments where professional minor musicians may perform:

(a) Professional minor musicians during their performance shall, except as provided in (b) and (c) of this subsection, remain on the stage or bandstand of the licensed premises.

(b) The style of a "strolling musician" or a group of "strolling musicians" may be utilized in licensed establishments.

(c) Disc jockeys and sound and lighting technicians may enter and remain on the licensed premises, in such locations as required, during and in the course of their employment.

(3) Areas where professional minor musicians may remain when not performing:

(a) Prior to commencing a performance; at breaks or intermissions during the performance; and after concluding a performance, professional minor musicians shall be permitted only: On the stage or bandstand; in a private room or separate area on the premises in which no liquor is served; or in areas where minors are permitted under the licensee's minor classification [for example, in the restaurant section of a Class H licensed premises].

(b) Professional minor musicians are permitted to enter and remain on the licensed premises not more than one hour prior to the start of their performance, in order to set up their equipment and tune their musical instruments, and to remain not more than one hour after concluding their performance in order to properly secure their equipment.

(4) Responsibilities of licensees:

(a) Licensees having board authorization for live music and wishing to employ professional minor musicians shall have available for inspection by the board, or any peace officer, at all reasonable times, a current list of professional minor musicians employed at the licensed premises. Such list shall be retained for a period of 30 days after termination of employment and shall designate the following information with respect to each minor:

- (i) True name and professional or stage name, if any.
- (ii) Permanent resident address and temporary address, if any.
- (iii) Date and place of birth.
- (iv) Mother's maiden name; father's name.
- (v) Social Security number.
- (vi) Terms of the agreement of employment.

(b) Licensees shall at all times provide adequate supervision in order to insure that there will be neither the sale of nor the supplying of any alcoholic beverages to professional minor musicians, and that professional minor musicians will not be permitted to consume alcoholic beverages at any place on the premises.

(5) Responsibilities of professional minor musician:

(a) Professional minor musicians shall at all times during the course of their employment on licensed retail premises have with them documents available for inspection which disclose their true age and date of birth.

(6) Practice sessions — "jam sessions":

(a) Practice sessions involving professional minor musicians shall not be permitted on licensed premises.

(b) "Jam sessions" involving professional minor musicians shall not be permitted on any licensed premises unless the participants are being paid for such "jam sessions" in accordance with subsection (1)(c) of this regulation.

(7) Persons eighteen years of age and older performing janitorial services may enter and remain on premises licensed under the provisions of Title 66 RCW during the hours when there is no sale, service, or consumption of liquor on the premises (or in the area being cleaned), but only during and in the course of their performance of janitorial services.

(8) Employees of amusement device companies or companies which are in the business of installing, maintaining, and repairing amusement devices, which employees are eighteen years of age or older, may enter and remain in any premises licensed under the provisions of Title 66 RCW, but only during and in the course of their employment for the purpose of installing, maintaining, repairing, or removing an amusement device. For the purposes of this section amusement device means coin-operated video games, pinball machines, juke boxes, or other similar devices.

(9) Security officers, fire fighters and law enforcement officers eighteen years and over are permitted to enter and remain on premises licensed under the provisions of Title 66 RCW, but only during and in the course of their employment or official duties and only if they are not the direct employees of the licensee. Provided, however, that security officers access to classified portions of liquor licensed premises is limited to only isolated incidents arising in the course of their duties.

[Statutory Authority: RCW 66.44.316, 66.44.310, 66.44.350 and 66.08.030. 86-18-018 (Order 197, Resolution No. 206), § 314-16-075, filed 8/26/86; Order 9, § 314-16-075, filed 2/17/70.]

WAC 314-16-080 Food and beverage service workers—Permit. Every licensee holding a license authorizing the sale of beer or wine for consumption on the premises and all persons employed by such licensee for work or labor or services in connection with the sale or service of beer or wine on such premises, shall obtain a "food service worker's permit" through the appropriate jurisdictional health department according to county or city in which employed, before selling or serving beer or wine.

[Rule 23, filed 6/13/63.]

WAC 314-16-090 Bottles—Reuse. (1) No Class H licensee shall reuse, refill or tamper with any bottle of spiritous liquor, nor shall such licensee adulterate, dilute, fortify, or cause any substitution of any nature to be made in or to, the contents of any bottle of spiritous liquor.

(2) No retail licensee shall refill a jug, bottle or other container with unpasteurized beer while such jug, bottle or other container bears the label or name of any brand of beer or of any brewer, wholesaler or bottler.

[Order 19, § 314-16-090, filed 8/10/72; Rule 24, filed 6/13/63.]

WAC 314-16-110 Liquor purchases by Class H licensees. (1) Any employee authorized by the board may sell spiritous liquor at a discount of fifteen percent from the retail price fixed by the board, together with all taxes, to any Class H licensee upon presentation to such

employee at the time of purchase of a special permit issued by the board to such licensee or through such other means of insuring identification of the authorized purchaser as are approved by the board: *Provided, however,* That prior to license delivery, a new licensee or transferee may, with board authorization, be sold Class H discount liquor and beer and wine purchased under Title 66 RCW for the purpose of stocking the premises. The employee shall at the time of selling any spirituous liquor to a Class H licensee make a record of the liquor so sold, together with the name of the Class H licensee making the purchase. No sale of beer, wine, or spirituous liquor shall take place until the premises of the new licensee or transferee have been inspected by the board and the Class H license is delivered.

(2) Every Class H licensee, upon purchasing any spirituous liquor from the board, shall immediately cause such liquor to be delivered to his licensed premises, and he shall not thereafter remove or permit to be removed from said premises any bottle or other container containing such liquor, except pursuant to chapter 314-70 WAC or to return it to a state liquor store or agency, nor shall he dispose or allow to be disposed the liquor contained therein in any manner except as authorized by his license: *Provided, however,* That a delivery service business may pick up more than one Class H liquor order on the same day so long as each of said orders are delivered in the normal course of business on the same day without detour or diversion, except for those stops and deliveries as may be necessary to make deliveries to the other Class H licensees whose order is also on the particular delivery vehicle. The possession of any bottle or other container purchased from the board at a discount by any person other than the Class H licensee or said licensee's agents or employees who purchased the same, or the possession thereof at any place which is not the licensed premises of the licensee who purchased such liquor, shall be prima facie evidence that the Class H licensee unlawfully permitted the removal thereof from his licensed premises: *Provided,* That a Class H licensee who permanently discontinues business, other than as a result of a legal restraint action, may remove open bottles of liquor from the premises for personal use upon payment to the board of an amount to be determined by the board in lieu of the Class H discount and tax exemption in effect at that time.

(3) No Class H licensee shall keep in or on the licensed premises any spirituous liquor which was not purchased from the board at a discount: *Provided,* That spirituous liquor not purchased at a discount from the board may be kept in or on the Class H licensed premises under authority of a banquet permit issued pursuant to RCW 66.20.010(3) and chapter 314-18 WAC, but only during the specific date and time for which the banquet permit was issued: *Provided, further,* That notwithstanding any other provision of Title 314 WAC, a Class H licensee may display antique, unusual, or unique liquor bottles with or without liquor on the licensed premises if such bottles are used as part of the decor, and any such bottles containing liquor are locked securely in display cases, and are not for sale.

(4) No person, including anyone acting as the agent for another other than a Class H licensee shall keep or possess any bottle or other container containing spirituous liquor which was purchased from the board at a discount except as provided in subsection (2) of this section.

(5) All spirituous liquor in and on the licensed premises shall be made available at all times by every Class H licensee for inspection by the board, and such licensee shall permit any authorized inspector of the board to make such tests or analyses, by spirit hydrometer or otherwise, as the inspector deems proper. Such inspectors are authorized to seize as evidence any bottles or other containers and the contents thereof which they have determined have been reused, refilled, tampered with, adulterated, diluted, fortified or substituted.

[Statutory Authority: RCW 66.08.070. 87-02-012 (Order 209, Resolution No. 218), § 314-16-110, filed 12/30/86. Statutory Authority: RCW 66.08.030 and 66.98.070. 84-15-061 (Order 147, Resolution No. 156), § 314-16-110, filed 7/18/84; 84-02-066 (Order 136, Resolution No. 145), § 314-16-110, filed 1/4/84; 83-01-029 (Order 116, Resolution No. 125), § 314-16-110, filed 12/8/82; 82-17-022 (Order 109, Resolution No. 118), § 314-16-110, filed 8/9/82; Order 50, § 314-16-110, filed 11/30/76, effective 12/31/76; Order 19, § 314-16-110, filed 8/10/72; Rule 26, filed 6/13/63.]

WAC 314-16-115 Class H hotels--Sales by the bottle to registered guests--Conditions. (1) Pursuant to the provisions of chapter 208, Laws of 1986, Class H licensed hotels may sell liquor by the bottle to registered guests of said hotel who are twenty-one years of age or over provided:

(a) That before a guest may purchase such liquor it must be established that he or she is a guest of the hotel. This may be done by showing a room key bearing the room number and name of the hotel, or by presenting a registration receipt from the hotel.

In either event the guest must acknowledge his/her registration by signature upon a form to be provided by the hotel for this purpose, and said form when completed shall be kept by the hotel for the same time period it is required to retain its registration information.

(b) Where there may be a question of a registered guest's right to purchase liquor, by reason of age, the licensee may require the guest to complete a certification card as provided in RCW 66.20.190.

(c) That any bottle of liquor sold under this section must be removed unopened from the lounge area or other approved dispensing area. The contents of such bottle(s) may be consumed only in a guest, hospitality or banquet room of the hotel; however, guests may remove from the premises any unused portion of such liquor in its original container.

(d) That such sales of liquor by the bottle shall be from the lounge of the licensed premises, from an approved dispensing area or by room service provided by the licensee. If an approved dispensing area is used for this purpose, the access thereto must be limited to registered guests who intend to purchase liquor for use within a guest, hospitality or banquet room.

(2) Class H licensed hotels may sell within the individual guest room liquor by the bottle to registered guests age twenty-one years or over provided;

(a) That such liquor shall be secured in a liquor dispensing cabinet within the guest room. That liquor dispensing cabinets must remain locked whenever the room is rented to a guest under the age of twenty-one years.

(b) That access to individual guest room liquor dispensing cabinets shall be by key, magnetic card or similar device provided by the hotel to the adult registered guest.

(c) That liquor made available for sale within the guest room from a liquor dispensing cabinet shall be packaged in individual serving containers such as miniatures of distilled spirits, splits of wine and bottles or cans of malt beverages.

(d) That replenishment of such liquor dispensing cabinets may be made only during those hours when liquor may be sold by the Class H licensee, and only by employees eighteen years of age or over working under the supervision of an employee at least age twenty-one.

(3) Class H licensed hotels may provide a dispensing area removed from the lounge for the purpose of sales to registered guests of legal age. Such area shall not be accessible to anyone other than registered guests and employees of the Class H licensee. Sales therefrom shall be made only by authorized employees of the licensee who are twenty-one years of age or over. The purchaser shall complete a form provided by the licensee which attests to the validity of the guest's registration at that hotel. Where there may be a question of a registered guest's right to purchase liquor, by reason of age, the licensee may require the guest to complete a certification card as provided in RCW 66.20.190.

[Statutory Authority: RCW 66.08.030, 66.98.070, 66.24.400 and 1986 c 208. 86-12-022 (Order 188, Resolution No. 197), § 314-16-115, filed 5/28/86.]

WAC 314-16-120 Conduct on licensed premises. (1) No licensee[,] or employee thereof, shall be disorderly, boisterous or intoxicated on the licensed premises, or on any public premises adjacent thereto which are under the licensee's control, nor shall any licensee, or employee thereof, permit any disorderly or boisterous person to be thereon; nor shall any licensee, or employee thereof, use or allow the use of profane or vulgar language thereon: *Provided*, That this rule shall not apply to remarks made in the course of performances by professional entertainers, as long as (a) the performance takes place in a portion of the licensed premises which has a sign conspicuously posted at each entrance, advising the public choosing to enter that portion of the premises of the nature of the performance and that certain words or phrases used may be considered offensive or insulting by some persons and (b) that the performance is not so amplified as to be clearly and distinctly audible in other areas of the licensed premises.

(2) No licensee, or employee thereof, shall consume liquor of any kind while working on the licensed premises. (See WAC 314-16-050, Closing hours—Sunday closing.)

[Statutory Authority: RCW 66.08.030 and 66.98.070. 85-15-021 (Order 161, Resolution No. 170), § 314-16-120, filed 7/9/85; 83-06-026 (Order 120, Resolution No. 129), § 314-16-120, filed 2/23/83; Order 53, § 314-16-120, filed 2/15/77, effective 3/18/77; Rule 27, filed 6/13/63.]

Reviser's note: RCW 34.04.058 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 314-16-122 Licensee-employees--Prohibited conduct with patrons. (1) No retail licensee, and no servant, agent, employee, or entertainer employed at the licensed premises or employed on a contractual basis to entertain, perform, or work upon the licensed premises shall solicit any patron, customer or visitor in or upon the licensed premises to purchase any beverage for the licensee or for any servant, agent, employee, or entertainer.

(2) No retail licensee, and no servant, agent or employee employed on the licensed premises shall permit any person to remain on the licensed premises for the purpose of soliciting any patron, customer, or visitor in or upon the licensed premises to purchase any beverage for said person.

(3) No retail licensee, and no servant, agent, employee, or entertainer employed at the licensed premises or employed on a contractual basis to entertain or work upon the licensed premises shall spend time or dance with any patron, customer or visitor in or upon the licensed premises and receive therefor from said patron, customer, or visitor, either directly or indirectly, any commission, remuneration, or compensation.

(4) No retail licensee, and no servant, agent, or employee employed on the licensed premises shall permit any person to spend time or dance with any patron, customer, or visitor in or upon the licensed premises and for which said person receives therefor from said patron, customer, or visitor either directly or indirectly any commission, remuneration, or compensation.

(5) As used in subsections (1) and (2) of this section, the term "beverage" means any liquid for drinking including water, but not limited thereto.

(6) As used in subsections (1), (2), (3), and (4) of this section, the terms "employee," "servant," "agent," and "entertainer" are intended to have a broad and general meaning so as to include any person performing services in or on a retail liquor licensed premises and whose work is under some control and/or direction of the licensee.

[Statutory Authority: RCW 66.08.030 and 66.98.070. 83-13-055 (Order 124 and Resolution No. 133), § 314-16-122, filed 6/15/83. Statutory Authority: RCW 66.08.030 and 66.98.070. 81-23-039 (Order 83, Resolution No. 92), § 314-16-122, filed 11/18/81.]

WAC 314-16-125 Suggestive, lewd and/or obscene conduct on licensed premises. The following acts or conduct on licensed premises are prohibited:

(1) To employ or use any person in the sale or service of alcoholic beverages in or upon the licensed premises while such person is unclothed or in such attire, costume or clothing as to expose to view any portion of the breast

below the top of the areola or of any portion of the pubic hair, anus, cleft of the buttocks, vulva or genitals.

(2) To employ or use the services of any hostess or other person to mingle with the patrons while such hostess or other person is unclothed or in such attire, costume or clothing as described in subsection (1) above.

(3) To encourage or permit any person on the licensed premises to touch, caress or fondle the breasts, buttocks, anus or genitals of any other person.

(4) To permit any employee or person to wear or use any device or covering, exposed to view, which simulates the breast, genitals, anus, pubic hair or any portion thereof.

(5) To permit any person to perform acts of or acts which simulate:

(a) Sexual intercourse, masturbation, sodomy, bestiality, oral copulation, flagellation or any sexual acts which are prohibited by law.

(b) The touching, caressing or fondling of the breast, buttocks, anus or genitals.

(c) The displaying of the pubic hair, anus, vulva or genitals.

(6) Subject to subsection (5) herein, to permit entertainers whose breast and/or buttocks are exposed to view to perform elsewhere on the licensed premises except upon a stage at least eighteen inches above the immediate floor level and removed at least six feet from the nearest patron.

(7) Subject to subsection (5) herein, to permit any dancer-entertainer to perform on the licensed premises except when removed at least six feet from the nearest patron. This subsection shall not be applied to performances of traditional ethnic dancing such as belly dancing, flamenco dancing, Hawaiian, or Tahitian dancing, etc., performed in restaurant, hotel, or club licensed premises, provided that the following conditions are met:

(a) That the licensee shall have applied for and received written approval of the board for such activity.

(b) That the dancers shall be compensated by the licensee.

(c) The licensee shall keep and have available for inspection by the board, or any peace officer, at all reasonable times, a list of all traditional ethnic dancers employed at the licensed premises. Such list shall be retained for a period of thirty days after termination of employment and shall designate the following information with respect to each entertainer:

(i) True name and professional or stage name, if any;

(ii) Residence address and phone number;

(iii) Social Security number;

(iv) Terms of the agreement of employment; and

(v) Signature of both the licensee and the dancer.

(d) That a person employed as a traditional ethnic dancer at a licensed premises shall not act as an employee in any other public capacity such as a waiter, waitress, host/hostess, etc., in connection with the sale or service of liquor at that licensed premises.

(e) The dance performances authorized by this subsection shall be those performed for the enjoyment of the general audience of the licensee and not for individual patrons.

(8) To permit any person to use artificial devices or inanimate objects to depict any of the prohibited activities described above.

(9) To permit any person to remain in or upon the licensed premises who exposes to public view any portion of his or her genitals or anus.

(10) To permit the showing of film, still pictures, electronic reproduction, or other visual reproductions depicting:

(a) Acts or simulated acts of sexual intercourse, masturbation, sodomy, bestiality, oral copulation, flagellation or any sexual acts which are prohibited by law.

(b) Any person being touched, caressed or fondled on the breast, buttocks, anus or genitals.

(c) Scenes wherein a person displays the vulva or the anus or the genitals.

(d) Scenes wherein artificial devices or inanimate objects are employed to depict, or drawings are employed to portray, any of the prohibited activities described above.

(11) Nothing in this rule is intended to modify the provisions of RCW 66.28.080 concerning city or county dancing or music permits.

(12) Notwithstanding any of the provisions of this rule, no licensee shall employ, use the services of, or permit upon his licensed premises, any entertainment or person whose attire or conduct is in violation of any city or county ordinance.

(13) The occurrence of any of the above acts or conduct, whether permitted on the part of a licensee or his employees or agents or any other persons under the control or direction of the licensee or his employees or agents, shall constitute good and sufficient cause for cancellation of license privileges.

(14) If any provision of this rule or the application thereof to any person or circumstances is held invalid, such invalidity shall not affect other provisions or application of the rule which can be given effect without the invalid provision or application, and to this end the provisions of this rule are severable.

[Statutory Authority: RCW 66.08.030 and 66.98.070. 82-22-069 (Order 115, Resolution No. 124), § 314-16-125, filed 11/2/82; 81-23-039 (Order 83, Resolution No. 92), § 314-16-125, filed 11/18/81; Order 34, § 314-16-125, filed 6/24/75.]

WAC 314-16-130 In transit stamps. No retail licensee shall sell, remove, receive, purchase, possess or aid in the sale, removal, receipt or purchase of beer in any package, barrel or container with "in transit" stamps affixed thereon.

[Rule 28, filed 6/13/63.]

WAC 314-16-140 Entertainment license displayed. Licensees holding license from local authorities permitting music, dancing or entertainment on licensed premises, as provided by section 27-A, Washington State Liquor Act (RCW 66.28.080), must keep such license prominently displayed on the licensed premises.

[Rule 29, filed 6/13/63.]

WAC 314-16-145 Presentation of card of identification penalty for refusal--Detention for reasonable period to determine age--Person who cannot establish age may be removed from licensed premises. (1) A card of identification shall be presented by the holder thereof upon request of a peace officer or an enforcement officer of the board when the person holding the card is on that portion of a licensed premises which is prohibited to persons under the age of twenty-one years pursuant to RCW 66.44.310, or the person is purchasing, attempting to purchase, consuming, or in possession of liquor, and the officer requesting the card of identification is doing so for the purpose of ascertaining the age of the person to determine if the provisions of Title 66 RCW or Title 314 WAC are being complied with.

(2) It is a violation of Title 66 RCW for any person who is the holder thereof to fail or refuse to present a card of identification upon the request of a peace officer or an enforcement officer of the board when the person is on that portion of a licensed premises which is prohibited to persons under the age of twenty-one years pursuant to RCW 66.44.310, or when the person is purchasing, attempting to purchase, consuming, or in possession of liquor and the officer is requesting the card of identification to ascertain the person's age for purposes of determining compliance with the provisions of Title 66 RCW or Title 314 WAC.

(3) For the purpose of enforcing Title 66 RCW or Title 314 WAC, a peace officer or enforcement officer of the board who has reasonable grounds to believe a person observed by the officer on that portion of a licensed premises which is prohibited to persons under the age of twenty-one years pursuant to RCW 66.44.310 or observed by the officer purchasing, attempting to purchase, consuming, or in possession of liquor, is under twenty-one years of age, the officer may detain such person for a reasonable period of time and in such a reasonable manner as is necessary to determine the person's true identity and date of birth if the person fails or refuses to present a card of identification.

(4) If a person fails or refuses to produce a card of identification and a peace officer or enforcement officer of the board is unable to determine the person's age pursuant to subsection (3) of this section, it is a violation of Title 66 RCW for the person to remain on the licensed premises after being asked to leave by the peace officer or enforcement officer of the board.

(5) "Card of identification," as used in this section, means any one of those cards described in RCW 66.16-.040.

[Statutory Authority: RCW 66.08.030 and 66.98.070. 83-12-022 (Order 123, Resolution No. 132), § 314-16-145, filed 5/25/83.]

WAC 314-16-150 No sale of liquor to minors, intoxicated persons, interdicted persons, etc. No retail licensee shall give or otherwise supply liquor to any person under the age of 21 years, either for his own use or for the use of his parent or of any other person; or to any person apparently under the influence of liquor; or to any interdicted person (habitual drunkard); nor shall

any licensee or employee thereof permit any person under the said age or in said condition or classification to consume liquor on his premises, or on any premises adjacent thereto and under his control, except where liquor is administered to such person by his physician or dentist for medicinal purposes.

[Rule 30, filed 6/13/63.]

WAC 314-16-155 Licensee's certification card--Evidence of age. Licensees or their employees may accept as evidence of legal age for the service of liquor a card of identification issued to the person presenting same, provided such person in addition properly completes a card as provided in RCW 66.20.190. Said card in the possession of a licensee, if properly completed and signed, may be offered as a defense in any hearing held by the board for serving liquor to the person who signed said card and may be considered by the board as evidence that the licensee acted in good faith. Such card shall be filed alphabetically by the licensee at or before the close of business on the day the same was executed, in a file box containing a suitable alphabetical index, and shall be made available for inspection and examination at all times by any peace officer or representative of the board.

[Rule 31, filed 6/13/63.]

WAC 314-16-160 Records--Purchases--Reports.

(1) The originals or copies of all purchase invoices and other memoranda covering all purchases of liquor by retail licensees showing (a) items purchased, (b) quantities thereof, (c) from whom purchased, and (d) purchase date, shall be kept for at least two years after each purchase, and shall be filed separately and kept apart from all other records, and as nearly as possible shall be filed in consecutive order and each month's records kept separate so as to render the same readily available for inspection and copying. All canceled checks, bank statements and books of account covering or involving the purchase of liquor, and all memoranda, if any, showing payment of money for liquor other than by check, shall be likewise preserved for two years and shall be at all times kept available for inspection and copying.

(2) No retail licensee shall buy or accept delivery of liquor except for cash paid at the time of the delivery thereof: *Provided*, That in individual and particular cases, upon consent of the board first had and obtained, in writing, a retail licensee may pay cash prior to delivery of liquor purchased.

(3) No retail licensee shall purchase beer from a beer wholesaler at a price differing from the price for the package or container of beer as shown in the price posting filed in accordance with WAC 314-20-100.

(4) A retail licensee shall only purchase wine from a state liquor store or agency or from a duly licensed wine wholesaler except as provided in chapter 314-70 WAC. No wine shall be purchased from a wine wholesaler at a price differing from the price for the container of wine as shown in the price posting filed in accordance with WAC 314-24-190. No retail licensee may return wine

to a wine wholesaler except in accordance with the provisions of WAC 314-24-210.

(5) Each retail licensee shall keep books and records which will clearly reflect all financial transactions and the financial condition of the business.

(6) Any retail licensee may maintain microfilm records containing reproductions (including microfiche) of any record, document, or report if first approved by the board. Request for approval shall be directed to the Washington state liquor control board and must include the following information:

- (a) Records proposed to be reproduced.
- (b) Reproduction process.
- (c) Manner of preserving the reproduction.
- (d) Facilities provided for examining or viewing such reproduction.

If the request is approved, the licensee shall provide for the examining, viewing and reproduction of such records the same as if they were the original records.

(7) If a retail licensee keeps records within an automatic data processing (ADP) system, the system must include a method for producing from punchcards or from other machine-sensible data media legible records that will provide the same information required of that type of record within this section. The ADP system is acceptable if it complies with the following guidelines:

(a) Provides an audit trail so that details (invoices and vouchers) underlying the summary accounting data may be identified and made available upon request.

(b) Provides the opportunity to trace any transaction back to the original source or forward to a final total. If printouts of transactions are not made when they are processed, the system must have the ability to reconstruct these transactions.

(c) Has available a full description of the ADP portion of the accounting system. This should show the applications being performed, the procedures employed in each application and the controls used to ensure accurate and reliable processing.

(8) All Class H licensees in addition to the requirements of subsection (1) of this section shall at all times:

(a) Maintain records of all purchases for the premises, including liquor, food and supplies. The purchases supported by supplier invoices or signed vouchers are to be segregated as to type and recorded.

(b) Maintain records of all sales in the premises from all sources including liquor, food and miscellaneous items and service. Individual sales are to be recorded on sales slips or cash register tape in such a manner to indicate the source of revenue and the records are to be filed for future audit purposes. Sales segregated as to source of revenue are to be recorded.

(c) Preserve for a period of two years the records described in subsections (6), (7), and (8)(a) and (b) of this section.

(d) Make such periodic reports to the board covering purchases, sales and inventory of liquor, food and supplies as may be prescribed or requested by the board.

(e) Keep available for inspection and copying by the board and/or its accredited representatives all books and

records relative to purchases, sales and inventories of liquor, food and supplies.

[Statutory Authority: RCW 66.08.030 and 66.98.070. 82-17-022 (Order 109, Resolution No. 118), § 314-16-160, filed 8/9/82; Order 24, § 314-16-160, filed 6/28/73; Order 5, § 314-16-160, filed 8/7/69, effective 9/8/69; Rule 32, filed 6/13/63.]

WAC 314-16-170 Suspension notices, posting of-- Other closing notices prohibited. Whenever the board shall suspend the license of any retail licensee, the board shall on the date the suspension becomes effective cause to be posted in a conspicuous place on or about the licensed premises a notice in a form to be prescribed by the board, and said notice shall state that the license or licenses have been suspended by order of the board because of a violation or violations of the Washington state liquor act or the regulations. No person shall, until after the suspension period has expired, remove, alter or in any way disturb said notice, nor shall any notice of any kind be placed in, or about the premises indicating that the same have been closed for any other reason. The board shall cause to be inspected regularly during the suspension period the premises for the purpose of determining whether the provisions of this regulation are being complied with, and any failure of compliance shall forthwith be reported to the board.

[Rule 33, filed 6/13/63.]

WAC 314-16-180 Alterations and changes of premises and activities--Outside storage. (1) No business or activity shall be conducted upon any retail premises other than such as is being conducted thereon at the time the license is issued unless the written consent of the board is obtained. Except as authorized in writing by the board, any business or activity conducted upon the licensed premises shall be open to the general public. Licensed premises shall not be used as a means of ingress and/or egress to another business activity without the written consent of the board.

(2) No retail licensee holding an on-premises license shall make any alterations in the physical setup or arrangement of his premises without the written consent of the board.

(3) No retail licensee shall store liquor on any premises, other than the licensed premises, without the written consent of the board.

[Statutory Authority: RCW 66.08.030. 86-15-042 (Order 193, Resolution No. 202), § 314-16-180, filed 7/16/86; Rule 34, filed 6/13/63.]

WAC 314-16-190 Class H restaurant--Qualifications. (1) All restaurant applicants for a Class H license, in addition to furnishing all requested material and information relating to the premises applied for and their personal qualifications, shall establish to the satisfaction of the board that the premises will commence as, and continue to operate as, a bona fide restaurant as required by RCW 66.24.400 and 66.24.410(2).

(2) A restaurant applicant for a Class H license shall be subject to the following requirements which are conditions precedent to action by the board on the application:

(a) The applicant shall furnish to the board a detailed blueprint of the entire premises to be licensed drawn to scale of one-fourth inch to one foot. This blueprint shall include the kitchen equipment layout plus a detailed listing of the kitchen equipment and its approximate value.

(b) Prior to delivery of the license the board shall receive a verification from its enforcement officer, based upon an inspection of the premises, that the kitchen equipment designated in paragraph (a) above is in place and is operational.

(3) In any case where the board has a concern as to the applicant's qualifications, based on the applicant's experience; the adequacy of the proposed facility; the proposed method of operation; the applicant's financial stability; or for any other good and sufficient reason, the board may require such applicant to submit figures reflecting operation as a restaurant for a period to be designated by the board. The submission of these operating figures shall be a condition precedent to the board making a decision on a license application. Any applicant required to submit operating figures for a period designated by the board, shall not thereby be deemed to have acquired a vested right to have the license applied for issued merely because the requested figures have been submitted.

(4) To demonstrate to the satisfaction of the board that a Class H restaurant as defined in RCW 66.24.410(2) is maintained in a substantial manner as a place for preparing, cooking and serving of complete meals, a Class H restaurant shall maintain daily average gross food sales of one hundred dollars or more, and such food sales shall amount to forty percent or more of the restaurant's total food-liquor sales.

(5) Each Class H restaurant licensee shall submit semi-annual reports on forms provided by the board, showing its gross food and liquor sales. If for two successive semi-annual reports, a Class H restaurant's daily average gross food sales are less than one hundred dollars, or its food sales are less than forty percent of its total food-liquor sales, such restaurant shall be ineligible to retain its Class H license.

(6) The restaurant area of any Class H restaurant shall be open to the public for service of complete meals at least five days a week, unless otherwise authorized in writing by the board to alleviate demonstrated hardship, and such service of complete meals shall be available to the public for five hours a day on any day liquor is offered for sale, service or consumption, unless otherwise authorized in writing by the board to alleviate demonstrated hardship. At all other times when the restaurant area is not open for service of complete meals, but liquor is offered for sale, service or consumption on the licensed premises, sandwiches and/or short orders of food shall be available for sale to the public.

(7) In the event a Class H restaurant licensee shall fail to comply with any of the foregoing requirements,

and such licensee has been notified that they will not be eligible to retain its Class H license, such licensee may petition the board setting forth unusual, extenuating and mitigating circumstances for the failure to comply and the board may consider such reasons and may grant an extension of the Class H license under such terms and conditions as the board determines are in the best interest of the public.

(8) Licensees who presently hold a Class B liquor license and who apply for a Class H liquor license in lieu thereof, in order to demonstrate to the satisfaction of the board that the business such applicant has been operating is primarily that of a restaurant, must submit and establish the following data and information:

(a) Sales figures for ninety days preceding the in lieu application showing total sales, segregated as to the following categories:

- (i) Food sales for on-premises consumption;
- (ii) Food sales for off-premises consumption;
- (iii) Beer and/or wine sales for on-premises consumption;
- (iv) Beer and/or wine sales for off-premises consumption;

(v) Miscellaneous sales, including but not limited to, cigarettes, candies, packaged snack foods, and where such activity has been conducted the income from games, gambling, cover charges, etc.

(b) That for a period of at least ninety days prior to the date of filing the Class H license application, the gross food sales for on-premises consumption as set forth in (a)(i) of this subsection constituted fifty-one percent or more of total food-liquor sales for on-premises consumption.

While the requirements of (a) and (b) of this subsection must be established before the board will give consideration to the issuance of an in lieu Class H license, the fact that an applicant meets those criteria does not establish a vested right that such license shall issue.

[Statutory Authority: RCW 66.08.030 and 66.98.070. 85-14-107 (Order 160, Resolution No. 169), § 314-16-190, filed 7/3/85; 78-07-002 (Order 66, Resolution No. 75), § 314-16-190, filed 6/9/78; Order 55, § 314-16-190, filed 5/31/77, effective 7/1/77; Order 52, § 314-16-190, Rule 35, filed 1/18/77, effective 2/18/77.]

WAC 314-16-195 Class H restricted—Qualifications. (1) Class H restricted licensees shall govern their operations in selling liquor in accordance with the regulations set forth in Titles I and II. Such licensees may sell liquor in accordance with these regulations, only to members, invited guests, and holders of cards as authorized by subsection (3) of this section. Class H restricted licensees shall not be prohibited from renting, leasing, or donating all or a portion of their facilities for, or making services available to, an activity where the public is invited or admitted under the conditions specified in subsection (4) of this section.

(2)(a) Applications for new Class H restricted licenses shall be on forms prescribed by the board and shall be accompanied by proof that:

(i) The business has been in operation for at least one year immediately prior to the date of its application.

Such proof should include records of membership as well as an indication as to numbers and types of membership.

(ii) Membership or admission will not be denied to any person because of race, creed, color, national origin, sex or the presence of any sensory, mental or physical handicap.

(b) Applications for renewal shall be made on forms prescribed by the board and shall be accompanied by such information as the board may request.

(c) Class H restricted applicants and licensees must meet the provisions of WAC 314-16-190 (1), (2), (3), (4), (5) and (7).

(3)(a) Guest privilege cards may be issued only as follows:

(i) For Class H restricted licensees within the limits of any city or town, only to those persons residing outside of an area ten miles from the limits of such city or town.

(ii) For Class H restricted licensees outside of any city or town only to those persons residing outside an area fifteen miles from the location of such licensee: *Provided*, That where such area limitation encroaches upon the limits of any city or town, the entire corporate limits of such city or town shall be included in the prohibited area.

(iii) Such guest privilege cards shall be issued for a reasonable period and must be numbered serially, with a record of the issuance of each such card to be filed on the licensed premises in such a manner as to be readily accessible for inspection.

(iv) The mileage restrictions in (i) and (ii) of this subsection may be waived for special events upon written approval of the board.

(b) Guests may be introduced when accompanied at all times by a member and may remain as long as such member is present: *Provided*, That any such guest may only enjoy the privileges of the organization a reasonable number of times in any one calendar year.

(c) Persons who are members in good standing of a licensed Class H restricted organization may enjoy the privileges of any other licensed Class H restricted organization: *Provided*, That the operating rules of such organization authorize reciprocal privileges: *Provided further*, That (a) and (b) of this subsection shall not apply to members of such organizations while exercising reciprocal privileges.

(4) If the licensee at any time rents any portion of the premises for any purpose other than to their membership or at any time holds any function within the premises to which the public is generally invited or admitted, then such portion devoted to liquor service must be closed to the public generally and no one admitted therein except for bona fide members and guests. If the premises does not have an area which can be so closed, then no liquor service whatever may be permitted during the entire time when such activity is taking place or when the public is generally admitted in the premises.

[Statutory Authority: RCW 66.08.030 and 66.98.070. 82-13-069 (Order 107, Resolution No. 116), § 314-16-195, filed 6/16/82.]

WAC 314-16-196 Class H license issued to premises without a cocktail lounge. (1) Before the board shall

issue a Class H license to a bona fide restaurant, the applicant shall present, and receive the approval of the board for, a one-quarter inch equals one foot scale drawing of the proposed premises indicating that the premises will have a cocktail lounge comprising not more than thirty-five percent of the total public floor space of the premises, as compared to dining space which as a minimum must be sixty-five percent of the public floor space of the premises or that the premises will have a service bar(s) in lieu of the cocktail lounge: *Provided, however*, That the board may approve variations to the floor space requirement of this subsection where the applicant/licensee can demonstrate that the proposed layout would best suit the available floor space.

(2) Those premises not having cocktail lounges shall have the location of their service bar(s) approved by the board. Service of liquor from such service bar(s) will be by the licensee, or licensee's employees or customers may order and pick up their drinks at the service bar(s). Liquor sale, service and consumption may take place only during hours that the full restaurant menu is available and a chef or cook is on duty.

(3) A Class H licensed restaurant having a service bar(s) in lieu of a cocktail lounge shall be eligible for the added activity of live music with board approval.

(4) If the board issues a Class H license to a bona fide restaurant which has a service bar in lieu of an approved cocktail lounge and the licensee subsequently applies for approval to install a cocktail lounge in place of the previously approved service bar operation, the board will process such a change in the same manner as an application for a new Class H license (i.e. notice will be given by posting at the premises, local officials, churches and schools will be notified, etc.).

[Statutory Authority: RCW 66.08.030 and 66.08.080. 87-02-011 (Order 208, Resolution No. 217), § 314-16-196, filed 12/30/86. Statutory Authority: RCW 66.98.070. 86-15-066 (Order 194, Resolution No. 203), § 314-16-196, filed 7/22/86. Statutory Authority: RCW 66.08.030 and 66.98.070. 83-13-056 (Order 125, Resolution No. 134), § 314-16-196, filed 6/15/83.]

WAC 314-16-197 Minimum qualifications for applicants who apply for Class A and/or D licenses in lieu of presently held Class B license. (1) Licensees who presently hold a Class B liquor license and who apply for a Class A and/or D license in lieu thereof, in order to demonstrate to the satisfaction of the board that the business such applicant has been operating is primarily that of a restaurant, must submit and establish the following data and information:

(a) Applicant shall submit sales figures for ninety days preceding the in lieu application showing total sales, segregated as to the following categories:

(i) Food sales for on-premises consumption;

(ii) Food sales for off-premises consumption;

(iii) Beer and/or wine sales for on-premises consumption;

(iv) Beer and/or wine sales for off-premises consumption;

(v) Miscellaneous sales, including but not limited to, cigarettes, candies, packaged snack foods, and where

such activity has been conducted the income from games, gambling, cover charges, etc.

(b) That for a period of at least ninety days prior to the date of filing the Class A and/or D license application, the gross food sales for on-premises consumption as set forth in (a)(i) of this subsection constituted fifty-one percent or more of total food-liquor sales for on-premises consumption.

(2) While the requirements of subsection (1)(a) and (b) of this section must be established before the board will give consideration to the issuance of an in lieu Class A and/or D license, the fact that an applicant meets those criteria does not establish a vested right that such license shall issue.

[Statutory Authority: RCW 66.08.030 and 66.98.070. 85-14-107 (Order 160, Resolution No. 169), § 314-16-197, filed 7/3/85.]

WAC 314-16-200 Minimum qualifications for issuance of Class E, F, and Classes EF licenses. (1) The following are minimum qualifications necessary prior to consideration being given by the board to the issuance of Class E, F, or Classes EF licenses to store operations. The decision as to whether a license will or will not be issued in a particular case is, pursuant to RCW 66.24-.010, a matter of board discretion. While the following minimum qualifications must be present before the board will give consideration to the issuance of a Class E, F, or Classes EF license to an applicant, the mere fact that an applicant meets these minimum qualifications is not to be construed as creating a vested right in the applicant to have a license issued.

(2) Before the board will issue a Class E, F, or Classes EF license to an applicant grocery store, the proposed licensed premises must be stocked with an inventory of food, grocery and related grocery store items in excess of \$3,000 wholesale value. The minimum wholesale inventory required by this subsection shall be stocked and maintained within the confines of the licensed premises and shall not include any gasoline, oil, auto parts, or tobacco products.

(3) Grocery stores which also sell gasoline must be stocked with an inventory of food, grocery, and related grocery store items in excess of \$7,500 wholesale value before the board will issue to them a Class E, F, or Classes EF license. The minimum wholesale inventory required by this subsection shall be stocked and maintained within the confines of the licensed premises and shall not include any gasoline, oil, auto parts, or tobacco products. Marinas which sell gasoline for use in boats only shall be subject to the requirements of subsection (2) of this section.

(4) The minimum amounts referred to in subsections (2) and (3) of this section shall be maintained at the premises at all times they are licensed with the exception of beginning and closing inventory for seasonal operations or when the inventory is being sold out immediately prior to discontinuing or selling the business.

(5) Stores other than grocery stores must submit to the board a written commitment to establish and maintain a minimum wholesale inventory of wine in the

amount of \$5,000 prior to the issuance of a license. This minimum inventory shall be maintained at the licensed premises at all times they are licensed.

(6) Subsections (2), (3), (4), and (5) of this section shall not apply to a licensee or licensees at a store or stores licensed prior to October 11, 1984, if on that date and thereafter said licensee(s) and/or his, her, their, or its transferee(s) continue to meet the requirements imposed by this section which were in effect pursuant to liquor control board Administrative Order 102, Resolution No. 111.

(7) If a Class E, Class F, or Classes EF licensee or applicant for such licenses does not meet or maintain the requirements provided for in subsections (2) through (6) of this section, the licensee or applicant may petition the board, setting forth any unusual, extenuating, or mitigating circumstances that may justify a variance, and the board may, under such terms and conditions it determines are in the best interest of the public, grant the variance.

[Statutory Authority: RCW 66.08.030 and 66.98.070. 84-19-051 (Order 146, Resolution No. 155), § 314-16-200, filed 9/18/84; 82-10-019 (Order 102, Resolution No. 111), § 314-16-200, filed 4/28/82; Order 55, § 314-16-200, filed 5/31/77, effective 7/1/77.]

WAC 314-16-205 Minimum qualifications for issuance for a Class P license. The decision as to whether or not a Class P license authorized by RCW 66.24.550 will be issued in a particular case is, pursuant to RCW 66.24.010(2), a matter of board discretion. While the following minimum qualifications must be present before the board will give consideration to the issuance of a Class P license, the fact that an applicant meets the qualifications set forth in subsections (1) and (2) hereof does not establish a vested right that such license shall issue.

(1) The term "gifts at retail" as used in RCW 66.24-.550 shall be interpreted as referring to "goods" and shall not include "services."

(2) The sale and delivery of wine under a Class P license shall be adjunct to and not constitute the only retail gift delivery service business of the licensee.

(3) The restrictions on license issuance as specified in RCW 66.24.550, and in subsections (1) and (2) hereof, shall be construed to be continuing conditions for retaining the Class P license.

[Statutory Authority: RCW 66.08.030 and 66.98.070. 84-09-024 (Order 139, Resolution No. 148), § 314-16-205, filed 4/11/84.]

WAC 314-16-210 Class H license fees in unincorporated areas—Seasonal operations—Prorating fees. (1) The provisions of RCW 66.24.420 (1)(c) which provide for prorated fees according to the calendar quarters for Class H licensees outside of incorporated cities and towns pertains to those Class H licensees who have seasonal operations only.

(2) As required by RCW 66.24.010 (5)(c), Class H licensees outside of incorporated cities and towns who operate on a year-round basis or who are open for a period of time during each calendar quarter are required to submit a full year's fee.

[Statutory Authority: RCW 66.08.030 and 66.98.070. 81-22-026 (Order 85, Resolution No. 94), § 314-16-210, filed 10/28/81.]

WAC 314-16-220 Class F licensees—Principal business sale of wine for off-premises consumption—Authorization for selling or serving samples. (1) Class F licensees whose business is primarily the sale of wine at retail, who desire authorization under RCW 66.24.370 to serve on their premises free or for a charge, single serving samples of two ounces or less must, prior to commencing such sales or service, obtain written approval from the board.

(2) To demonstrate to the satisfaction of the board that the Class F licensee's primary business is and continues to be the sale of wine at retail, the board may require the licensee to make periodic reports concerning the licensee's sales and inventory. A Class F licensee's gross retail sales of wine, not to be consumed on premises, must exceed fifty percent of all gross sales for the entire business of said licensee in order to be considered by the board as a business whose primary business is the sale of wine.

(3) No more than one sample of any single brand and type of wine, and no more than four samples, may be furnished or sold to a customer or patron during any one visit to the licensed premises.

(4) The sampling privileges authorized by RCW 66.24.370 as implemented by this section of the rules are not to be a substitute for or an alternative to the on-premises consumption of wine that is authorized under RCW 66.24.340 or 66.24.400.

[Statutory Authority: RCW 66.08.030 and 66.98.070. 81-22-026 (Order 85, Resolution No. 94), § 314-16-220, filed 10/28/81.]

WAC 314-16-230 Authorization for sale of wine in unopened bottles for off-premises consumption under Class J license. (1) Authorization for the sale of unopened bottles and original packages of wine not to be consumed on the premises where sold, at an additional fee of ten dollars per day, as authorized by RCW 66.24.500, must be applied for to the board at the time the society or organization makes application for the Class J license, and the board's written approval is required before any such sales are made.

(2) Board approval for the sales authorized in subsection (1) of this section shall be granted by the board upon the condition that no more than twelve liters may be sold to any one purchaser under a single Class J license.

[Statutory Authority: RCW 66.08.030 and 66.98.070. 81-22-026 (Order 85, Resolution No. 94), § 314-16-230, filed 10/28/81.]

**Chapter 314-18 WAC
BANQUET PERMITS**

WAC	
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WAC 314-18-010 Banquet permits—Authorized. Pursuant to the provisions of RCW 66.20.010, the board may issue banquet permits in accordance with the following rules.

[Statutory Authority: RCW 66.08.030 and 66.98.070. 82-16-100 (Orders 110 and 112, Resolution Nos. 119 and 121), § 314-18-010, filed 8/4/82.]

WAC 314-18-020 Definitions. In this chapter unless the context otherwise requires:

(1) "Permit" means a banquet permit authorized by RCW 66.20.010(3).

(2) "Banquet"

(a) Means any event not open to the general public to be held or conducted at a specific place upon a specific date where the persons in attendance will have some common purpose or interest, either business or social or a combination thereof, for attending;

(b) Does not mean or refer to an event or affair requiring the presence or service of food as might be construed in the more formal sense of that term; nor is there any implication that such events are limited to any specific number of times that they may be held or conducted, if the applicants are qualified and the events are conducted in conformance with this chapter;

(c) Is not intended to refer to or be applicable to an event, affair, or occasion held in the privacy of a person's home.

[Statutory Authority: RCW 66.08.030 and 66.98.070. 82-16-100 (Orders 110 and 112, Resolution Nos. 119 and 121), § 314-18-020, filed 8/4/82.]

WAC 314-18-030 Applicants—Retail liquor licensees ineligible—Exceptions. (1) Any person twenty-one years of age or older, either for himself/herself or in a representative capacity on behalf of a society, organization, or business entity, may apply for a banquet permit which authorizes the service and consumption of liquor at a specific place upon a specific date.

(2) Retail liquor licensees are NOT eligible to apply for banquet permits for events to be held at, in, or upon such licensee's premises: *Provided, however,* That the licensee's ineligibility will not apply:

(a) When the application is by an established organization of members or auxiliary within a licensed club;

(b) Where grand openings, or special openings following new construction or substantial alterations, or when conventions are to be held on the licensed premises;

(c) Where special occasions such as employee Christmas parties, business anniversaries, etc. are held on the licensed premises;

(d) For functions held at locations other than the licensed premises.

(3) Banquet permits may be issued to qualified applicants for private functions on a chartered bus, chartered boat, chartered plane, or a chartered passenger car on a train.

(4) A banquet permit is not required for beer or wine sampling conducted in accordance with RCW 66.28.040 as implemented by chapter 314-64 WAC.

(5) The board interprets and will apply the relevant portions of the Liquor Act (RCW 66.20.010, 66.04.010(23), 66.04.010(26), 66.24.480, 66.24.481, and 66.44.100), reading them in pari materia, as not requiring a banquet permit to be obtained by an individual for a function when that individual is not acting with a business purpose or on behalf of an organization or business entity, where each of the following conditions are met:

(a) The function to be held by the individual is of a personal, noncommercial type which would normally be held in the individual's private home but for space considerations. Examples being a birthday party, wedding reception, bar mitzvah, etc. In lieu of holding the function in his or her home, the individual has arranged for use of a facility which is to be closed off from the public during the function and which is not on any licensed premises.

(b) The function is hosted by the individual personally. That is, there is no charge in any manner whatsoever for attendance, whether by admission charge, donation, dues, fees, or otherwise, and there is no charge in any manner whatsoever for anything provided at the function (i.e., mixer, setups, ice, food, hors d'oeuvres, etc.).

(c) That there is no business purpose for the function and that no pecuniary gain is intended or realized by the individual from the holding of the function.

(d) That those persons attending the function are the personal invitees of the individual holding it.

[Statutory Authority: RCW 66.08.030 and 66.98.070. 82-16-100 (Orders 110 and 112, Resolution Nos. 119 and 121), § 314-18-030, filed 8/4/82.]

WAC 314-18-040 Issuance fee--Restrictions. (1) Banquet permits may be issued by the board's stores and agencies to qualified applicants on forms provided by the board; the fee for each banquet permit will be ten dollars.

(2) Except for outdoor areas, banquet permits will only be issued for use at premises that are or can be arranged so that the general public can be excluded therefrom.

(3) Where the application is for a banquet to be held either partially or wholly out-of-doors, the following restrictions will apply:

(a) State parks: State parks are exempt from the law requiring a license or permit to consume liquor in a public place (RCW 66.04.011). Banquet permits shall not be issued for the service and consumption of liquor in state parks.

(b) City and county parks: Applicants will be issued banquet permits only upon presentation of written approval from the appropriate local authority for the banquet applied for.

(c) Commercial parks (privately owned and operated): Store and agency managers may issue banquet permits

for use in such commercial parks even though the event is to be held partly or wholly out-of-doors.

(d) All other outdoor areas: Issuance is conditioned upon approval of the area liquor enforcement officer.

(4) Where the application is for a banquet permit for an event to be held on a college or university campus or upon the premises of an elementary or high school, public or private; permits will be issued provided that approval, in writing, by an appropriate official of the college, university, elementary, or high school is furnished with the application.

(5) When the application is for a banquet permit for an event to be held in or at a state armory used for military purposes, permits will be issued provided that approval, in writing, by the adjutant general or his/her designee is furnished by the applicant to the board and to the chief of police of the incorporated city or town in which the armory is located or to the county sheriff if the armory is located outside the boundaries of incorporated cities or towns.

(6) Banquet permits will not be issued for use at premises that have a license issued by the board that is or will be suspended on the date of the scheduled banquet.

(7) The event for which the banquet permit application is made cannot be open to the public through general admission ticket sales.

(8) The event for which the banquet permit application is made cannot be open to the public or advertised to the public.

(9) Approval of the area enforcement officer is required for banquet permits intended for use in the cocktail lounge facilities or tap rooms of Class A, C, D, or H licensed premises, including hotels, restaurants, and clubs, unless the entire premises under the control of the licensee is devoted to the banquet, and then only if all licensee liquor is removed from view and securely isolated.

(10) Where the application is for a banquet permit for an event to be held on a vessel under the jurisdiction of the Washington state ferry system; permits will be issued provided that approval, in writing, by an appropriate official of the Washington state ferry system is furnished with the application.

[Statutory Authority: RCW 66.08.030. 86-09-075 (Order 183, Resolution No. 192), § 314-18-040, filed 4/22/86. Statutory Authority: RCW 66.08.030 and 66.98.070. 85-06-021 (Order 153, Resolution No. 162), § 314-18-040, filed 2/27/85; 84-09-025 (Order 140, Resolution No. 149), § 314-18-040, filed 4/11/84; 82-16-100 (Orders 110 and 112, Resolution Nos. 119 and 121), § 314-18-040, filed 8/4/82.]

WAC 314-18-050 Sale of liquor--Not authorized.

(1) A banquet permit does not authorize the sale of liquor for cash, credit, check, scrip, or in any manner whatever: *Provided, however,* That the cost of the occasion to those attending, if any, may be included in the total price for the banquet, in which event, to assure participants receiving an equal share, an allocation based upon a distribution of tickets exchangeable for drinks as a part of the package price is permissible.

(2) The prohibition provided for in subsection (1) of this section extends to the sale of mixers, ice, or "set-

ups" if the prices charged therefor are unrelated to the cost of such goods and/or services and approximate what the charge for a drink containing liquor would be.

(3) Liquor cannot be raffled off or offered as a prize at an event for which a banquet permit has been issued. (Such disposition would constitute a "sale" of liquor as that term is defined in RCW 66.04.010(27).)

[Statutory Authority: RCW 66.08.030 and 66.98.070. 82-16-100 (Orders 110 and 112, Resolution Nos. 119 and 121), § 314-18-050, filed 8/4/82.]

WAC 314-18-060 Liquor to be served and consumed--Restrictions. (1) Class H discount liquor or military discount liquor cannot be sold, served, or consumed under or by authority of a banquet permit. Liquor to be served will be purchased from an authorized retail source only.

(2) Licensees and/or commercial caterers shall not pay for or advance the moneys to purchase the liquor for the event for which the banquet permit application has been made, but they may transport the prepaid liquor purchased by the applicant to whom the banquet permit was issued.

(3) No banquet permittee may buy or accept delivery of liquor from any manufacturer, brewer, wholesaler, distiller, winery, importer, or agent thereof.

(4) It is not necessary for a banquet permit applicant to purchase liquor at the time the permit is issued, and individuals attending a banquet function may bring their own liquor.

[Statutory Authority: RCW 66.08.030 and 66.98.070. 82-16-100 (Orders 110 and 112, Resolution Nos. 119 and 121), § 314-18-060, filed 8/4/82.]

WAC 314-18-070 Responsibilities of permittee. (1) No banquet permittee, or employee thereof, may knowingly permit the service to or consumption of liquor by any person under the age of twenty-one years who is present at the event for which a banquet permit has been issued.

(2) No banquet permittee, or employee thereof, may knowingly permit any disorderly conduct to occur or serve or permit the consumption of liquor by an apparently intoxicated person(s) on the premises for which a banquet permit has been issued.

(3) The banquet permit shall be posted in a conspicuous place at the premises for which the permit was issued during all times the permit is in use.

[Statutory Authority: RCW 66.08.030 and 66.98.070. 82-16-100 (Orders 110 and 112, Resolution Nos. 119 and 121), § 314-18-070, filed 8/4/82.]

WAC 314-18-080 Hours of operation--Inspection of premises. (1) Banquet permits may be issued for any day and may authorize the service and consumption of liquor between the hours of 6:00 a.m. and 2:00 a.m. of the following day, except on New Year's Day, when the hour of closing may be extended to 3:00 a.m.

(2) Any premises where a banquet permit has been granted shall be open to inspection by any peace officer or enforcement officer of the board to the same extent as provided for in WAC 314-12-120.

[Statutory Authority: RCW 66.08.030 and 66.98.070. 82-16-100 (Orders 110 and 112, Resolution Nos. 119 and 121), § 314-18-080, filed 8/4/82.]

WAC 314-18-090 Misrepresentation on application--Consequences. A misrepresentation of fact found to have been made by an applicant for any banquet permit shall be deemed a lack of good faith and shall constitute good and sufficient cause for the disapproval of such application or for the cancellation of said permit if the event for which the permit has been granted has not yet been held, or for the immediate termination of the permit if the event for which the permit has been issued is in progress.

[Statutory Authority: RCW 66.08.030 and 66.98.070. 82-16-100 (Orders 110 and 112, Resolution Nos. 119 and 121), § 314-18-090, filed 8/4/82.]

WAC 314-18-100 Penalties. In addition to the general penalties provided by law (RCW 66.44.175 and 66.44.180) for the violation of board regulations, the board, upon a finding that a banquet permittee has violated any of the regulations of this chapter, may, in its discretion:

(1) Cancel or terminate the permit.

(2) Hold the applicant and/or the premises for which the banquet permit was issued ineligible for future banquet permits.

[Statutory Authority: RCW 66.08.030 and 66.98.070. 82-16-100 (Orders 110 and 112, Resolution Nos. 119 and 121), § 314-18-100, filed 8/4/82.]

Chapter 314-20 WAC

BEER--BREWERS, HOLDERS, IMPORTERS, ETC.

WAC	
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WAC 314-20-005 Application procedure--Beer wholesaler's or importer's license. Any person making application for a new beer wholesaler's or importer's license shall submit to the board, as a condition precedent to the board considering the application, such information as may be requested by the board and shall additionally submit a written commitment from a manufacturer or importer that the product the applicant proposes to distribute is available to him should a license be issued.

The decision as to whether a license will or will not be issued in a particular case is, pursuant to RCW 66.24-.010, a matter of board discretion. The submission of the above information and written commitment shall not be construed as creating a vested right in the applicant to have a license issued.

[Order 55, § 314-20-005, filed 5/31/77.]

WAC 314-20-010 Brewers--Importers--Wholesalers--Monthly reports--Tax refund procedures. (1) The holders of licenses to manufacture malt liquors within the state of Washington and holders of certificates of approval and importers who import malt liquors manufactured outside the United States must at all times when said licenses or certificates of approval are in force have in effect and on file with the board a bond executed by any surety authorized to do business in the state of Washington, in form and amount acceptable to the board, which bond shall be payable to the Washington state liquor control board and conditioned that such licensee or holder of certificate of approval will pay to the board the tax levied by virtue of RCW 66.24.290 (section 24 of the Washington State Liquor Act).

(2) Every person, firm or corporation holding a license to manufacture malt liquors within the state of Washington shall, in addition to the statement required to be made by RCW 66.24.280 (section 23F(1) of the Washington State Liquor Act), on or before the twentieth day of each month make a report to the board upon forms furnished by the board, of all sales of beer in and out of the state during the preceding calendar month, and shall at the same time pay to the board the tax due thereon including beer furnished as samples to authorized licensees for the purpose of negotiating a sale as provided in RCW 66.28.040.

(3) Every person, firm or corporation holding a license to import beer into the state of Washington shall make a report to the board, upon forms furnished by the board, on or before the twentieth day of each month of all beer imported into the state during the preceding calendar month, and shall at the same time pay to the board the tax due thereon: *Provided, however,* That said tax shall be paid on behalf of the importer of such beer by the holders of certificates of approval at the time that said holders of certificates of approval furnish to the board the report required under RCW 66.24.270 and WAC 314-20-170: *Provided further,* That the report method of payment of tax shall be exclusive of any other method. In the event beer has been imported into the

state of Washington upon which the tax has not been paid, or payment arranged as herein provided, the beer importer shall pay the tax due thereon including beer received and/or furnished as samples to authorized licensees for the purpose of negotiating a sale as provided in RCW 66.28.040.

(4) Failure to make such report or pay said tax at the time prescribed will be sufficient ground for the board to forthwith suspend or cancel the license privilege of the delinquent brewer or importer or the certificate of approval of the brewer located outside the state of Washington. A two percent penalty per month, or portion of a month, will be assessed on any tax payments postmarked after the twentieth day following the month of sale. In addition, in case of any such delinquency, the board shall immediately give notice to the surety on such brewer's, importer's or certificate of approval holder's bond and shall take such action as is thereafter deemed necessary by the board to collect any of said tax which it finds is due.

(5) In consideration of the foregoing requirements, revenue stamps evidencing payment of said tax shall not be used on any package containing beer manufactured by brewers within the state or imported into the state by a beer importer, nor shall it be required that "in transit" stamps be affixed to packages containing any beer manufactured in the state of Washington when the same is exported directly to a point outside the geographical confines of the state by such manufacturers. Neither shall it be required that "in transit" stamps be affixed to packages of beer being shipped in interstate commerce from one point outside this state, through this state, to another point outside the geographical confines of this state. In the case of beer manufactured by a brewer within the state or imported into the state of Washington by a beer importer and either sold to beer wholesalers for export from the state or exported directly by the importer, such manufacturer or importer must either pay the tax on beer so sold or affix "in transit" stamps, if not previously affixed, to all packages containing such beer, as provided in WAC 314-20-040(1).

(6) Beer wholesalers or beer importers who export beer to a point outside the geographical confines of the state of Washington upon which the tax imposed by RCW 66.24.290 has been paid may claim a refund or tax credit of said tax on forms prescribed and furnished by the board. For the purpose of this regulation, beer sold and delivered to interstate commercial common passenger carriers holding licenses pursuant to chapter 245, Laws of 1975 1st ex. sess., or for use within the confines of any military reservation over which the state does not exercise jurisdiction shall be considered exported from the state. Such tax shall not be paid on beer being shipped in interstate commerce from a point outside this state directly through the state to another point outside the geographical confines of this state.

(7) The board may make other arrangements for reporting and payment of tax where an in-state licensee purchases beer from within and/or without the state of Washington primarily for export from the state. Such arrangements would be on an individual basis and would

be for the purpose of simplifying the reporting and accounting requirements.

[Statutory Authority: RCW 66.08.030, 84-09-023 (Order 138, Resolution No. 147), § 314-20-010, filed 4/11/84. Statutory Authority: RCW 66.08.030 and 66.98.070, 81-22-026 (Order 85, Resolution No. 94), § 314-20-010, filed 10/28/81; Order 40, § 314-20-010, filed 8/21/75; Order 8, § 314-20-010, filed 11/24/69, effective 12/26/69; Rule 37, filed 6/13/63.]

WAC 314-20-015 Licensed brewers--Retail sales of beer on brewery premises--Beer served without charge on premises--Class H restaurant operation. (1) A licensed brewer holding a proper retail license, pursuant to chapter 66.24 RCW, may sell beer of its own production at retail on the brewery premises: *Provided*, That beer so sold at retail shall be subject to the tax and penalty for late payment, if any, as imposed by RCW 66.24.290, and to reporting and bonding requirements as prescribed in RCW 66.28.010 and WAC 314-20-010.

(2) In selling beer at retail, as provided in subsection (1) of this regulation, a brewer shall conduct such operation in conformity with the statutes and regulations applicable to holders of such beer retailers' licenses. The brewer shall maintain records of such retail operation separate from other brewery records.

(3) Upon written authorization of the board, pursuant to RCW 66.04.011, beer of a licensed brewer's own production may be consumed in designated parks and picnic areas adjacent to and held by the same ownership as the licensed brewer.

(4) A licensed brewer or a lessee of a licensed brewer operating a Class H restaurant, licensed pursuant to RCW 66.28.010, shall conduct such operation in conformity with the statutes and regulations which apply to holders of such Class H licenses.

(5) A brewer may serve beer without charge on the brewery premises, as authorized by RCW 66.28.040. Such beer served without charge as provided herein is not subject to the tax imposed by RCW 66.24.290.

(6) No retail license or fee is required for the holder of a brewer's license to serve beer without charge on the brewery premises as set forth in subsection (5) of this regulation. Before exercising this privilege, however, such brewer shall obtain approval of the proposed service area and facilities from the board. Such brewer shall maintain a separate record of all beer so served.

[Statutory Authority: RCW 66.08.030 and 66.98.070, 81-22-026 (Order 85, Resolution No. 94), § 314-20-015, filed 10/28/81; Order 61, § 314-20-015, filed 12/6/77; Order 40, § 314-20-015, Rule 37.5, filed 8/21/75.]

WAC 314-20-020 Beer labels--Certificate of label approval required--Labels and product samples to be submitted--Analysis fee--Proprietary labels prohibited.

(1) Every bottle or can containing beer intended for sale in the state of Washington shall bear a label in compliance with section 44 of the Washington State Liquor Act as amended (RCW 66.28.120). No beer shall be imported or sold within the state of Washington until the licensed brewery, or certificate of approval holder, shall have obtained from the board a certificate of label approval for such beer.

(2) A request for certificate of label approval must be submitted on forms prescribed by the board, together with the following:

(a) Two bottle labels or two photostatic copies of can flats of the brand and type of beer for which approval is requested, and a list of container sizes on which the label is to be used;

(b) Two product samples of approximately 12-ounce size, or one quart of the beer for chemical analysis;

(c) Payment of a fee of \$5.00 for each chemical analysis;

(d) One copy of the federal certificate of label approval for such beer, issued by the Bureau of Alcohol, Tobacco, and Firearms, U.S. Treasury Department.

(3) Any change in label or product which requires re-issuance of federal certificate of label approval, must also be submitted to the board, in accordance with the foregoing provisions of this regulation.

(4) If a change in product has been made, a sample of such beer must be submitted for analysis, as provided in subsection (2) of this regulation. No analysis fee is required if the application is for approval of a revised label only, where no change has been made in the content of a previously approved product.

(5) No label shall be used that is misleading or indicates that the retailer is the brewer or producer thereof, and no label shall be used which contains the name of the seller or purveyor in any manner, and no "proprietary" label shall be used nor shall any label be restricted substantially to one retail outlet or to retail outlets under common ownership or associated together in, by or through a buying organization or agency or in any manner which represents a common identity to the public. The term "proprietary" label shall include any label which in the opinion of the board is being restricted in distribution by a brewer, importer or wholesaler, and such restriction shall be found to exist when only token or nominal sales are made to retail licensees other than those to whom volume sales are obviously restricted, and when the label is not continuously offered and distributed to retail licensees generally in the same manner and to the same extent as unrestricted labels are offered and distributed.

(6) Every producer, importer, or wholesaler of beer shall, upon request of the board or its authorized representative, furnish without cost to the board, samples of any brand of beer upon its premises for the purpose of analysis in order to determine whether the beer conforms to the analysis of that brand of beer approved originally by the board.

[Order 42, § 314-20-020, filed 11/6/75; Order 19, § 314-20-020, filed 8/10/72; Rule 38, filed 6/13/63.]

WAC 314-20-030 Packages--Classification. (1) No manufacturer, wholesaler or importer shall sell beer for use in the state of Washington in any packages or containers differing in sizes and case quantities from the manufacturer's original packages.

(2) Net contents--Packaged beer. Net contents shall be stated in a clearly legible manner on the label in fluid ounces or as follows:

(a) If less than 1 pint, in fluid ounces, or fractions of a pint;

(b) If 1 pint, 1 quart, or 1 gallon, the net contents shall be so stated;

(c) If more than 1 pint, but less than 1 quart, the net contents shall be stated in fractions of a quart, or in pints and fluid ounces;

(d) If more than 1 quart, but less than 1 gallon, the net contents shall be stated in fractions of a gallon, or in quarts, pints, and fluid ounces;

(e) If more than 1 gallon, the net contents shall be stated in gallons and fractions thereof;

(f) The net contents need not be stated on any label if the net contents are displayed by having the same blown, branded, or burned in the container in letters or figures in such manner as to be plainly legible under ordinary circumstances and such statement is not obscured in any manner in whole or in part.

(3) Container size limitations—Barrels. Whole barrels (31 gallons), 1/2 barrels (15.5 gallons), 1/4 barrels (7.75 gallons), 1/6 barrels (5.16 gallons). Packaged beer—Maximum capacity for individual containers, 170 fluid ounces: *Provided, however,* That the board may, in its discretion, authorize the importation and sale for use in the state of Washington of beer in other container and/or barrel size packages which have been approved for marketing within the United States by the Bureau of Alcohol, Tobacco, and Firearms, United States Treasury Department.

(4) Gift packages. A beer importer or beer wholesaler may prepare and sell "gift packages" consisting of containers of beer differing in case quantities from the manufacturer's original case capacities provided the tax has been paid on the previously purchased beer in accordance with RCW 66.24.290 and provided written approval by the board has been obtained.

[Statutory Authority: RCW 66.08.050, 86-22-050 (Order 201, Resolution No. 210), § 314-20-030, filed 11/4/86. Statutory Authority: RCW 66.08.030, 86-01-026 (Order 171, Resolution No. 180), § 314-20-030, filed 12/11/85. Statutory Authority: RCW 66.08.030 and 66-98.070, 83-24-061 (Order 135, Resolution No. 144), § 314-20-030, filed 12/7/83, effective 2/15/84; 78-02-031 (Order 64), § 314-20-030, Rule 39, filed 1/17/78; Order 49, § 314-20-030, filed 8/26/76, effective 9/26/76; Order 19, § 314-20-030, filed 8/10/72; Rule 39, filed 6/13/63.]

WAC 314-20-040 Beer in transit stamps—General.

(1) Any beer imported into the state of Washington intended for export may be exported by the importer (as provided in WAC 314-20-170), provided beer "in transit" stamps are properly affixed to the outside of the packages or containers. Any brewer within or without the state of Washington or any importer may elect to pay the tax imposed by RCW 66.24.290 (sec. 24 of the Washington State Liquor Act) on all beer shipped to importers or beer wholesalers within the state of Washington in lieu of affixing "in transit" stamps to all packages and containers of beer shipped to such wholesalers and importers, provided such beer meets all requirements for sale within the state of Washington. Beer

manufactured in the state of Washington and exported from the state may not be brought back into the state without the permission of the board first obtained.

(2) In the case of beer imported into the state of Washington, beer importers and beer wholesalers may export such beer upon which the taxes have been paid, but no refunds on account of the tax paid on such beer so exported shall be claimed nor any refunds made under the authorization of RCW 66.24.300 unless such claims are submitted to the board in conformity with WAC 314-20-010(6).

(3) "In transit" stamps must be procured from the board by the manufacturer or importer in sufficient quantities so as to avoid delay to shipments. Orders for "in transit" stamps must be accompanied by cash, post office money order or check. If order is to be forwarded by mail, money or postage stamps to cover mailing thereof must also accompany order. "In transit" stamps may also be forwarded by express, collect, but when transmitted by express or by mail in any manner, it will be at the risk of the party ordering the same.

(4) Under no circumstances shall unaffixed or loose "in transit" stamps be acquired by a licensee or holder of a certificate of approval except from the board direct.

[Order 42, § 314-20-040, filed 11/6/75; Rule 40, filed 6/13/63.]

WAC 314-20-050 Beer wholesalers—Records—Preservation. Beer wholesalers must keep beer accounts separate and independent from other accounts and must keep a perpetual inventory by brands, types and package sizes of beer, such inventory to be reconciled with a physical inventory at the end of each month, and maintain proper records in a form approved by the board, showing all transactions in beer, and must in case of beer exported or beer sold, transferred or shipped to another wholesaler, preserve all bills of lading or other evidence of shipment for a period of two years after such exportation, and must in the case of sales to retailers preserve all sales slips and keep the same on file in the office of the wholesaler for at least two years after each sale.

[Rule 44, filed 6/13/63.]

WAC 314-20-060 Beer wholesalers and importers—Reports—Stamps. All beer wholesalers and beer importers who during any month have received, handled or had on hand at the end of such month any beer imported into the state of Washington by them with beer "in transit" stamps only affixed to the package or container upon which the tax has not been paid, shall, on or before the tenth day of the succeeding month, furnish to the board a report, upon forms prescribed or furnished by the board, showing the disposition of all tax free beer, and if exported from the state, the name and address of the person to whom exported. Such report shall also show the number, brand or trade name, type and size of all packages and containers, respectively.

[Rule 45, filed 6/13/63.]

WAC 314-20-070 Bad order claims--Replacement of overaged beer--Procedures. Bad order claims shall be made, adjusted and record thereof preserved as follows:

(1) No bad order claim shall be allowed except by a brewer or beer importer;

(2) No bad order claim shall be accepted unless the same shall be made by the retailer within ten days after the defect in the beer or container has been discovered;

(3) No bad order claim shall be accepted unless the same is made by the retailer in quadruplicate upon forms furnished by the board;

(4) After the claim has been made out in quadruplicate, one copy (blue) shall be torn from the book and retained by the retailer; one copy (yellow) shall be torn from the book and retained by the wholesaler in those cases where the wholesaler acts as agent of the brewer in accepting the claim; the original and one copy (pink) shall be torn from the book and forwarded to, or retained by, the brewer or beer importer for action upon the claim;

(5) At the time of making the final adjustment of the claim, the brewer or beer importer shall mail to the board the pink copy, endorsing thereon the action taken by the brewer or beer importer, together with a certification that in his opinion the claim was valid to the amount allowed;

(6) All adjustments of bad order claims shall be made by check issued by the brewer or beer importer and payable to the retailer, bearing the bad order claim number or numbers for which adjustment is made;

(7) All documentary evidence relating to the claim shall be preserved by the retailer and brewer or beer importer for two years after the date of submission of the claim;

(8) No brewer or beer importer shall allow, or shall any retailer make claim for, a bad order claim unless the container or the beer is in fact defective;

(9) In the case of package beer, other than beer in barrels, beer which is not in a salable condition or overaged may be returned by a retail licensee to the beer wholesaler from whom the beer was purchased, provided it is immediately replaced by the beer wholesaler with an identical quantity, type and brand of beer: *Provided further*, That if the brand of beer is not presently in the beer wholesaler's stock and is not available to the wholesaler in the immediate future, a cash refund may be made to the retail licensee upon the approval of the board first being obtained;

(10) Beer different from that ordered which has been delivered in error to a retail licensee may be returned to a beer wholesaler and either replaced with that beer which was ordered or a cash refund may be made upon the approval of the board first being obtained: *Provided*, That the error in delivery shall be discovered and corrected within eight days of the date the delivery was made;

(11) Wholesalers who replace unsalable or overaged packaged beer as provided in subsection (9) of this section, shall maintain complete records of all such transactions, with such records to be readily available for inspection by authorized employees of the board;

(12) Salable or unsalable beer may be returned by a retail licensee or by a governmental agency who has seized the same to the beer wholesaler selling such beer in the event the retailer goes out of the business of selling beer at retail, and in such case a cash refund may be made upon return of the beer, provided that written consent of the board is first had and obtained;

(13) Except as provided herein, no other adjustment, by way of cash refund or otherwise, shall be made by the beer wholesaler, brewer or beer importer.

[Statutory Authority: RCW 66.08.030 and 66.98.070. 82-17-022 (Order 109, Resolution No. 118), § 314-20-070, filed 8/9/82; Order 49, § 314-20-070, filed 8/26/76, effective 9/26/76; Rule 46, filed 6/13/63.]

WAC 314-20-080 Sales to vessels. (1) Tax paid beer may be sold direct by beer wholesalers to:

(a) Vessels engaged in foreign commerce and operating on regular schedules.

(b) Vessels engaged in interstate commerce and operating on regular schedules.

(c) Vessels commonly known as "tramps," engaged in interstate and/or foreign commerce but not operating on regular schedules and taking cargo when and where it offers and to any port.

(2) Beer may not be sold direct by beer wholesalers to any other class of boat or vessel unless the boat or vessel is in possession of a proper retail license.

[Rule 47, filed 6/13/63.]

WAC 314-20-090 Cash sales. No beer wholesaler nor brewer or beer importer holding a beer wholesaler's license shall sell or deliver beer to any retailer except for cash paid at the time of the delivery thereof: *Provided*, That in individual and particular cases, upon consent of the board first had and obtained, in writing, cash may be paid prior to the delivery of beer sold to any retailer.

[Order 24, § 314-20-090, filed 6/28/73; Rule 48, filed 6/13/63.]

WAC 314-20-100 Beer wholesale price posting. (1) Every beer wholesaler shall file with the board at its office in Olympia a price posting showing the wholesale prices at which any and all brands of beer sold by such beer wholesaler shall be sold to retailers within the state.

(2) All price postings must be received by the board not later than the tenth day of the month, and if approved will become effective on the first day of the calendar month following the date of such filing. An additional period, not to exceed five days will be allowed for revision of such posting to correct errors, omissions, or to meet competitive prices filed during the current posting period, but a revised posting must be on file at the board office by not later than the fifteenth day of the month in order to become effective on the first day of the next calendar month: *Provided*, That the board may in individual cases, for good cause shown, extend the date on which the filings required by the rules are to be received by the board.

When any price posting to be filed with the board under the provisions of this rule has been deposited in the United States mail addressed to the board, it shall be

deemed filed or received on the date shown by the post office cancellation mark on the envelope containing it or on the date it was mailed if proof satisfactory to the board establishes that the actual mailing occurred on an earlier date.

(3) Filing date exception—Whenever the tenth day of the month falls on Saturday, Sunday or a legal holiday, an original price posting may be filed not later than the close of business the next business day.

(4) In the event that a beer wholesaler determines to make no changes in any items or prices listed in the last filed and approved schedule, such prices listed in the schedule previously filed and in effect, shall remain in effect for each succeeding posting period until a revised or amended schedule is filed and approved, as provided herein.

Provision for filing of temporary price reductions—In the event a beer wholesaler elects to file postings listing selected items on which prices are temporarily reduced for one posting period only, such filing shall be made on special forms provided for such purpose and clearly reflect all items, the selling price thereof, and the posting period for which the price reductions will be in effect. At the expiration of the posting period during which such reductions were effective the special filing will become void and the last regularly filed and effective price schedule shall again become effective until subsequently amended pursuant to regular filing dates.

(5) Each price posting shall be made on a form prepared and furnished by the board or a reasonable facsimile thereof, and shall set forth:

(a) All brands, types, packages and containers of beer offered for sale by such beer wholesaler.

(b) The wholesale prices thereof to retail licensees, including allowances, if any, for returned empty containers.

(6) No beer wholesaler shall sell or offer to sell any package or container of beer to any retail licensee at a price differing from the price for such package or container as shown in the price posting filed by the beer wholesaler and then in effect.

(7) Quantity discounts are prohibited. No price shall be posted which is below acquisition cost plus ten percent of acquisition cost.

(8) Wholesale prices on a "close-out" item shall be accepted by the board if the item to be discontinued has been listed on the state market for a period of at least six months, and upon the further condition that the wholesaler who posts such a close-out price shall not restock the item for a period of one year following the first effective date of such close-out price.

(9) If an existing written contract or memorandum of oral agreement between a licensed brewer, certificate of approval holder, beer importer or beer wholesaler and a beer wholesaler, on file in accordance with WAC 314-20-105, is terminated by either party, and a new written contract or memorandum of oral agreement is made by such a supplier with another beer wholesaler in the affected trade area, the board, after receiving such new

contract or memorandum of oral agreement and a corresponding wholesale price posting from the newly-designated beer wholesaler, may put such filings into effect immediately: *Provided*, That prices and other conditions of such filings which are in effect at the time of such termination shall not be changed until subsequent filings are submitted to the board and become effective under regulatory procedures set forth in other subsections of this regulation and WAC 314-20-105.

(10) The board may reject any price posting which it deems to be in violation of this or any other regulation or portion thereof which would tend to disrupt the orderly sale and distribution of beer. Whenever the board shall reject any posting the licensee submitting said posting may be heard by the board and shall have the burden of showing that said posting is not in violation of regulation and/or does not tend to disrupt the orderly sale and distribution of beer. Thereupon if said posting is accepted it shall become effective at the time fixed by the board. If said posting is rejected, the last effective posting shall remain in effect until such time as an amended posting is filed and approved, in accordance with the provisions of this regulation.

(11) All price postings filed as required by this regulation shall at all times be open to inspection to all trade buyers within the state of Washington and shall not within any sense be considered confidential.

(12) Any beer wholesaler or employee authorized by his wholesaler-employer may sell beer at the wholesaler's posted prices to any Class A, B, D, E, H, or G licensee upon presentation to such wholesaler or employee at the time of purchase of a special permit issued by the board to such licensee.

(a) Every Class A, B, D, E, H, or G licensee upon purchasing any beer from a wholesaler, shall immediately cause such beer to be delivered to his licensed premises, and he shall not thereafter permit such beer to be disposed of in any manner except as authorized by his license.

(b) Beer sold as provided herein shall be delivered by such wholesaler or his authorized employee either to such retailer's licensed premises or directly to such retailer at the wholesaler's licensed premises: *Provided, however*, That a wholesaler's prices to retail licensees shall be the same at both such places of delivery.

(13) When a new beer wholesaler's license is issued by the board, the holder thereof may file an initial price schedule and request that such posting be placed into effect immediately. The board may grant such approval, providing that such posting is in compliance with all other applicable regulatory requirements, and that contracts and memoranda are on file, in accordance with WAC 314-20-105.

[Statutory Authority: RCW 66.08.030, 66.98.070 and 66.08.060. 86-16-060 (Order 173, Resolution No. 182), § 314-20-100, filed 8/5/86. Statutory Authority: RCW 66.08.030. 85-21-020 (Order 166, Resolution No. 175), § 314-20-100, filed 10/9/85, effective 12/10/85; 82-16-069 (Order 91, Resolution No. 100), § 314-20-100, filed 8/2/82. Statutory Authority: RCW 66.08.030, 66.08.060 and 66.98.070. 78-02-056 (Order 62), § 314-20-100, filed 1/20/78, effective 7/1/78; Order 54, § 314-20-100, filed 5/24/77, effective 7/1/77; Order 51, § 314-20-100, filed 12/15/76; Order 18, § 314-20-100, filed 1/13/72,

effective 2/14/72; Order 15, § 314-20-100, filed 5/13/71, effective 7/1/71; Rule 49, filed 6/13/63.]

WAC 314-20-105 Beer suppliers' price filings, contracts and memoranda. (1) Every licensed brewer shall file with the board at its office in Olympia a copy of every written contract and a memorandum of every oral agreement which such brewer may have with any beer wholesaler, which contracts or memoranda shall contain a schedule of prices charged to wholesalers for all items, all terms of sale, including all regular and special discounts; all advertising, sales and trade allowances and incentive programs; all commissions, bonuses or gifts and any and all other discounts or allowances. Whenever changed or modified such revised contracts or memoranda shall forthwith be filed with the board as provided in this regulation.

Each price schedule shall be made on a form prepared and furnished by the board, or a reasonable facsimile thereof, and shall set forth all brands, types, packages and containers of beer offered for sale by such licensed brewer; all additional information required may be filed as a supplement to said price schedule forms.

(2) Filing date—All written contracts and memoranda of oral agreements must be received by the board not later than the twenty-fifth day of the month, and if approved will become effective on the first day of the second calendar month following the date of such filing. An additional period will be allowed for revision of such filings to correct errors and omissions, or to meet competitive prices, filed during the current posting period, but a revised contract or memorandum of oral agreement must be on file with the board not later than the first day of the month in order to become effective on the first day of the following month: *Provided*, That the board may in individual cases, for good cause shown, extend the date on which the filings required by the rules are to be received by the board.

(a) When any price posting to be filed with the board under the provisions of this rule has been deposited in the United States mail addressed to the board, it shall be deemed filed or received on the date shown by the post office cancellation mark on the envelope containing it, or on the date it was mailed if proof satisfactory to the board establishes that the actual mailing occurred on an earlier date.

(b) Exceptions for changes in wholesalers and newly licensed wholesalers are set forth in WAC 314-20-100 (9) and (13).

(3) Filing date exception—Whenever the twenty-fifth day of the month falls on Saturday, Sunday, or a legal holiday, an original contract or memorandum of oral agreement may be filed not later than the close of business the next business day.

(4) In the event that a brewer determines to make no changes in any items or prices listed in the last filed and approved schedule, such prices listed in the schedule previously filed and in effect, shall remain in effect for each succeeding posting period until a revised or amended schedule is filed and approved, as provided herein.

Provision for filing of temporary price reductions—In the event a licensed brewer elects to file postings listing selected items on which prices are temporarily reduced for a period of one posting period only, such filing shall be made on special forms provided for such purpose and clearly reflect all items, the selling price thereof, and the posting period for which the price reductions will be in effect. At the expiration of the posting period during which such reductions were effective the special filing will become void and the last regularly filed and effective price schedule shall again become effective until subsequently amended pursuant to regular filing dates.

(5) Prices filed by a licensed brewer shall be uniform prices to all wholesalers on a statewide basis less bona fide allowances for freight differentials. Quantity discounts are prohibited. No price shall be filed which is below acquisition cost plus ten percent of acquisition cost: *Provided*, That acquisition cost plus ten percent of acquisition cost shall not apply to sales of beer between a beer importer who sells beer to another beer importer or to a beer wholesaler, or to a beer wholesaler who sells beer to another beer wholesaler.

(6) No licensed brewer shall sell or offer to sell any beer to any persons whatsoever in this state until copies of such written contracts or memoranda of such oral agreements are on file with the board.

(7) No licensed brewer shall sell or offer to sell any package or container of beer to any wholesaler at a price differing from the price for such package or container as shown in the schedule of prices filed by the brewer and then in effect.

(8) The provisions set forth in the foregoing subsections of this regulation shall also apply to written contracts and memoranda of oral agreements which must be filed with the board by every certificate of approval holder who sells beer to a beer importer, every beer importer who sells beer to another beer importer or to a beer wholesaler, and every beer wholesaler who sells beer to another beer wholesaler: *Provided*, That the provisions of this subsection shall not apply, and filings will not be required in the instance of beer wholesalers making accommodation sales to other beer wholesalers when such sales are made at a selling price not to exceed the laid-in cost of the beer being sold. Accommodation sales may only be made when the wholesaler purchasing the beer is an authorized purchaser of the brand and product being sold, having been designated as an authorized purchaser by the manufacturer or importer of the product being sold, as demonstrated by an existing contract or memoranda on file and in effect under the provisions of this rule.

(9) Holders of certificates of approval may ship beer into this state when the beer has been sold and consigned to the holder of a beer importer's license at his licensed premises. The bill of lading covering such consignment shall not be changed or the beer diverted unless such diversion is to another beer importer, and the board so notified immediately.

(10) The board may reject any supplier's price filing, contract or memorandum of oral agreement or portion thereof which it deems to be in violation of this or any

other regulation or which would tend to disrupt the orderly sale and distribution of beer. Whenever the board shall reject any such price filing, contract or memorandum the licensee submitting said price filing, contract or memorandum may be heard by the board and shall have the burden of showing that the said price filing, contract or memorandum is not in violation of regulation and/or does not tend to disrupt the orderly sale and distribution of beer. Thereupon if said price filing, contract or memorandum is accepted it shall become effective at a time fixed by the board. If said price filing, contract or memorandum or portion thereof is rejected, the last effective price filing, contract or memorandum shall remain in effect until such time as an amended price filing, contract or memorandum is filed and approved, in accordance with the provisions of this regulation.

(11) All prices, contracts and memoranda filed as required by this regulation shall at all times be open to inspection to all trade buyers within the state of Washington and shall not in any sense be considered confidential.

[Statutory Authority: RCW 66.08.030, 87-01-014 (Order 207, Resolution No. 216), § 314-20-105, filed 12/9/86. Statutory Authority: RCW 66.08.030, 66.98.070 and 66.08.060, 86-16-060 (Order 173, Resolution No. 182), § 314-20-105, filed 8/5/86. Statutory Authority: RCW 66.08.030, 85-21-020 (Order 166, Resolution No. 175), § 314-20-105, filed 10/9/85, effective 11/25/85; 82-16-069 (Order 91, Resolution No. 100), § 314-20-105, filed 8/2/82; Order 54, § 314-20-105, Rule 49.5, filed 5/24/77, effective 7/1/77; Order 51, § 314-20-105, filed 12/15/76; Order 15, § 314-20-105, filed 5/13/71, effective 7/1/71.]

WAC 314-20-110 Beer importers--Principal office. Each beer importer shall keep the board informed at all times of the location of the principal office required by section 23-G, subdivision (2) of the Washington State Liquor Act (RCW 66.24.260) and shall, not less than two days prior thereto notify the board in writing or by telegraph of any change in the location of such office.

[Rule 50, filed 6/13/63.]

WAC 314-20-120 Beer importers--Warehouses. Beer importers maintaining warehouses at which beer imported by such importer is stored shall at all times keep the board advised of the location of such warehouse.

[Rule 51, filed 6/13/63.]

WAC 314-20-130 Imported beer--List filed--Labels. Each beer importer shall at all times keep on file with the board a list showing all beers which such importer intends to import, which list shall contain the trade name of the beer, the name of the brewer, and the location of the brewery at which such beer is manufactured. No beer shall be imported until duplicate copies of all beer labels intended to be used shall have been submitted to and approved by the board or its accredited representative.

[Rule 52, filed 6/13/63.]

WAC 314-20-140 Beer importers--Certain duties. No beer importer shall import or transport or cause to

be transported into the state of Washington any brand of beer manufactured within the United States but outside the state of Washington, unless such importer shall have first filed with the board a notice of his intention so to do, and shall have ascertained from the board that the brewer manufacturing such beer has obtained from the Washington State liquor control board a certificate of approval as provided in section 23-F of the Washington State Liquor Act (RCW 66.24.270).

[Rule 53, filed 6/13/63.]

WAC 314-20-150 Beer importers--Responsibility--Taxes--Stamps. Each beer importer shall be finally responsible for the payment of any and all taxes due the state of Washington on account of any beer imported by him. No beer importer shall import any beer into the state unless and until said importer has arranged with the holder of a certificate of approval for the payment to the board of the tax thereon. Beer intended for export and imported with beer "in transit" stamps properly affixed to the packages or containers is tax free and the holder of the certificate of approval shall not pay any tax thereon. Beer importers desiring to import beer for export should notify the brewer manufacturing such beer of the quantity of beer intended for export so that such brewer may properly affix beer "in transit" stamps to the packages or containers intended for export. However, upon consent of the board first had and obtained, the proper affixation of the "in transit" stamps may be made by some person other than the brewer manufacturing the beer under such rules as the board may from time to time prescribe, and the board reserves the right to make orders applicable to individual and particular cases in addition to general orders, rules and regulations applicable generally.

[Rule 54, filed 6/13/63.]

WAC 314-20-160 Importer of foreign beer--Certificate of approval required--Reports--Payment of tax. Beer manufactured outside of the United States may be imported by a beer importer, but only under the following conditions:

(1) The beer importer must be the holder of a certificate of approval, and shall furnish the bond required by WAC 314-20-010.

(2) The beer importer importing such beer shall be at all times solely responsible for the payment of any and all taxes due the state of Washington on account of such beer. Such beer shall be imported and delivered directly to either the warehouse of the importer or to some other warehouse previously designated by the importer and approved by the board.

(3) On or before the twentieth day of the month following such importation the importer (certificate of approval holder) shall report such importation to the board, setting forth the quantity, brand, type, and package sizes of such beer and shall pay to the board the tax due thereon as provided in WAC 314-20-010.

(4) All matters pertaining to the importation, transportation, storage, payment of taxes and keeping of records, and all other matters pertaining to the

importation of beer manufactured outside the United States shall be subject at all times to such orders, rules and regulations as the board may from time to time prescribe, and the board reserves the right to make orders applicable to individual and particular cases in addition to general orders, rules and regulations applicable generally.

[Statutory Authority: RCW 66.08.030 and 66.98.070. 81-22-026 (Order 85, Resolution No. 94), § 314-20-160, filed 10/28/81; Order 14, § 314-20-160, filed 12/1/70, effective 1/1/71; Rule 55, filed 6/13/63.]

WAC 314-20-170 Holders of certificates of approval. Each brewer holding a certificate of approval may ship beer only to licensed beer importers. In those cases where the beer importer orders beer for export and requests that such beer be stamped with beer "in transit" stamps, the beer may be shipped, provided the appropriate beer "in transit" stamps are properly affixed to the packages or containers, subject to the exception as provided in WAC 314-20-040(1). As a part of the reports required by RCW 66.24.270 (sec. 23-F of the Washington State Liquor Act) and by the written agreement embodied in the application for certificate of approval, and at the time of filing monthly report with the board, each brewer holding a certificate of approval shall pay the tax on behalf of the beer importer on all shipments of beer to such importers during the preceding calendar month, other than beer shipped with "in transit" stamps affixed, and shall make report as follows: (1) Such report shall show the quantity of beer sold or delivered to each licensed beer importer during the preceding month, together with the number, type and size of the packages or containers, respectively, and the date and invoice number of each shipment of such beer; (2) a statement showing the respective amount of "in transit" stamps affixed to the packages or containers; and (3) all reports shall be made upon forms prescribed and furnished by the Washington state liquor control board.

[Rule 56, filed 6/13/63.]

Chapter 314-24 WAC DOMESTIC WINERIES AND DOMESTIC WINE WHOLESALE

WAC

314-24-003	Standards of identity for wine.
314-24-006	Substandard wines prohibited.
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314-24-040	Certificate of label approval required—Product samples and labels to be submitted—Analysis fee.
314-24-050	Alcoholic content.
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314-24-080	Containers—Sizes and types permitted.
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314-24-105	Application procedure—Wine wholesaler's or importer's license.

314-24-110	Domestic wineries, wine wholesalers, wine importers—Monthly reports—Bonds required—Payment of tax.
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314-24-120	Importer of foreign wine—United States wineries—Certificate of approval required—Monthly reports—Records.
314-24-130	Case lot sales.
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314-24-150	Wine records—Preservation.
314-24-160	Domestic wineries—Retail sales of wine on winery premises—Wine served without charge on premises—Class H restaurant operation.
314-24-170	Cash sales.
314-24-180	Wine wholesalers, wine importers—Certain rights granted.
314-24-190	Wine wholesale price posting.
314-24-200	Wine suppliers' price filings, contracts and memoranda.
314-24-210	Return of wine by retailer—Replacement—Conditions.
314-24-220	Licensing and operation of bonded wine warehouses.

DISPOSITION OF SECTIONS FORMERLY CODIFIED IN THIS CHAPTER

314-24-010	Eligibility. [Rule 59, filed 6/13/63.] Repealed by Order 5, filed 8/7/69, effective 9/8/69.
314-24-030	Domestic winery defined. [Order 5, § 314-24-030, filed 8/7/69, effective 9/8/69; Resolution No. 6, Rule 61, filed 4/7/66; Resolution No. 5, filed 9/22/65; Rule 61, filed 6/13/63.] Repealed by Order 14, filed 12/1/70, effective 1/1/71.

WAC 314-24-003 Standards of identity for wine.

(1) Application of standards. The standards of identity for the several classes and types of wine set forth herein shall be applicable to all wines produced, imported, bottled, offered for sale, or sold within this state for beverage use or any other purpose, except as hereinafter prescribed. The standards herein established are minimum standards for wines of the several classes and types defined.

(2) Standards of identity. The several classes and types of wine set forth herein shall be as follows:

(a) Wine (or grape wine). "Wine" is the product of the normal alcoholic fermentation of the juice of sound, ripe grapes (including pure condensed must), with or without added grape brandy or other spirits derived from grapes or grape products, and containing not to exceed 24 percent alcohol by volume, but without any other addition or abstraction whatsoever except such as may occur in normal cellar treatment: *Provided*, That the product may be ameliorated before, during or after fermentation by the use of pure dry sugar, a combination of water and pure dry sugar, liquid sugar, invert sugar syrup, grape juice or concentrated must, but only in accordance with federal regulations 27 CFR part 240, and the total solids of the wine shall in no case exceed 21 percent by weight. The maximum volatile acidity, calculated as acetic acid and exclusive of sulphur dioxide, shall not be, for red table wine, more than 0.14 gram, and for all other wine, more than 0.12 gram in both cases per 100 cubic centimeters (20 degrees C.). The maximum sulphur dioxide content of any wine shall not be greater than 350 parts per million of total sulphur dioxide or sulphites expressed as sulphur dioxide.

Pure condensed must. "Pure condensed must" means the dehydrated juice or must of sound, ripe grapes, or other fruit or agricultural products, concentrated to not more than 80° Brix, the composition thereof remaining unaltered except for removal of water; the term "restored pure condensed must" means pure condensed must to which has been added an amount of water not exceeding the amount removed in the dehydration process; and the term "sugar" means pure cane, beet, or dextrose sugar in dry form containing, respectively, not less than 95 percent of actual sugar calculated on a dry basis.

(b) Natural wine is the product of the juice of sound, ripe grapes, or the product of the juice of sound ripe fruit or berries other than grapes, produced in accordance with section 5381, I.R.C., and federal regulations 27 CFR part 240, as applicable.

(c) Red and white wine. Red wine is wine which contains the red coloring matter of the skins, juice, or pulp of grapes; pink, amber or rose wine is wine which contains partial red coloring of the skins, juice, or pulp of grapes; and white wine is wine which does not contain the red coloring matter of the skins, juice, or pulp of grapes.

(d) Table wine (including light wine, light grape wine, light red wine, light white wine, and natural wine) is wine containing not to exceed 14 percent alcohol by volume. The maximum Balling or Brix saccharometer test for any table wine shall not be more than 14 percent (at 20 degrees C. using a saccharometer calibrated at this temperature) when the test is made in the presence of the alcoholic content provided herein.

(e) Dessert wine (including appetizer wine) is wine containing more than 14 percent alcohol by volume, and not to exceed 24 percent alcohol by volume. Angelica, madeira, malaga, marsala, muscatel, port, white port, sherry, and tokay are types of dessert wine containing added grape brandy or other spirits derived from grapes or grape products, possessing the taste, aroma and other characteristics generally attributed to these products, and having an alcoholic content of not less than 17 percent by volume in the case of sherry, and not less than 18 percent in the case of all other types named in this paragraph.

(f) Aperitif wine is grape wine, containing added grape brandy or other spirits derived from grapes or grape products and having an alcoholic content of not less than 15 percent by volume flavored with herbs and other natural aromatic flavoring materials and possessing the taste, aroma and other characteristics generally attributed to wine of this class.

(g) Vermouth is a type of aperitif wine made from grape wine and possessing the taste, aroma and other characteristics generally attributed to vermouth.

(h) The term vintage wine means a wine produced wholly from (i) grapes gathered and (ii) the juice therefrom fermented, in the same calendar year and in the same viticultural area (e.g., county, state, department, province, or equivalent geographic area, or subdivision thereof), as identified on the label of such wine.

(i) Sacramental wine. Wine used solely for sacramental purposes may possess such alcoholic content not exceeding 24 percent by volume as required by ecclesiastical codes.

(j) Sparkling grape wine (including sparkling wine, sparkling red wine, and sparkling white wine) is grape wine made effervescent with carbon dioxide resulting solely from the fermentation of the wine within a closed container, tank or bottle.

(k) Champagne is a type of sparkling light white wine which derives its effervescence solely from the secondary fermentation of the wine within glass containers of not greater than one gallon capacity, and which possesses the taste, aroma, and other characteristics attributed to champagne as made in the Champagne District of France.

(l) A sparkling light wine having the taste, aroma, and characteristics generally attributed to champagne but not otherwise conforming to the standard for champagne may, in addition to but not in lieu of the class designation sparkling wine, be further designated as champagne style, or champagne type or American (or New York state, California, etc.) champagne — bulk process; all the words in such further designation shall appear in lettering of substantially the same size and such lettering shall not be substantially larger than the words "sparkling wine."

(m) Pink (or rose) champagne is a type of sparkling pink wine otherwise conforming to the definition of champagne, and shall be labeled in the same manner as champagne except that the designation pink (or rose) champagne shall be used in lieu of the designation champagne.

(n) Sparkling burgundy and sparkling moselle are types of sparkling wine possessing the taste, aroma and characteristics attributed to these products.

(o) Carbonated wine (including carbonated grape wine, carbonated red wine, carbonated pink (or rose) wine and carbonated white wine) is wine made effervescent with carbon dioxide other than that resulting solely from the secondary fermentation of the wine within a closed container, tank, or bottle.

(p) Fruit wine is wine produced by the normal alcoholic fermentation of the juice of sound, ripe fruit (other than grape), including pure condensed fruit must, with or without added fruit brandy or fruit spirits distilled from the same type of fruit or fruit products as the wine to which such fruit brandy or fruit spirits is added, and containing not to exceed 24 percent of alcohol by volume but without any other addition or abstraction whatsoever except such as may occur in normal cellar treatment: *Provided*, That the product may be ameliorated before, during, or after fermentation by the addition of water, pure dry sugar, a combination of water and pure dry sugar, liquid sugar, invert sugar syrup and concentrated and unconcentrated juice of the same fruit, but, only in accordance with federal regulations and the total solids of the wine shall in no case exceed 21 percent by weight.

The maximum volatile acidity, calculated as acetic acid and exclusive of sulphur dioxide, shall not be for natural fruit wine, more than 0.14 gram, and for other

fruit wine, more than 0.12 gram, per 100 cubic centimeters (20 degrees C.).

(q) Light fruit wine (including natural fruit wine) is fruit wine containing not to exceed 14 percent alcohol by volume.

(r) Fruit wine derived wholly (except for sugar, water, or added fruit brandy or fruit spirits) from one kind of fruit shall be designated by the word wine, qualified by the name of such fruit; e.g., peach wine, orange wine, blackberry wine, etc. Fruit wine not derived wholly from one kind of fruit shall be designated as fruit wine or berry wine, as the case may be, qualified by a truthful and adequate statement of composition appearing in direct conjunction therewith. Fruit wines derived wholly (except for sugar, water, or added fruit brandy or fruit spirits) from apples or pears may if desired be designated cider, and perry, respectively, and shall be so designated if lacking in vinous taste, aroma, and other characteristics. Fruit wine rendered effervescent by carbon dioxide resulting solely from the secondary fermentation of the wine within a closed container, tank, or bottle shall be further designated as sparkling, and fruit wine rendered effervescent by carbon dioxide otherwise derived shall be further designated as carbonated.

(s) Berry wine is fruit wine produced from berries.

(t) Citrus wine or citrus fruit wine is fruit wine produced from citrus.

(u) Wine from other agricultural products. Sake is wine produced from rice in accordance with the commonly accepted method of producing such product.

(v) Other agricultural wines (such as honey wine), the production or sale of which is not prohibited by these regulations, shall be made in accordance with the commonly accepted standards of such product.

(w) Specialty wine is wine not otherwise herein defined, produced in accordance with commercial standards for such wines. Such wines may bear a fanciful proprietary designation and shall be labeled with a truthful and adequate statement of composition or with any commonly accepted trade designation indicative of such composition.

(x) Specially sweetened natural wine (a wine such as Kosher wine) is wine produced in accordance with federal regulation 27 CFR part 240.

(y) High fermentation wine is a grape or fruit wine made within the limitations of regulation (57)(2)(a) for grape wine, and regulation (57)(2)(p) for fruit wine, except that the alcohol content after complete fermentation or complete fermentation and sweetening is more than 14 percent and that wine spirits may not be added, produced in accordance with federal regulation 27 CFR part 240.

(z) Special natural wine is a flavored wine made on bonded wine cellar premises from a base of natural wine, in conformity with federal regulation 27 CFR part 240.

(3) Grape-type designations. A name indicative of variety of grape may be employed as the type designation of a wine if the wine derives its predominate taste, aroma, and other characteristics, and at least 51 percent of its volume, from that variety of grape.

(4) Appellations of origin. A wine shall be entitled to an appellation of origin if:

(a) At least 75 percent of its volume is derived from both fruit or other agricultural products grown in the place or region indicated by such appellation; and

(b) It conforms to the requirements of the laws and regulations of such place or region governing the composition, method of production and designation of wines for consumption within such place or region of origin.

(5) Conformance to state standards required. Wines of any defined class or type labeled or advertised under appellation of origin such as Spanish, New York, Ohio, Finger Lakes, California, etc., shall meet the requirements of standards herein prescribed applicable to such wines and shall, in addition, contain the minimum percentage of alcohol and conform as to composition in all other respects with all standards of identity, quality and purity applicable to wines of such classes or types marketed for consumption in the place or region of origin.

For example, all grape wines bearing labels showing California as the origin of such wine, shall be derived one hundred percent from grapes grown and wine from such grapes fermented within the state of California, shall contain no sugar or material containing sugar, other than pure condensed grape must; and any type of grape dessert wine (except sherry) shall contain not less than 18 percent of alcohol by volume; any type of sherry shall contain not less than 17 percent alcohol by volume; except as hereinbefore provided. Wines subjected to cellar treatment outside the place or region of origin, and blends of wine of the same origin, blended together outside the place or region of origin (if all the wines, in the blend have a common class, type, or other designation which is employed as the designation of the blend), shall be entitled to the same appellation of origin to which they would be entitled if such cellar treatment of blending took place within the place or region of origin.

(6) Grape-type designations, generic, semi-generic and nongeneric designations of geographic significance, are subject to the same requirements as set forth under Title 27, Code of Federal Regulations, Part 4.

[Statutory Authority: RCW 66.08.030, 85-19-030 (Order 164, Resolution No. 173), § 314-24-003, filed 9/12/85. Statutory Authority: RCW 66.08.030 and 66.98.070, 81-22-026 (Order 85, Resolution No. 94), § 314-24-003, filed 10/28/81; Order 14, § 314-24-003, filed 12/1/70, effective 1/1/71; Order 5, § 314-24-003, filed 8/7/69, effective 9/8/69.]

WAC 314-24-006 Substandard wines prohibited. Application of this regulation. The production, importation or sale of, wine, which fails to conform to the standards prescribed in regulation (57) hereof, or of any wine fermented from raisins, dried fruits, or dried berries, or of any imitation or substandard wine as herein-after defined, is hereby prohibited.

(1) Imitation wine shall include:

(a) Any wine containing synthetic materials;

(b) Any wine made from a mixture of water with residues remaining after thorough pressing of grapes, fruit or other agricultural products;

(c) Any class or type of wine, the taste, aroma, color or other characteristics of which have been acquired in

whole or in part by treatment with methods or materials of any kind, if the taste, aroma, color or other characteristics of normal wines of such class or type are acquired without such treatment; or

(d) Any wine made from "must" concentrated at any time to more than 80 degrees (balling).

(2) Substandard wine shall include:

(a) Any wine having a volatile acidity in excess of the maximum prescribed therefor in these regulations;

(b) Any wine for which no maximum volatile acidity is prescribed in these regulations having a volatile acidity, calculated as acetic acid and exclusive of sulphur dioxide, in excess of 0.14 gram per 100 cubic centimeters (20 degrees C.);

(c) Any wine for which a standard of identity is prescribed in these regulations which, through disease, decomposition, or otherwise, fails to have the composition, color, and clean vinous taste and aroma of normal wines conforming to such standard; or

(d) Wine of any class or type containing added water, or sugar and water solution, in excess of the quantities expressly authorized for standard wine made from the same kind or kinds of materials as prescribed in regulation (57).

(3) Coined names:

(a) The sale in this state of wines, identified on labels or in advertisements by a type of brand designation which implies mixtures of wines for which standards of identity are established in these regulations, or which identifying type or brand designation resembles an established wine type name such as Angelica, Madeira, Muscatel, Port, White Port, Sherry, Tokay, Sauterne, Claret, Burgundy, etc., is hereby prohibited.

(b) The sale in this state of wine or combinations of wine and other alcoholic beverages which contain on the label statements such as whiskey wine, rum and wine, gin and wine, beer and wine, etc., or simulations of such combinations, is hereby prohibited.

(4) Containers:

(a) The sale of wine in any container originally designed for a product other than wine or in any container the design or shape of which would tend to mislead the consumer as to the nature of the contents, is hereby prohibited.

(b) The sale of wine in containers which have blown, branded or burned therein the name or other distinguishing mark of any person engaged in business as a wine producer, importer, wholesaler, or bottler or any other person different from the person whose name is required to appear on the brand label, is hereby prohibited.

[Order 5, § 314-24-006, filed 8/7/69, effective 9/8/69.]

WAC 314-24-020 Sanitation. Domestic winery premises shall be constructed, kept and maintained in a clean and sanitary condition, and in accordance with such rules and regulations as shall be prescribed by the state department of agriculture through the dairy and food division, for the sanitation thereof and applicable to the sanitation of such winery premises.

[Order 5, § 314-24-020, filed 8/7/69, effective 9/8/69; Rule 60, filed 6/13/63.]

WAC 314-24-040 Certificate of label approval required—Product samples and labels to be submitted—Analysis fee. No wine shall be imported or sold within the state of Washington until the certificate of approval holder, or domestic winery, or United States importer of foreign wine, shall have obtained from the board a certificate of label approval for such wine.

(1) A request for certificate of label approval must be submitted to the board on forms prescribed by the board, together with the following:

(a) Two labels of the brand and type for which approval is requested, and a list of the container sizes on which the label is to be used;

(b) Two pint samples (or two containers of 375 milliliters each), or one four-fifths quart (or 750 milliliters), or one quart (or one liter) of the finished wine for chemical analysis: *Provided, however,* That if such wine is available only in containers of larger capacity than one liter, such a sample may be submitted in such package size nearest in quantity to one liter;

(c) Payment of a fee of \$5.00 for each chemical analysis; and

(d) One copy of the federal certificate of label approval for such wine which has been issued by the Bureau of Alcohol, Tobacco, and Firearms, U.S. Treasury Department.

(2) Any change in label or product which requires re-issuance of federal approval under the provisions of 27 CFR Part 4, must also be submitted to the board in accordance with the foregoing provisions of this regulation.

(3) If a change in product has been made, a sample of said wine must be submitted for analysis, as provided in subsection (1)(b) and (c) of this regulation. No fee is required if the application is for approval of a revised label only, where no change has been made in the content of a previously approved product.

(4) The board may, upon written request, where rare vintage wines of limited quantity are concerned, issue a certificate of label approval based on the condition that such a wine has received federal label approval. In submitting such a request the applicant should furnish the board with a copy of the federal certificate of label approval and file certified information confirming that such wine is actually of rare vintage and of limited quantity.

(5) Every producer, importer, bottler, or wholesaler of wine shall, upon request of the board or its authorized representative, furnish without cost to the board, samples of any brand of wine upon its premises for the purpose of analysis in order to determine whether the wine conforms to the analysis of that brand of wine approved originally by the board.

[Order 57, § 314-24-040, filed 7/28/77, effective 9/1/77; Order 42, § 314-24-040, Rule 62, filed 11/6/75; Order 19, § 314-24-040, filed 8/10/72; Order 5, § 314-24-040, filed 8/7/69, effective 9/8/69; Rule 62, filed 6/13/63.]

WAC 314-24-050 Alcoholic content. No wine shall exceed twenty-four percent of alcohol by volume at 60 degrees Fahrenheit, calculated from the distillate.

Label tolerance:

(1) The alcoholic content of wines containing in excess of fourteen percent of alcohol by volume shall be within one percent plus or minus of the label claim, but not to exceed the prescribed 24% limitation. In the event a maximum range of two percent is stated on the label, the alcoholic content must be within the stated range.

(2) The alcoholic content of wines containing less than fourteen percent of alcohol by volume shall be within one and one-half percent plus or minus of the label claim. In the event a maximum range of three percent is stated on the label, the alcoholic content must be within the stated range.

[Statutory Authority: RCW 66.08.030 and 66.98.070. 81-22-026 (Order 85, Resolution No. 94), § 314-24-050, filed 10/28/81; Order 5, § 314-24-050, filed 8/7/69, effective 9/8/69; Rule 63, filed 6/13/63.]

WAC 314-24-060 Quality standards. All wines of the types and classes hereinafter set forth sold in the state of Washington shall meet the following requirements.

Acid content:

(1) Volatile acids:

- (a) Red table wines Not over 0.14%, exclusive of sulfur dioxide, calculated as acetic acid.
- (b) All other wines Not over 0.12%, exclusive of sulfur dioxide, calculated as acetic acid.

(2) Fixed acids:

- (a) Grape wine:
 - (i) Table wine . . . Not less than 0.4% calculated as tartaric acid.
 - (ii) Dessert wine . . . Not less than 0.25% calculated as tartaric acid.
- (b) Apple wine Not less than 0.15% calculated as malic acid.
- (c) Fruit wine Not less than 0.5% calculated as citric acid.
- (d) Berry wine Not less than 0.5% calculated as citric acid.

(3) Brix (balling):

- (a) Port wine Minimum of 5.5 Brix at 20 degrees centigrade.
- (b) White port wine Minimum of 5.5 Brix at 20 degrees centigrade.
- (c) Muscatel wine Minimum of 5.5 Brix at 20 degrees centigrade.
- (d) Tokay wine Minimum of 3.5 Brix at 20 degrees centigrade.
- (e) Dry sherry wine Under 0.5 Brix at 20 degrees centigrade.
- (f) Sherry wine Under 3 Brix at 20 degrees centigrade.
- (g) Creme or sweet sherry wine Above 3 Brix at 20 degrees centigrade.

(4) Sulfur dioxide: Maximum of 350 parts per million total.

(5) Preservatives: No wines shall contain preservatives such as benzoic acid, salicylic acid or monochloroacetic acid, or their derivatives except that wines classified as specialty wine in accordance with WAC 314-24-003 (2)(w) may use benzoic acid or its derivatives if such use has been approved by the United States Food and Drug Administration.

(6) Stability: All wines shall be free from precipitates, colloidal matter, metallic casse, haze due to yeast, bacteria, tartrates, or other causes as determined by usual stability tests: *Provided, however,* That sediment may be allowed at the discretion of the board when it occurs in accordance with commercial standards commonly accepted by trade designations as normal and indicative of the wine's composition.

[Statutory Authority: RCW 66.08.030. 86-24-030 (Order 205, Resolution No. 214), § 314-24-060, filed 11/25/86; 85-24-041 (Order 169, Resolution No. 178), § 314-24-060, filed 11/27/85; Order 14, § 314-24-060, filed 12/1/70, effective 1/1/71; Order 5, § 314-24-060, filed 8/7/69, effective 9/8/69; Rule 64, filed 6/13/63.]

WAC 314-24-070 Domestic wineries--Purchase and use of bulk wines, brandy or wine spirits--Import permit required--Records. (1) Domestic wineries may purchase and receive under federal bond from any holder of a domestic winery license, holder of the fruit and/or wine distillery license provided in section 23-D of the Washington State Liquor Act (RCW 66.24.140), or out-of-state holder of a federal winery or fruit distillery basic permit, bulk wine, brandy or bulk wine spirits manufactured or produced by such holder, and use the same in the manufacture or production of wines: *Provided,* That every domestic winery which imports wine, brandy or wine spirits manufactured outside the state of Washington for use as authorized in this section must first be in possession of a permit issued by the board, in accordance with RCW 66.20.010(5) of the Washington State Liquor Act. Applications for such permits must be submitted to the board in writing. Such permits expire at the end of the board's fiscal year, and are subject to renewal at that time upon written request and remittance of said annual fee. Wine manufactured or produced from one kind of fruit or berry may not receive wine, brandy or wine spirits manufactured or produced from another kind of fruit or berry. Such brandy or wine spirits so purchased shall be used exclusively and only for the purpose of adding wine spirits to wines. In those cases where the holder of a domestic winery license shall also hold such fruit and/or wine distillery license, then, and in such cases, such domestic winery may use brandy or wine spirits manufactured or produced under such distillery license as a wine spirits addition in the manufacture or production of wine by such holder of the domestic winery license.

(2) Any domestic winery using wine, brandy or wine spirits as provided in subsection (1) of this section, shall make and file with the board, not later than the tenth day of each month upon forms prescribed and furnished by the board, a report showing all transactions of such domestic winery in the purchase and/or use of wine,

brandy or wine spirits as provided in said subsection (1), and shall retain one copy of such report in its own files, and shall keep and preserve for a period of not less than two years any bills of lading or other documents supporting such report. One copy of the bill of lading covering such sale and shipment to a domestic winery is to be forwarded to the board by the shipping winery or fruit distillery, at the time of such shipment.

[Statutory Authority: RCW 66.08.030. 86-11-014 (Order 184, Resolution No. 193), § 314-24-070, filed 5/13/86; Order 14, § 314-24-070, filed 12/1/70, effective 1/1/71; Order 5, § 314-24-070, filed 8/7/69, effective 9/8/69; Rule 65, filed 6/13/63.]

WAC 314-24-080 Containers--Sizes and types permitted. (1) All wine sold for consumption in the state shall be sold in packages or container sizes approved by the Bureau of Alcohol, Tobacco, and Firearms, U.S. Treasury Department for Marketing within the United States. A copy of the federal certificate of label approval must be submitted with each such request for authorization.

(2) No domestic winery or wine wholesaler, or wine importer shall adopt or use any packages for wine differing in sizes and case capacities from: Manufacturer's original full cases. The board may, in its discretion, authorize other container and/or keg size packages it deems appropriate.

(3) Wine referred to in subsections (1) and (2) of this regulation may also be packaged and sold in metric standards of fill and in case sizes as are established in 27 Code of Federal Regulations, to wit: 3 liters (101 fl. oz.) 4 bottles per case; 1.5 liters (50.7 fl. oz.) 6 bottles p/c; one liter (33.8 fl. oz.) 12 bottles p/c; 750 milliliters (25.4 fl. oz.) 12 bottles p/c; 375 milliliters (12.7 fl. oz.) 24 bottles p/c; 187 milliliters (6.3 fl. oz.) 48 bottles p/c; 100 milliliters (3.4 fl. oz.) 60 bottles p/c. Wine may be bottled or packed in containers of four liters or larger if the containers are filled and labeled in quantities of even liters.

(4) Wine imported from foreign countries may be packaged and container sizes approved by the Bureau of Alcohol, Tobacco, and Firearms, U.S. Treasury Department for marketing within the United States. A copy of the federal certificate of label approval must be submitted with each such request for authorization.

(5) For taxing purposes and in all reports to the board, the above enumerated designations of package sizes, and no others, shall be used.

[Statutory Authority: RCW 66.08.030. 86-07-022 (Order 172, Resolution No. 181), § 314-24-080, filed 3/13/86. Statutory Authority: RCW 66.08.030, 66.08.050 and 66.98.070. 78-09-012 (Order 67, Resolution No. 76), § 314-24-080, filed 8/8/78; Order 49, § 314-24-080, filed 8/26/76; Order 37, § 314-24-080, filed 7/17/75; Order 19, § 314-24-080, filed 8/10/72; Order 14, § 314-24-080, filed 12/1/70, effective 1/1/71; Order 5, § 314-24-080, filed 8/7/69, effective 9/8/69; Resolution No. 3, filed 9/8/64; Rule 66, filed 6/13/63.]

WAC 314-24-090 Wine labels. (1) Every package or container of wine intended for sale within the state of Washington shall bear a label in compliance with section 45 of the Washington State Liquor Act (RCW 66.28-.110). Such label shall show:

(a) The brand name of the wine.

(b) Class, type or other designation.

(c) The name and address of the bottler or packager, which shall be stated as follows "Bottled by _____" Where a bottler or packager has made not less than 75% of the wine in a particular package or container by crushing the grapes or other materials, fermenting the must and clarifying the resulting wine, there may be stated in lieu of the words "bottled by" the words "manufactured and bottled by" or "produced and bottled by." In addition to the name and address of the bottler or packager, but not in lieu thereof, there may be stated the name and address of the manufacturer or producer.

(d) The alcoholic content of the wine by volume, stated as provided in either (i) or (ii) below:

(i) "Alcohol _____% by volume."

(ii) "Alcohol _____% to _____% by volume."

(e) The net contents of the package or container: *Provided*, That the net contents need not be stated on any label if the net contents are displayed by having the same blown or branded in the package or container as the brand label, in letters or figures in such manner as to be plainly legible under ordinary circumstances, and such statement is not obscured in any manner in whole or in part.

(2) No label shall be used until after the same has been submitted to, and has received a written approval of, the board (see WAC 314-24-040).

(3) No label shall be used that is misleading or indicates that the retailer is the producer or bottler or packager thereof, and no label shall be used which contains the name of the seller or purveyor in any manner, and no "proprietary" label shall be used nor shall any label be restricted substantially to one retail outlet or to retail outlets under common ownership or associated together in, by or through a buying organization or agency or in any manner which represents a common identity to the public. The term "proprietary" label shall include any label which in the opinion of the board is being restricted in distribution by a wine wholesaler, and such restriction shall be found to exist when only token or minimal sales are made to retail licensees other than those to whom volume sales are obviously restricted, and when the label is not continuously offered and distributed to retail licensees generally in the same manner and to the same extent as unrestricted labels are offered and distributed.

[Order 5, § 314-24-090, filed 8/7/69, effective 9/8/69; Rule 67, filed 6/13/63.]

WAC 314-24-100 Domestic wineries--Responsibility for fruits used--Records. Every domestic winery shall keep proper records as required by the Bureau of Alcohol, Tobacco and Firearms, United States Treasury Department, in a form approved by the board showing the place of origin and/or purchase of all fruits and fruit products used by such winery in the manufacture of wine, which records shall be kept at the office of such winery and available at all times for inspection by the board.

[Statutory Authority: RCW 66.08.030, 86-11-014 (Order 184, Resolution No. 193), § 314-24-100, filed 5/13/86; Order 5, § 314-24-100, filed 8/7/69, effective 9/8/69; Rule 68, filed 6/13/63.]

WAC 314-24-105 Application procedure--Wine wholesaler's or importer's license. Any person making application for a new wine wholesaler's or importer's license shall submit to the board, as a condition precedent to the board considering the application, such information as may be requested by the board and shall additionally submit a written commitment from a manufacturer or importer that the product the applicant proposes to distribute is available to him should a license be issued.

The decision as to whether a license will or will not be issued in a particular case is, pursuant to RCW 66.24-.010, a matter of board discretion. The submission of the above information and written commitment shall not be construed as creating a vested right in the applicant to have a license issued.

[Order 55, § 314-24-105, filed 5/31/77, effective 7/1/77.]

WAC 314-24-110 Domestic wineries, wine wholesalers, wine importers--Monthly reports--Bonds required--Payment of tax. (1) Every domestic winery and every holder of a wine wholesaler's license must at all times when said license is in force, have in effect and on file with the board a bond executed by any surety authorized to do business in the state of Washington, in form and amount acceptable to the board. The said bond shall be payable to the Washington state liquor control board and conditioned that such domestic winery and wine wholesaler will pay to the board the tax of twenty and one-fourth cents per liter plus a seven percent surcharge, for a total of \$0.2167 per liter, levied by reason of RCW 66.24.210 and 82.02.030.

(2) Every person, firm or corporation holding a license to manufacture or produce wine within the state of Washington shall, on or before the twentieth day of each month, submit to the board, upon forms furnished by the board, reports showing all required information on transactions in wine manufactured or produced on the winery premises.

(3) At the time of making such monthly reports to the board, the domestic winery shall pay to the board the total wine tax and surcharge of \$0.2167 per liter on wine removed from federal bond for sale at retail on the winery premises, as provided in RCW 66.28.010 and 66.24-.170; on wine removed from federal bond for sale to retail licensees as provided in RCW 66.24.170; on wine removed from federal bond for furnishing as samples to authorized licensees for the purpose of negotiating a sale as provided in RCW 66.28.040; and on wine removed from federal bond for furnishing without charge to a not-for-profit group for the purpose of enology or the study of viticulture as provided in RCW 66.28.040: *Provided*, That such tax shall not apply to or be paid by a domestic winery on sales to Washington wine wholesalers, inter-winery shipments, shipments exported directly to a point outside the state of Washington, or sales to the Washington state liquor control board.

(4) Every person, firm or corporation holding a wine importer's license or a wine wholesaler's license in the state of Washington shall make a report to the board, upon forms furnished by the board, on or before the twentieth day of each month, of all wine that such importer or wholesaler has purchased and received during the preceding calendar month on which the wine tax has not been paid. The total tax and surcharge of \$0.2167 per liter shall be paid by the first wine wholesaler to receive the wine on which such tax has not been previously paid, including wine received as samples from outside the state of Washington and/or wine furnished as samples to authorized licensees for the purpose of negotiating a sale as provided in RCW 66.28.040, and shall be remitted to the board at the time of filing the monthly report required in this subsection. Such tax shall apply to sales by a wine wholesaler to the Washington state liquor control board. The report method of payment of tax shall be exclusive of any other method. Where a wine importer does not also hold a wine wholesaler's license, the wine importer shall pay the wine tax on any wines received and/or furnished as samples.

(5) Failure to make such report, or pay said total tax and surcharge where required, at the time prescribed will be sufficient cause for the board to forthwith suspend or cancel the license privilege of the delinquent domestic winery, wine importer, or wine wholesaler. A two percent penalty per month, or portion of a month, will be assessed on any tax payments postmarked after the twentieth day following the month of purchase. In addition, in case of any such tax delinquency, the board shall immediately give notice to the surety on such domestic winery or wine wholesaler's bond and shall take such action as is thereafter deemed necessary by the board to collect any of said tax which it finds is due.

(6) Wine wholesalers or wine importers who export wine to a point outside the geographical confines of the state of Washington upon which the tax imposed by RCW 66.24.210 and the surcharge as imposed by RCW 82.02.030 have been paid may claim a refund or tax credit of said tax on forms prescribed and furnished by the board. For the purpose of this regulation, wine sold and delivered to interstate commercial common passenger carriers holding licenses pursuant to chapter 245, Laws of 1975 1st ex. sess., or for use within the confines of any military reservation over which the state does not exercise jurisdiction shall be considered exported from the state. The wine tax shall not be paid on wine being shipped in interstate commerce from one point outside this state directly through the state to another point outside the geographical confines of this state.

(7) The board may make other arrangements for reporting and payment of total tax and surcharge where an in-state licensee purchases wine from within and/or without the state of Washington primarily for export from the state. Such arrangements would be on an individual basis and would be for the purpose of simplifying the reporting and accounting requirements.

[Statutory Authority: RCW 66.08.030 and 66.24.185. 85-24-042 (Order 170, Resolution No. 179), § 314-24-110, filed 11/27/85. Statutory Authority: RCW 66.08.030. 84-09-023 (Order 138, Resolution No. 147), § 314-24-110, filed 4/11/84. Statutory Authority: RCW 66.08.030 and 66.98.070. 81-22-026 (Order 85, Resolution No. 94), § 314-24-110, filed 10/28/81; Order 40, § 314-24-110, filed 8/21/75; Order 26, § 314-24-110, filed 8/14/73; Order 5, § 314-24-110, filed 8/7/69, effective 9/8/69; Rule 69, filed 6/13/63.]

WAC 314-24-115 Wine importers--Requirements.

(1) Principal office: Each wine importer shall keep the board informed at all times of the location of the principal office required by the Washington State Liquor Act and shall, not less than two days prior thereto notify the board in writing or by telegraph of any change in the location of such office.

(2) Warehouses: Wine importers maintaining warehouses at which wine imported by such importer is stored shall at all times keep the board advised of the location of such warehouses.

(3) Certain duties: No wine importer shall import or transport or cause to be transported into the state of Washington any brand of wine manufactured within the United States but outside the state of Washington, unless such importer shall have first filed with the board a notice of his intention so to do, and shall have ascertained from the board that the winery manufacturing such wine has obtained from the Washington state liquor control board a certificate of approval as provided in the Washington State Liquor Act (section 10, chapter 21, Laws of 1969 ex. sess.).

[Order 26, § 314-24-115, filed 8/14/73; Order 5, § 314-24-115, filed 8/7/69, effective 9/8/69; Rule 69, filed 6/13/63.]

WAC 314-24-120 Importer of foreign wine--United States wineries--Certificate of approval required--Monthly reports--Records. (1) Foreign wine. Wine manufactured outside of the United States may be imported by a wine importer under the following conditions:

(a) The wine importer must be the holder of a certificate of approval.

(b) The wine importer (certificate of approval holder) importing such wine must obtain label approval in accordance with WAC 314-24-040. Such wine shall be imported and delivered directly to either the warehouse of the importer (certificate of approval holder) or to some other warehouse previously designated by the importer and approved by the board.

(c) On or before the twentieth day of the month following such importation the importer (certificate of approval holder) shall report such importation to the board upon forms prescribed and furnished by the board.

(d) All matters pertaining to the importation, transportation, storage, keeping of records, and all other matters pertaining to the importation of wine manufactured outside the United States shall be subject at all times to such orders, rules and regulations as the board may from time to time prescribe, and the board reserves the right to make orders applicable to individual and particular cases in addition to general orders, rules and regulations applicable generally.

(e) Any wine importer (certificate of approval holder) holding a wine wholesaler's license should refer to WAC 314-24-110 for requirements on surety bond and payment of wine tax.

(2) Holders of certificate of approval--United States wineries, located outside of Washington state. Each winery holding a certificate of approval may ship wine to licensed wine importers only. As required by section 10, chapter 21, Laws of 1969 ex. sess., and by the written agreement embodied in the application for certificate of approval, each winery holding a certificate of approval shall, on or before the twentieth day of each month, furnish to the board a report of such shipments.

(a) Such report shall show the quantity of wine sold or delivered to each licensed wine importer during the preceding month, together with such other information as the board may require.

(b) All reports shall be made upon forms prescribed and furnished by the Washington state liquor control board.

(3) Failure to make such a report at the time and in the manner as prescribed will be sufficient cause for the board to forthwith suspend or revoke the certificate of the certificate of approval holder.

[Statutory Authority: RCW 66.08.030 and 66.98.070. 82-04-035 (Order 95, Resolution No. 104), § 314-24-120, filed 1/28/82; 81-22-026 (Order 85, Resolution No. 94), § 314-24-120, filed 10/28/81; Order 26, § 314-24-120, filed 8/14/73; Order 5, § 314-24-120, filed 8/7/69, effective 9/8/69; Rule 71, filed 6/13/63.]

WAC 314-24-130 Case lot sales. No domestic winery, wine wholesaler, wine importer, or certificate of approval holder shall sell or otherwise deliver wine to another domestic winery, wine wholesaler, and wine importer except in whole case lots, nor shall any such licensee receive from any other such licensee wine except in whole case lots.

[Order 5, § 314-24-130, filed 8/7/69, effective 9/8/69; Rule 72, filed 6/13/63.]

WAC 314-24-140 Sales to vessels. Tax paid wine may be sold direct by wine wholesalers to:

(1) Vessels engaged in foreign commerce and operating on regular schedules.

(2) Vessels engaged in interstate commerce and operating on regular schedules.

(3) Vessels commonly known as "tramps," engaged in interstate and/or foreign commerce but not operating on regular schedules and taking cargo when and where it offers and to any port.

Wine may not be sold direct by wine wholesalers to any other class of boat or vessel unless the boat or vessel is in possession of a proper retail license.

[Order 5, § 314-24-140, filed 8/7/69, effective 9/8/69; Rule 73, filed 6/13/63.]

WAC 314-24-150 Wine records--Preservation. (1) Every domestic winery, wine wholesaler, and wine importer shall keep wine accounts separate from other accounts, and keep a perpetual inventory by brand and type of wine, such inventory to be reconciled with a

physical inventory at the end of each month, and maintain proper records in a form approved by the board showing all transactions in wine.

(2) Every domestic winery, wine wholesaler, and wine importer, shall, in the case of sales of wine within the state, keep and preserve all invoices, bills of lading, sales slips, and other evidence of sale, in the office of the domestic winery, wine wholesaler or wine importer for at least two years after each sale.

(3) Every domestic winery, wine wholesaler, and wine importer, shall, in the case of wine exported from the state, keep and preserve all bills of lading and other evidence of shipment in the office of the domestic winery, wine wholesaler, or wine importer for at least two years after each shipment.

(4) In the case of sales, transfers or shipments of wine between a domestic winery and a wine wholesaler, or between two domestic wineries, or between two wine wholesalers, or between a wine importer and a wine wholesaler, both the shipping and receiving licensees, as the case may be, shall keep and preserve all invoices, bills of lading, sales slips, and other evidence of sale, transfer or shipment in their respective offices for at least two years after each sale, transfer or shipment.

[Order 5, § 314-24-150, filed 8/7/69, effective 9/8/69; Rule 75, filed 6/13/63.]

WAC 314-24-160 Domestic wineries—Retail sales of wine on winery premises—Wine served without charge on premises—Class H restaurant operation. (1) A domestic winery holding a proper retail license, pursuant to chapter 66.24 RCW, may sell wine of its own production at retail on the winery premises: *Provided*, That wine so sold at retail shall be subject to the tax imposed by RCW 66.24.210, and to reporting and bonding requirements as prescribed by RCW 66.28.010 and WAC 314-24-110 (Rule 69).

(2) In selling wine of its own production at retail on its premises as provided in subsection (1) of this regulation, a domestic winery shall conduct such operation in conformity with the statutes and regulations which apply to holders of such wine retailers' licenses. The winery shall maintain records of its retail operation separate from other winery operation records.

(3) Upon written authorization of the board, pursuant to RCW 66.04.011, wine of a domestic winery's own production and/or liquor products other than wine of a licensee's own production may be consumed in designated parks and picnic areas adjacent to and held by the same ownership as the domestic winery.

(4) A domestic winery or a lessee of a licensed domestic winery operating a Class H restaurant, licensed pursuant to RCW 66.28.010, shall conduct such operation in conformity with the statutes and regulations which apply to holders of such Class H licenses.

(5) A domestic winery may serve wine without charge on the winery premises as authorized by RCW 66.28.040. Such wine served without charge as provided herein is not subject to the tax imposed by RCW 66.24.210.

(6) No retail license or fee is required for the holder of a domestic winery license to serve wine without charge on the winery premises as set forth in subsection (5) of this regulation. Before exercising this privilege, however, such winery shall obtain approval of the proposed service area and facilities. Such winery shall maintain a separate record of all wine so served.

[Statutory Authority: RCW 66.08.030. 86-12-023 (Order 190, Resolution No. 199), § 314-24-160, filed 5/28/86; Order 61, § 314-24-160, filed 12/6/77; Order 40, § 314-24-160, filed 8/21/75; Order 5, § 314-24-160, filed 8/7/69, effective 9/8/69; Rule 76, filed 6/13/63.]

WAC 314-24-170 Cash sales. No wine wholesaler shall sell or deliver any wine to any retailer within the state except for cash paid at the time of the delivery of such wine: *Provided*, That in individual and particular cases, upon consent of the board first had and obtained, in writing, cash may be paid prior to the delivery of wine sold to any retailer.

[Order 24, § 314-24-170, filed 6/28/73; Order 5, § 314-24-170, filed 8/7/69, effective 9/8/69; Rule 77, filed 6/13/63.]

WAC 314-24-180 Wine wholesalers, wine importers—Certain rights granted. (1) Wine wholesalers may sell to the board, export wine from the state, and purchase wine from or sell wine to another wine wholesaler.

(2) Wine importers may sell to the board, export wine from the state, or sell to wine wholesalers, but may not sell to another wine importer.

[Order 5, § 314-24-180, filed 8/7/69, effective 9/8/69; Rule 78, filed 6/13/63.]

WAC 314-24-190 Wine wholesale price posting. (1) Every wine wholesaler shall file with the board at its office in Olympia a wine price posting, showing the wholesale prices at which any and all brands of wine offered for sale by such wine wholesaler shall be sold to retailers within the state.

(2) All price postings must be received by the board not later than the tenth day of the month, and if approved will become effective on the first day of the calendar month following the date of such filing. An additional period, not to exceed five days will be allowed for revision of such posting to correct errors, omissions, or to meet competitive prices filed during the current posting period, but a revised posting must be on file at the board office by not later than the fifteenth day of the month in order to become effective on the first day of the next calendar month: *Provided*, That the board may in individual cases, for good cause shown, extend the date on which the filings required by the rules are to be received by the board.

When any price posting to be filed with the board under the provisions of this rule has been deposited in the United States mail addressed to the board, it shall be deemed filed or received on the date shown by the post office cancellation mark on the envelope containing it or on the date it was mailed if proof satisfactory to the board establishes that the actual mailing occurred on an earlier date.

(3) Filing date exception—Whenever the tenth day of any month falls on Saturday, Sunday or a legal holiday, an original price posting may be filed not later than the close of business the next business day.

(4) In the event that a wine wholesaler determines to make no changes in any items or prices listed in the last filed and approved schedule, such prices listed in the schedule previously filed and in effect, shall remain in effect for each succeeding calendar month until a revised or amended schedule is filed and approved, as provided herein.

Provision for filing of temporary price reductions—In the event a wine wholesaler elects to file postings listing selected items on which prices are temporarily reduced for a period of one calendar month only such filing shall be made on special forms provided for such purpose and clearly reflect all items, the selling price thereof, and the month for which the price reductions will be in effect. At the expiration of the month during which such reductions were effective the special filing will become void and the last regularly filed and effective price schedule shall again become effective until subsequently amended pursuant to regular filing dates.

(5) Postings shall be submitted upon forms prescribed and furnished by the board, or a reasonable facsimile thereof, and shall set forth:

(a) All brands, types and sizes of packages or containers of wine offered for sale in this state by such wine wholesaler, which packages or containers shall be limited to the sizes permitted in WAC 314-24-080.

(b) The wholesale prices thereof within the state, which prices shall include the state wine tax plus surcharge of \$0.2167 cents per liter imposed under RCW 66.24.210 and 82.02.030.

(6) No wine wholesaler shall sell or offer for sale any package or container of wine at a price differing from the price of such item as shown in the price posting then in effect.

(7) Quantity discounts are prohibited. No price shall be posted which is below acquisition cost plus ten percent of acquisition cost.

(8) Wholesale prices on a "close-out" item shall be accepted by the board when the item to be discontinued has been listed on the state market for a period of at least six months, and upon the further condition that the wholesaler who posts such a "close-out" price shall not restock the item for a period of one year following the first effective date of such "close-out" price.

(9) If an existing written contract or memorandum of oral agreement between a domestic winery, certificate of approval holder, wine importer, or wine wholesaler and a wine wholesaler, as filed in accordance with WAC 314-24-200, is terminated by either party, and a new written contract or memorandum of oral agreement is made by such a supplier with another wine wholesaler in the affected trade area, the board, after receiving such new written contract or memorandum of oral agreement, and a corresponding wholesale price posting from the newly designated wine wholesaler, may put such filings into effect immediately: *Provided*, That prices and other conditions of any such filings which are in effect at the time

of such termination shall not be changed prior to the next applicable filing period.

(10) When a new wine wholesaler's license is issued for the first time by the board, the holder thereof may file an initial price schedule and request that such posting be placed into effect immediately. The board may grant such approval, providing that such posting is in compliance with all other applicable regulatory requirements, and that contracts and memoranda are on file, in accordance with WAC 314-24-200.

(11) The board may reject any price posting or portion thereof which it deems to be in violation of this or any other regulation or which would tend to disrupt the orderly sale and distribution of wine. Whenever the board shall reject any posting the licensee submitting said posting may be heard by the board and shall have the burden of showing that the posting is not in violation of regulation and/or does not tend to disrupt the orderly sale and distribution of wine. Thereupon if said posting is accepted it shall become effective at a time fixed by the board. If said posting or portion thereof is rejected the last effective posting shall remain in effect until such time as an amended posting is filed and approved in accordance with the provisions of this regulation.

(12) Any wine wholesaler or employee authorized by his wholesaler-employer may sell wine at the wholesaler's posted prices to any Class C, F, H, or J licensee upon presentation to such wholesaler or employee at the time of purchase of a special permit issued by the board to such licensee.

(a) Every Class C, F, H, or J licensee, upon purchasing any wine from a wholesaler, shall immediately cause such wine to be delivered to his licensed premises, and he shall not thereafter permit such wine to be disposed of in any manner except as authorized by his license.

(b) Wine sold as provided herein shall be delivered by such wholesaler or his authorized employee either to such retailer's licensed premises or directly to such retailer at the wholesaler's licensed premises: *Provided*, however, That a wholesaler's prices to retail licensees shall be the same at both places of delivery.

(13) All price postings filed as required by this regulation shall at all times be open to inspection to all trade buyers within the state of Washington and shall not in any sense be considered confidential.

[Statutory Authority: RCW 66.08.030, 66.98.070 and 66.08.060. 86-16-060 (Order 173, Resolution No. 182), § 314-24-190, filed 8/5/86. Statutory Authority: RCW 66.08.030. 82-16-069 (Order 91, Resolution No. 100), § 314-24-190, filed 8/2/82. Statutory Authority: RCW 66.08.030 and 66.98.070. 81-22-026 (Order 85, Resolution No. 94), § 314-24-190, filed 10/28/81. Statutory Authority: RCW 66.08.030, 66.08.060 and 66.98.070. 78-02-056 (Order 62), § 314-24-190, filed 1/20/78, effective 7/1/78; Order 54, § 314-24-190, filed 5/24/77, effective 7/1/77; Order 51, § 314-24-190, filed 12/15/76; Order 26, § 314-24-190, filed 8/14/73; Order 18, § 314-24-190, filed 1/13/72, effective 2/14/72; Order 15, § 314-24-190, filed 5/13/71, effective 7/1/71; Order 5, § 314-24-190, filed 8/7/69, effective 9/8/69; Rule 81, filed 6/13/63.]

WAC 314-24-200 Wine suppliers' price filings, contracts and memoranda. (1) Every domestic winery shall file with the board at its office in Olympia a copy of every written contract and a memorandum of every

oral agreement which such winery may have with any wine wholesaler, which contracts or memoranda shall contain a schedule of the prices charged to wholesalers for all items. Requirements for including or omitting from such prices the wine tax plus surcharge of \$0.2167 cents per liter, imposed under RCW 66.24.210 and 82.02.030, are set forth in subsection (8) of this section. Contracts and memoranda required to be filed under this subsection must list all terms of sale, including all regular and special discounts; all advertising, sales and trade allowances; and all commissions, bonuses or gifts and any and all other discounts or allowances. Whenever changed or modified such revised prices, contracts or memoranda shall be filed with the board, as provided in this regulation.

Each price schedule shall be made on a form prepared and furnished by the board, or a reasonable facsimile thereof, and shall set forth all brands, types, packages and containers of wine offered for sale by such licensed domestic winery; all additional information required may be filed as a supplement to said price schedule forms.

(2) Filing date—All written contracts and memoranda of oral agreements must be received by the board not later than the twenty-fifth day of the month, and if approved will become effective on the first day of the second calendar month following the date of such filing. An additional period will be allowed for revision of such filings to correct errors and omissions, or to meet competitive prices, filed during the current posting period, but a revised contract or memorandum of oral agreement must be on file with the board not later than the first day of the month in order to become effective on the first day of the next calendar month: *Provided*, That the board may in individual cases, for good cause shown, extend the date on which the filings required by the rules are to be received by the board.

When any price posting to be filed with the board under the provisions of this rule has been deposited in the United States mail addressed to the board, it shall be deemed filed or received on the date shown by the post office cancellation mark on the envelope containing it or on the date it was mailed if proof satisfactory to the board establishes that the actual mailing occurred on an earlier date.

(3) Filing date exception—Whenever the twenty-fifth day of any month falls on Saturday, Sunday, or a legal holiday, an original contract or memorandum of oral agreement may be filed not later than the close of business the next business day.

(4) Exceptions for changes in wholesalers and newly licensed wholesalers are set forth in WAC 314-24-190 (9) and (10).

(5) In the event that a domestic winery determines to make no changes in any contracts or memoranda last filed and then in effect, such contracts or memoranda shall remain in effect for each succeeding calendar month until revised or amended contracts or memoranda are filed and placed into effect as provided herein.

Provision for filing of temporary price reductions—In the event a licensed domestic winery elects to file postings listing selected items on which prices are temporarily reduced for a period of one calendar month only such filing shall be made on special forms provided for such purpose and clearly reflect all items, the selling price thereof, and the month for which the price reductions will be in effect. At the expiration of the month during which such reductions were effective the special filing will become void and the last regularly filed and effective price schedule shall again become effective until subsequently amended pursuant to regular filing dates.

(6) Prices filed by a domestic winery shall be uniform prices to all wholesalers on a statewide basis less bona fide allowances for freight differentials. Quantity discounts are prohibited. No price shall be filed which is below acquisition cost plus ten percent of acquisition cost: *Provided*, That acquisition cost plus ten percent of acquisition cost shall not apply to sales of wine between a wine importer who sells wine to a wine wholesaler, or to a wine wholesaler who sells wine to another wine wholesaler.

(7) The provisions set forth in subsections (1), (2), (3), (4), (5) and (6) of this section shall also apply to written contracts and memoranda of oral agreements which must be filed with the board by certificate of approval holders who sell wine to wine importers; wine importers who sell to wine wholesalers; and wine wholesalers who sell to other wine wholesalers: *Provided*, That the provisions of this subsection shall not apply, and filing will not be required, in the instance of wine wholesalers making accommodation sales to other wine wholesalers when such sales are made at a selling price not to exceed the laid-in cost of the wine being sold. Accommodation sales may only be made when the wholesaler purchasing the wine is an authorized purchaser of the brand and product being sold, having been designated as an authorized purchaser by the manufacturer or importer of the product being sold, as demonstrated by an existing contract or memorandum on file and in effect under the provisions of this rule.

(8) The wine tax plus surcharge, imposed under RCW 66.24.210 and 82.02.030, is not to be included in the prices filed as required by subsection (1) of this section by (a) a domestic winery, nor (b) by a certificate of approval holder who is not licensed as a wine wholesaler, nor (c) a wine importer who is not licensed as a wine wholesaler.

Every wine wholesaler who sells wine to another wine wholesaler shall include such tax in the prices posted on such required schedules.

(9) No domestic wineries, certificate of approval holders, wine importers, or wine wholesalers shall sell any wine to any persons whatsoever in this state until copies of such written contracts or memoranda of such oral agreements are on file with the board.

(10) Certificate of approval holders may ship wine into this state when the same has been sold and consigned to the holder of an importer's license at his licensed premises. The bill of lading covering such consignment shall not be changed or the wine diverted

unless such diversion is to another importer, and the board so notified immediately.

(11) The board may reject any supplier's price filing, contract or memorandum of oral agreement or portion thereof which it deems to be in violation of this or any other regulation or which would tend to disrupt the orderly sale and distribution of wine. Whenever the board shall reject any such price filing, contract or memorandum of oral agreement the licensee submitting said price filing, contract or memorandum may be heard by the board and shall have the burden of showing that the said price filing, contract or memorandum is not in violation of regulation and/or does not tend to disrupt the orderly sale and distribution of wine. Thereupon if said price filing, contract or memorandum is accepted it shall become effective at a time fixed by the board. If said price filing, contract or memorandum or portion thereof is rejected the last effective price filing, contract or memorandum shall remain in effect until such time as an amended price filing, contract or memorandum is filed and approved, in accordance with the provisions of this regulation.

(12) All prices, contracts and memoranda filed as required by this regulation shall at all times be open to inspection to all trade buyers within the state of Washington and shall not in any sense be considered confidential.

[Statutory Authority: RCW 66.08.030. 87-01-014 (Order 207, Resolution No. 216), § 314-24-200, filed 12/9/86. Statutory Authority: RCW 66.08.030, 66.98.070 and 66.08.060. 86-16-060 (Order 173, Resolution No. 182), § 314-24-200, filed 8/5/86. Statutory Authority: RCW 66.08.030. 82-16-069 (Order 91, Resolution No. 100), § 314-24-200, filed 8/2/82. Statutory Authority: RCW 66.08.030 and 66.98.070. 81-22-026 (Order 85, Resolution No. 94), § 314-24-200, filed 10/28/81; Order 54, § 314-24-200, filed 5/24/77, effective 7/1/77; Order 51, § 314-24-200, filed 12/15/76; Order 26, § 314-24-200, filed 8/14/73; Order 15, § 314-24-200, filed 5/13/71, effective 7/1/71; Order 5, § 314-24-200, filed 8/7/69, effective 9/8/69; Rule 82, filed 6/13/63.]

WAC 314-24-210 Return of wine by retailer--Replacement--Conditions. No wine shall be returned by any retail licensee to any wine wholesaler except as herein provided.

(1) Wine which is not in a salable condition may be returned by a retail licensee to the wine wholesaler from whom purchased, provided it is immediately replaced by the wine wholesaler with an identical quantity, type and brand of wine: *Provided*, That if the brand of wine is not presently in the wine wholesaler's stock and is not available to the wholesaler in the immediate future, a cash refund may be made to the retail licensee upon the approval of the board first being obtained.

(a) Every wine wholesaler shall maintain on the licensed premises for a period of two years complete records of all refunds and exchanges made under this section including an inventory of unsalable wine returned to such wholesaler by any retail licensee.

(b) Such unsalable wine which requires reconditioning or destruction shall be returned by the wine wholesaler to the domestic winery which manufactured or produced the same, or to the importer who imported such wine.

When wine which has been returned to a domestic winery by any person for reconditioning or destruction has been assembled at the winery, a complete inventory in duplicate of unsalable wine shall be filed with the board by the winery with a request that inspection be made of the returned wine before the reconditioning process or destruction is started. When wine has been returned by the wholesaler to the importer who imported such wine, a complete inventory of said wine shall be filed in duplicate with the board by the importer with a request that inspection be made of the returned wine before the wine is destroyed or returned to the out-of-state manufacturer.

(c) Wine which is not in a salable condition and has been returned to a domestic winery or importer by a wholesaler may be replaced by the supplier with an identical quantity, type, and brand of wine: *Provided*, That if the brand of wine is not presently in the winery or importer's stock and is not available to the supplier in the immediate future, a cash refund or credit may be made to the wholesaler by the supplier. Credit extended for the return of product should be noted on a separate document from the original invoice. Except as provided herein, no other adjustment, by way of a cash refund or otherwise, shall be made by the winery or wine wholesaler.

(2) Wine may be returned by a retail licensee or by a governmental agency who has seized the same to the wine wholesaler selling such wine in the event the retailer goes out of the business of selling wine at retail, and in such case a cash refund may be made upon return of the wine, provided that consent of the board is first had and obtained.

(3) Wine different from that ordered which has been delivered in error to a retail licensee may be returned to a wine wholesaler and either replaced with that wine which was ordered or a cash refund may be made upon the approval of the board first being obtained: *Provided*, That the error in delivery shall be discovered and corrected within eight days of the date the delivery was made.

[Statutory Authority: RCW 66.08.030. 86-24-029 (Order 204, Resolution No. 213), § 314-24-210, filed 11/25/86. Statutory Authority: RCW 66.08.030 and 66.98.070. 82-17-022 (Order 109, Resolution No. 118), § 314-24-210, filed 8/9/82; Order 5, § 314-24-210, filed 8/7/69, effective 9/8/69; Rule 83, filed 6/13/63.]

WAC 314-24-220 Licensing and operation of bonded wine warehouses. (1) There shall be a license for bonded wine warehouses pursuant to RCW 66.24.185, and this type of license shall be known as a Class N license. Applications for a bonded wine warehouse license shall be on forms prescribed by the board and shall be accompanied by such information as the board may request including, but not limited to, a written description of the proposed method of shipping, receiving, inventory control, and security.

(2) The bonded wine warehouse shall be physically separated from any other use in such manner as prescribed by the board, and as a condition of license approval, the applicant must furnish the board appropriate

documentation indicating the location of the bonded wine warehouse is properly zoned for the intended use.

(3) A bonded wine warehouse may provide storage for a domestic winery and for a United States winery outside the state of Washington holding a Washington certificate of approval. The wine must be under federal bond, and the Washington wine tax provided in RCW 66.24.210 shall not be due until the wine is removed from bond and shipped to a licensed Washington wine wholesaler or, pursuant to RCW 66.12.020, to the liquor control board who will be responsible to pay the tax based on their purchases.

(4) Every bonded wine warehouse licensee shall have on file and available for inspection records of all wine transactions, including receipts and shipments of wine and the total inventory on hand at the bonded warehouse.

(5) Shipments from the bonded wine warehouse may only be made to licensed Washington wine wholesalers, the liquor control board, the producing winery, another bonded wine warehouse or for export. Invoicing shall be by the titleholder. The titleholder shall report shipments to, and returns from the bonded wine warehouse and sales to Washington wine wholesalers, and/or the liquor control board on the twentieth day of the month following the month of shipment and/or sale on forms furnished by, or acceptable to, the board.

(6) At no time shall title to wine stored at the bonded wine warehouse pass to the operator of the bonded wine warehouse.

(7) "Storage of bottled wine only" as used in RCW 66.24.185(1) shall mean the storage of wine packaged for sale at retail (i.e., other than in bulk form).

(8) As a condition precedent to license issuance, a bonded wine warehouse licensee shall guarantee payment to the state of any and all taxes under RCW 66.24.210 in the event the winery or other entity storing wine in the bonded wine warehouse fails to immediately pay such tax when due. Such guarantee shall be in the form of the bond referred to in subsection (9) of this section.

(9) As required by RCW 66.24.185(5) every holder of a bonded wine warehouse license must, at all times when said license is in force, have in effect and on file with the board a bond executed by a surety authorized to do business in the state of Washington, in a form approved by the board and in the amount of five thousand dollars.

[Statutory Authority: RCW 66.08.030 and 66.24.185. 85-24-042 (Order 170, Resolution No. 179), § 314-24-220, filed 11/27/85. Statutory Authority: RCW 66.24.185, 66.08.030 and 66.98.070. 85-10-029 (Order 158, Resolution No. 167), § 314-24-220, filed 4/24/85.]

Chapter 314-26 WAC UNALABLE BEER AND WINE

WAC
314-26-010 Procedures for tax refunds.

(1986 Ed.)

WAC 314-26-010 Procedures for tax refunds. The board may refund the tax on beer imposed by RCW 66.24.290, and the tax on wine imposed by RCW 66.24.210, when such taxpaid products have been deemed to be unsalable due to freight damage or other causes prior to sale to consumers, and are destroyed within the state. Such tax refunds are subject to the following conditions:

(1) An applicant for such refund shall notify the board of his intention to destroy any such product, and furnish specific information concerning the proposed destruction of such stock.

(2) No tax refund will be authorized for unsalable beer or wine unless the board has verified that such product because of its condition is unfit for sale, and that such taxes have been paid to the state.

(3) The quantity of beer or wine involved in such a request for tax refund, the amount of such refund, and observation of the actual destruction of such stock must be confirmed by an authorized employee of the board before any such tax refund is granted.

[Order 40, § 314-26-010, (Rule 83.5), filed 8/21/75.]

Chapter 314-27 WAC INTERSTATE COMMERCIAL COMMON PASSENGER CARRIERS

WAC
314-27-010 Liquor purchases by Class CCI licensees—Reports—
Payment of markup and taxes—Sales by in-state
beer and wine suppliers.

WAC 314-27-010 Liquor purchases by Class CCI licensees—Reports—Payment of markup and taxes—Sales by in-state beer and wine suppliers. (1) Any employee authorized by the board and/or any licensed importer and/or wholesaler may sell liquor to the holder of a Class CCI license upon presentation of a special permit issued by the board to such licensee.

(2) Sales of liquor by the board to such properly licensed interstate commercial common passenger carriers shall be treated as sales for export from the state and, as such, will not be subject to collection of the state liquor taxes at the time of purchase by the licensee.

(3) Every federally licensed interstate commercial common passenger carrier, holding a Class CCI-1 or a Class CCI-2 license pursuant to chapter 245, Laws of 1975 1st ex. sess., shall, on or before the fifteenth day of each month, make a report to the board, upon forms approved by the board, of all spirituous liquor, beer and wine served or sold at retail for passenger consumption by such common carrier within or over the territorial limits of the state of Washington during the preceding calendar month.

At the time of filing the report prescribed herein, such common carrier shall pay to the board the board's markup on spirituous liquor, and state liquor taxes as applicable, on such spirituous liquor, beer and wine so served or sold, in an amount to approximate the revenue that would have been realized from such markup and

taxes had such alcoholic beverages been purchased for use in the state.

(4) Holders of Class CCI-3 or Class CCI-4 licenses as provided in said chapter 245, Laws of 1975 1st ex. sess., are not authorized to serve or sell at retail spirituous liquor, beer or wine for passenger consumption within or over the territorial limits of the state, and are not subject to the provisions of subsection (3) of this section.

(5) Licensed beer and wine importers and wholesalers who sell beer or wine to such properly licensed interstate commercial common passenger carriers shall treat such sales as exports from the state. Such importers and wholesalers who have paid the taxes imposed by RCW 66.24.290 or 66.24.210 on beer or wine so sold may claim refund of the taxes under procedures set forth in WAC 314-20-010 or 314-24-110, as applicable.

[Statutory Authority: RCW 66.08.030 and 66.98.070. 82-17-022 (Order 109, Resolution No. 118), § 314-27-010, filed 8/9/82; Order 42, § 314-27-010, Rule 83.6, filed 11/6/75.]

Chapter 314-28 WAC FRUIT DISTILLERS

WAC
314-28-010 Records.

WAC 314-28-010 Records. All fruit distillers, whether operating under the general distiller's license or under the two hundred dollar license, provided in section 23-D of the Washington State Liquor Act (RCW 66.24.140), and who manufacture brandy or wine spirits intended for use by domestic wineries for brandy or wine spirits addition in the manufacture of wine, must keep separate records concerning such brandy or wine spirits on forms approved by the board, and such records must be kept separate and apart from any other records kept or required to be kept and maintained.

[Statutory Authority: RCW 66.08.030. 86-07-022 (Order 172, Resolution No. 181), § 314-28-010, filed 3/13/86; Order 14, § 314-28-010, filed 12/1/70, effective 1/1/71; Rule 84, filed 6/13/63.]

Chapter 314-32 WAC RECTIFIERS

WAC
314-32-010 Applicants—Federal permit required.
314-32-020 Duplicate records furnished board.
314-32-030 Adoption federal laws.

WAC 314-32-010 Applicants—Federal permit required. No manufacturer's (rectifier's) license shall be issued, until satisfactory evidence is furnished the board that the applicant holds all permits or authorization required by the federal government.

[Rule 85, filed 6/13/63.]

WAC 314-32-020 Duplicate records furnished board. Duplicate copies of monthly returns, transcripts,

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notices or other data, as required by the federal government, must be furnished the board not later than the tenth of each month. In addition thereto, such rectifiers shall furnish the board duplicate copies of the bills of lading, covering all shipments of the products of the licensee.

[Rule 86, filed 6/13/63.]

WAC 314-32-030 Adoption federal laws. All laws and rules and regulations of the federal government, or any subsequent modification thereof, applicable to the rectification of distilled spirits, wines, cordials, liquors, etc., are by reference hereby adopted and promulgated as the rules and regulations of this board.

[Rule 87, filed 6/13/63.]

Chapter 314-36 WAC

LIQUOR IMPORTERS, PUBLIC STORAGE WAREHOUSES AND IMPORTATION OF LIQUOR

WAC	
314-36-010	Sales between liquor importers.
314-36-020	Liquor importation—General.
314-36-030	Importation by licensed liquor importer.
314-36-040	Principal office—Record.
314-36-050	Customs bonded locker.
314-36-060	Public storage warehouses.
314-36-070	Storage of liquor.
314-36-080	Permit for private liquor storage warehouse.
314-36-090	Liquor shall be stored in original packages.
314-36-100	Removal of liquor.
314-36-110	Release of liquor.
314-36-120	Perpetual inventory—Copy to board.
314-36-130	Complete records kept.
314-36-140	Records open to inspection.
314-36-150	Special importation permit.

WAC 314-36-010 Sales between liquor importers. One licensed liquor importer may sell to, or purchase from, or exchange with, another licensed importer, intoxicating liquor for purposes of export only.

[Rule 88, filed 6/13/63.]

WAC 314-36-020 Liquor importation—General. No liquor shall be imported into this state unless such liquor be consigned to the Washington state liquor control board; or unless such liquor be consigned to a holder of a liquor importer's license and delivered at a public storage warehouse authorized by the Washington state liquor control board to store liquor, or at the warehouse of the holder of the liquor importer's license in those cases where the board has authorized storage at such warehouse. No carrier shall accept or deliver liquor except in accordance with this regulation: *Provided, however,* That this regulation shall not apply to importations of beer by the holder of a beer importer's license made under such license, nor to importations of alcohol, malt and other materials containing alcohol made by a manufacturer under the special permit authorized by section 12, subdivision (d) of the Washington State Liquor Act (RCW 66.20.010), nor to importations of wine by the holder of a wine importer's license made under such license.

[Order 5, § 314-36-020, filed 8/7/69, effective 9/8/69; Rule 89, filed 6/13/63.]

WAC 314-36-030 Importation by licensed liquor importer. Liquor imported by the holder of a liquor importer's license may be transferred direct from the importing carrier to an exporting carrier if the consent of the board is first obtained.

[Rule 90, filed 6/13/63.]

WAC 314-36-040 Principal office--Record. Each liquor importer shall establish and maintain a principal office within the state at which shall be kept full and complete records of all importations, storage, removals, and exportations of liquor, such records to be kept in such manner and in such form as the board shall from time to time prescribe. Each liquor importer shall keep the board informed at all times of the location of such principal office.

[Rule 91, filed 6/13/63.]

WAC 314-36-050 Customs bonded locker. Any public storage warehouse, having a customs bonded locker, and which wishes to accept liquor, except beer or wine, for storage must furnish to the Washington state liquor control board a bond in the penal sum of not less than five thousand dollars in form prescribed by the board, conditioned upon faithful performance and compliance with the Washington State Liquor Act and rules and regulations thereunder, and shall apply for a permit so to do.

[Order 5, § 314-36-050, filed 8/7/69, effective 9/8/69; Rule 92, filed 6/13/63.]

WAC 314-36-060 Public storage warehouses. No public storage warehouse shall receive or store or otherwise handle any liquor, except beer or wine, without first obtaining from the Washington state liquor control board a permit so to do.

[Order 5, § 314-36-060, filed 8/7/69, effective 9/8/69; Rule 93, filed 6/13/63.]

WAC 314-36-070 Storage of liquor. No public storage warehouse shall accept or store any liquor, except beer or wine, except upon the order of a licensed liquor importer or the Washington state liquor control board.

[Order 5, § 314-36-070, filed 8/7/69, effective 9/8/69; Rule 94, filed 6/13/63.]

WAC 314-36-080 Permit for private liquor storage warehouse. Any holder of a liquor importer's license, who maintains a storage warehouse exclusively for the storage of goods, wares or merchandise belonging to such holder, and who desires to store liquor imported under such liquor importer's license, shall apply to the board for a permit so to do. Such permit shall be granted only upon such terms and conditions as the board shall from time to time prescribe. If such permit be granted, such warehouse shall thereafter be known as a private liquor storage warehouse.

(1986 Ed.)

[Rule 95, filed 6/13/63.]

WAC 314-36-090 Liquor shall be stored in original packages. No shipments of liquor, except beer or wine, shall be accepted or stored in a private or public storage warehouse except in original packages.

[Order 5, § 314-36-090, filed 8/7/69, effective 9/8/69; Rule 96, filed 6/13/63.]

WAC 314-36-100 Removal of liquor. No liquor (except beer and wine) shall be removed from any storage warehouse, either public or private, except for sale and delivery to the board or for export from the state, or for delivery to persons, firms or corporations holding manufacturer's importation permits authorized by section 12, subdivision (d) of the Washington State Liquor Act (RCW 66.20.010(5)): *Provided, however,* That liquor may be removed from an authorized private liquor storage warehouse to a public storage warehouse, or may be removed from one authorized public storage warehouse to another authorized public storage warehouse, or may be removed from an authorized public storage warehouse to the authorized private liquor storage warehouse of the owner of the liquor. Liquor importers may remove liquor for sample purposes only, but only after permission thereto has been specifically granted by the board or its accredited representatives. Any and all removals of liquor must be made in full compliance with the Washington State Liquor Act, and the rules and regulations of the board.

[Order 5, § 314-36-100, filed 8/7/69, effective 9/8/69; Rule 97, filed 6/13/63.]

WAC 314-36-110 Release of liquor. No public storage warehouse shall release any liquor, except beer or wine, for delivery to anyone other than the Washington state liquor control board or for shipment to a consignee outside the state of Washington, or for delivery to another authorized public storage warehouse, or to the authorized private liquor storage warehouse of the owner of the liquor, or to persons, firms or corporations holding manufacturer's importation permits authorized by section 12, subdivision (d) of the Washington State Liquor Act (RCW 66.20.010(5)): *Provided, however,* That liquor may be delivered to liquor importers for sample purposes under such conditions as the board may from time to time prescribe, and may be delivered to holders of liquor importer's licenses for export under regulation (88) of these regulations.

[Order 5, § 314-36-110, filed 8/7/69, effective 9/8/69; Rule 98, filed 6/13/63.]

WAC 314-36-120 Perpetual inventory--Copy to board. Each public storage warehouse shall keep a perpetual inventory of all stocks of liquor and a certified copy of the physical inventory shall be mailed to the board not later than the tenth of each month, showing stock on hand at the close of the preceding month and at such other times as the board may require.

[Rule 99, filed 6/13/63.]

WAC 314-36-130 Complete records kept. Each public storage warehouse shall keep full and complete records showing all liquor received for storage, together with all removals and exportations thereof, such records to be kept in such manner and in such form as the board shall prescribe, and in case of removal, releases or shipments, shall preserve, subject to the order of the board, all bills of lading or certified copies thereof, and all authorizations of the board for withdrawals of samples.

[Rule 100, filed 6/13/63.]

WAC 314-36-140 Records open to inspection. The books and records pertaining to liquor receipts, storage and shipments, shall at all times be open for inspection by the board or its authorized representatives, who shall have access to the warehouse at any time during business hours for the purpose of inspecting records and checking inventory.

[Rule 101, filed 6/13/63.]

WAC 314-36-150 Special importation permit. Each manufacturer holding a special permit under section 12(d) of the Washington State Liquor Act (RCW 66.20.010(5)) to import alcohol, malt and other materials containing alcohol to be used in the manufacture of liquor or other products, shall notify the board of the location of their principal office within the state, at which office shall be kept full and complete records of all transactions pertaining to the importation of alcohol, malt and other materials containing alcohol and the disposition thereof, in a form approved by the board.

[Rule 102, filed 6/13/63.]

Chapter 314-37 WAC LIQUOR VENDORS

WAC

- 314-37-010 Liquor sales in Indian country—Appointment of tribal liquor vendors—Qualifications.
314-37-020 Manufacturer's on site vending appointment—Qualifications.

WAC 314-37-010 Liquor sales in Indian country—Appointment of tribal liquor vendors—Qualifications. (1) The Washington state liquor control board deems it necessary and advisable to adopt this rule for the following reasons:

(a) The decision of the United States Supreme Court in the case of *Rice v. Rehner* (filed July 1, 1983) has established that the state of Washington has licensing jurisdiction over tribal liquor sales in Indian country and that those sales, when made in conformity with federal law, are subject to both tribal and state liquor regulatory requirements.

(b) It is contrary to state law (see chapter 66.44 RCW) for purchasers of Indian liquor to remove that liquor from the reservation and into the state of Washington in those instances where the tribal liquor sellers are not authorized by the board to sell liquor.

(2) Accordingly, pursuant to RCW 66.08.050(2), the Washington state liquor control board will appoint qualifying Indian tribes, which have entered into negotiated business agreements with the board, as liquor vendors which will authorize those vendor tribes to sell liquor by the bottle to such persons, firms or corporations as may be sold liquor from a state liquor store. All such appointments will be subject to the following conditions:

(a) The tribe must enter into a business agreement with the Washington state liquor control board for the purchase and sale of liquor which will insure that the state's control over liquor traffic will be maintained while taking into consideration the unique nature of a tribal liquor vendor operation.

(b) The tribe must purchase all of its spirituous liquor for resale in Indian country from the board at a negotiated price: *Provided*, That a quota of spirituous liquor will be sold by the board each year to the vendor tribe without the payment of state taxes, which quota shall be negotiated between the board and the qualified tribes and approved by the department of revenue.

(c) The tribe must have in force a tribal ordinance governing liquor sales, which ordinance must have been certified by the Secretary of the Interior and published in the Federal Register as required by 18 U.S.C. § 1161.

(d) The tribe must make all liquor sales in Indian country in conformity with both state and federal law.

(3) Should a tribe which has been appointed as a liquor vendor pursuant to this section fail to comply with all the above enumerated conditions, which shall be construed as continuing requirements to maintain the status of liquor vendor, the appointment of that tribe as a liquor vendor may be revoked by the board.

(4) A tribe, whether or not it has status as an Indian liquor vendor, which desires to sell beer and wine purchased from a licensed wholesaler must obtain state licenses for the sale of beer and wine and must abide by all state laws and rules applicable to sale of beer and wine by state licensees. Tribes selling beer and wine shall collect and remit to the state department of revenue the retail sales tax imposed by RCW 82.08.020 on retail sales of beer and wine to nontribal members.

(5) "Indian country" as used herein shall have the meaning ascribed to it in Title 18 U.S.C. § 1151 as qualified by Title 18 U.S.C. § 1154 as of July 1, 1983.

[Statutory Authority: RCW 66.08.030 and 66.08.050(2), 83-24-021 (Order 131, Resolution No. 140), § 314-37-010, filed 11/30/83; 83-04-017 (Order 118, Resolution No. 127), § 314-37-010, filed 1/26/83.]

WAC 314-37-020 Manufacturer's on site vending appointment—Qualifications. (1) Pursuant to RCW 66.08.050, the board, in its discretion, may appoint a domestic winery which also manufactures liquor products other than wine pursuant to a license under Title 66 RCW, as a vendor for the purpose of sale of liquor products of its own manufacture on the licensed premises only.

(2) Such appointment may not be made to domestic wineries located inside incorporated cities or towns in which there is a state liquor store.

(3) Such appointment shall only be made after a contract has been entered into between the board and the domestic winery. Such contract shall contain the following:

(a) A designation of the location on the licensed premises from which the sales will be made;

(b) A designation of the nonwine products manufactured by the winery which will be sold under the appointment;

(c) That the manufacturer/vendor shall not be considered an employee of the state for any purpose;

(d) That the manufacturer/vendor shall agree to hold the state harmless from any and all claims resulting from operation of the manufacturer's on site vendorship; and

(e) Such other aspects of the appointment relationship as the parties may agree to.

(4) All sales made under a manufacturer's on site vending appointment shall be made at the prices established by the board for sales of the same product through state liquor stores and agencies.

(5) All sales made under a manufacturer's on site vending appointment shall be subject to all applicable state taxes.

[Statutory Authority: RCW 66.08.050(2), 86-07-023 (Order 180, Resolution No. 189), § 314-37-020, filed 3/13/86.]

Chapter 314-38 WAC PERMITS

WAC

314-38-010	Special permit to consume liquor on the premises of a business not licensed under Title 66 RCW.
314-38-020	Permits—Fees established.
314-38-030	Fee for replacement of a lost or destroyed license or permit.

WAC 314-38-010 Special permit to consume liquor on the premises of a business not licensed under Title 66 RCW.

(1) The special permit provided by RCW 66.20.010(4) to consume liquor on the premises of a business not licensed under Title 66 RCW shall only be issued to businesses at which the service and consumption of liquor is incidental to, and does not form a portion of, the service the business is engaged in producing or marketing. The permit shall not be used by the holder thereof for purposes of stimulating or increasing business from the general public.

(2) Each permit shall be issued for a period of twelve months from the first day of the month in which it is issued. The fee for each permit issued shall be five hundred dollars.

(3) The permit shall be issued for, and service and consumption of liquor will be limited to, specified hospitality rooms and/or dining rooms which shall be on the premises of the business applying for the permit. A separate permit is required for each business premises at which liquor is to be served or consumed. The general public shall not be permitted in the hospitality or dining room at any time during the service or consumption of liquor.

(1986 Ed.)

(4) The permit will authorize the service and consumption of liquor, without charge, by employees and invited guests of the business holding the permit. No sale of liquor will be authorized in any manner, whether by scrip, donation, contribution, or otherwise. No charge of any kind may be made by the permittee to invited guests for admission to the hospitality or dining room, or for any meals or other services provided to them in the hospitality or dining room.

(5) All liquor served or consumed under the permit shall be purchased from a Washington state licensed retailer or a Washington state liquor store or agency at full retail price.

(6) The permit shall be issued in the name of the business applying for it, and that business shall not allow any other person, business, or organization to utilize the permit. The issuance of any permit 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 permittee shall be deemed a lack of good faith and shall constitute good and sufficient cause for the disapproval of a permit application or for the revocation or suspension of any permit issued by the board.

[Statutory Authority: RCW 66.08.030 and 66.20.010, 82-13-068 (Order 106, Resolution No. 115), § 314-38-010, filed 6/16/82.]

WAC 314-38-020 Permits—Fees established. The fees for permits authorized under RCW 66.20.010 are hereby established as follows:

(1) A fee of five dollars is established for a special permit as authorized by RCW 66.20.010(1).

(2) The fee for a special permit as authorized by RCW 66.20.010(2) for purchase of five gallons or less is established as five dollars and for purchase of over five gallons is established as ten dollars.

(3) A fee for a banquet permit, as authorized by RCW 66.20.010(3), is established in WAC 314-18-040.

(4) The fee for a special business permit, as authorized by RCW 66.20.010(4), is established in WAC 314-38-010(2).

(5) The fee of ten dollars is established for a special permit as authorized by RCW 66.20.010(5).

(6) A fee of five dollars is established for a special permit as authorized by RCW 66.20.010(6).

(7) A special permit as authorized by RCW 66.20.010(7) shall be issued without charge to those eligible entities.

(8) The fee of twenty-five dollars is established for a special permit as authorized by RCW 66.20.010(8).

(9) The fee of twenty-five dollars is established for a special permit as authorized by RCW 66.20.010(9).

(10) The fee of thirty dollars is established for a special permit as authorized by RCW 66.20.010(10).

(11) The fee of seventy-five dollars is established for a special permit as authorized by RCW 66.20.010(11).

[Statutory Authority: RCW 66.08.030, 66.20.010 and 66.98.070, 84-14-028 (Order 145, Resolution No. 154), § 314-38-020, filed 6/27/84; 83-23-123 (Order 133, Resolution No. 142), § 314-38-020, filed 11/23/83.]

[Title 314 WAC—p 55]

WAC 314-38-030 Fee for replacement of a lost or destroyed license or permit. (1) A fee of five dollars is established for replacement by the board of a lost or destroyed agent's license issued pursuant to RCW 66.24.310.

(2) The fee of five dollars is established for replacement by the board of a lost or destroyed retail or wholesale liquor license of any class.

[Statutory Authority: RCW 66.08.030, 66.20.010 and 66.98.070. 83-23-123 (Order 133, Resolution No. 142), § 314-38-030, filed 11/23/83.]

Chapter 314-40 WAC

CLUBS

WAC

314-40-010	Operations under retail licenses.
314-40-020	Applications.
314-40-030	Constitution—Bylaws—House rules.
314-40-040	Guest and courtesy cards—Visitors.
314-40-050	Records.
314-40-060	Club property and finances—Concessions.
314-40-070	Club roster—List of officers.
314-40-080	Designated portion of club used for service and consumption of liquor.

DISPOSITION OF SECTIONS FORMERLY CODIFIED IN THIS CHAPTER

314-40-090	Soliciting advertising—Special events—Exterior signs. [Rule 111, filed 6/13/63.] Redesignated as WAC 314-52-115 by Order 10, filed 10/27/70, effective 11/27/70.
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WAC 314-40-010 Operations under retail licenses. Clubs operating under any class of retail license shall govern their operations in selling liquor in accordance with the regulations set forth in Title II, applicable to all retail licensees, except as otherwise specifically provided in this title. Such clubs may sell liquor only to members, visitors and guests as specified in these regulations. Licensed clubs shall not be prohibited from renting, leasing or donating all or a portion of their facilities for, or making services available to, a nonclub activity where the public is invited or admitted under conditions as permitted by WAC 314-40-080.

[Statutory Authority: RCW 66.08.030 and 66.98.070. 82-13-069 (Order 107, Resolution No. 116), § 314-40-010, filed 6/16/82; Order 23, § 314-40-010, filed 7/3/73; Rule 103, filed 6/13/63.]

WAC 314-40-020 Applications. (1) Applications for new club licenses shall be accompanied by proof that:

(a) The organization is bona fide and nonprofit;

(b) The organization has been in operation for at least one year immediately prior to the date of its application, such proof to consist of records of (i) membership, (ii) meetings of trustees or directors at least every month and membership meetings at least once a year, (iii) the location of such meetings, and (iv) such other data as is necessary to establish that the organization has been active for at least one year prior to its application;

(c) The application is approved by a majority of the members which approval shall be indicated by presentation to the board of a petition bearing the names of such members desiring the license. The president and secretary of the organization shall certify on such petition the total number of members of the organization in good standing as of the date of the application and that those signing the petition are all members in good standing on such date;

(d) The organization was not primarily formed or activated to obtain a license to sell liquor, but that the sale of liquor is incidental to the main purposes of the club.

(2) Applications for renewal of club licenses shall be made on forms prescribed by the board and accompanied by such information as the board may request.

(3) All applications must be made in the official name of the organization and be signed by either the president or the secretary and be accompanied by a certified copy of the minutes of that meeting of the governing board of the organization which authorized the president or secretary to make the application. The use of trade names shall not be permitted.

[Rule 104, filed 6/13/63.]

WAC 314-40-030 Constitution--Bylaws--House rules. (1) No license shall be issued to any organization or club unless its constitution, bylaws, and house rules are submitted to the board as evidence that the applicant qualifies as a bona fide club under provisions of state liquor laws and regulations. Two copies of such constitution, bylaws, and house rules and any amendments thereto shall be kept on file with the board at all times. No amendments to the same which will in any way affect the operation under such license can become operative until after the same have been submitted to the board.

(2) The constitution, bylaws and/or house rules shall provide, among other things:

(a) That all classifications of members must be admitted only on written application and only after investigation and ballot. Such admissions must be duly recorded in the official minutes of a regular meeting;

(b) Standards of eligibility for members;

(c) Limitation on the number of members consistent with the nature of the organization or club;

(d) That not more than twelve honorary members be admitted in any one calendar year, and that nonresident and associate members be restricted to numbers consistent with the nature of the organization or club;

(e) Reasonable initiation fees and dues consistent with the nature and purpose of the organization or club;

(f) The period for which dues shall be paid and the date upon which this period shall expire;

(g) Reasonable regulations for the dropping of members for the nonpayment of dues;

(h) Strict regulations for the government of organization or club rooms and quarters generally consistent with its nature and character;

(i) That organization or club rooms and quarters must be under the supervision of a manager and house committee, which committee shall be appointed by the governing body of the organization or club;

(j) Provisions for visitors and for the issuance and use of guest and courtesy cards in accordance with WAC 314-40-040.

[Order 19, § 314-40-030, filed 8/10/72; Rule 105, filed 6/13/63.]

WAC 314-40-040 Guest and courtesy cards--Visitors. (1) Guest cards may be issued only as follows:

(a) For clubs located within the limits of any city or town, only to those persons residing outside of an area ten miles from the limits of such city or town;

(b) For clubs located outside of any city or town only to those persons residing outside an area fifteen miles from the location of such club: *Provided*, That where such area limitation encroaches upon the limits of any city or town, the entire corporate limits of such city or town shall be included in the prohibited area;

(c) Such guest cards shall be issued for a period not to exceed two weeks 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;

(d) Mileage restrictions in WAC 314-40-040 (1)(a) and (b) shall not apply to contestants in golf or tennis tournaments conducted on the grounds of a licensed club.

(2) Visitors may be introduced when accompanied at all times by a member and may remain as long as such member is present in the club: *Provided*, That any such visitor may only enjoy the privileges of the club a reasonable number of times in any one calendar year.

(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: *Provided*, That the bylaws of such clubs authorize reciprocal privileges: *Provided further*, That WAC 314-40-040 (1) and (2) 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: *Provided*, That the bylaws of such clubs authorize reciprocal privileges: *Provided further*, That WAC 314-40-040 (1) and (2) 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 one public membership function per calendar year where club liquor may be given to those attending as a part of the membership drive activities.

(1986 Ed.)

[Statutory Authority: RCW 66.08.030, 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, 85-06-020 (Order 152, Resolution No. 161), § 314-40-040, filed 2/27/85; 82-04-028 (Order 92, Resolution No. 101), § 314-40-040, filed 1/27/82; Rule 106, filed 6/13/63.]

WAC 314-40-050 Records. In addition to the requirements of WAC 314-16-160, clubs shall maintain a complete system of bookkeeping covering all operations of the club, with the operations thereof pertaining to liquor being kept separate in a manner prescribed by the board. All such records shall be maintained in an office on the licensed premises and be available for inspection and audit by agents of the board, which agents shall be entitled to make copies thereof or abstracts therefrom or, upon furnishing a proper receipt therefor, remove the originals for such purposes as the board deems necessary.

[Rule 107, filed 6/13/63.]

WAC 314-40-060 Club property and finances--Concessions. (1) All property of any club, as well as the advantages thereof, must belong to the members. Any funds advanced for the purchase or improvement of club rooms or quarters must be advanced by the membership or upon securities or properties owned by the club, and any obligations assumed in connection with the establishment or operation of club rooms or quarters must be assumed by the entire club. No club shall receive any money from any source whatever under any arrangement through or under which the person or persons advancing such funds, whether members of the club or not, are to be given control or supervision over the operation of the club. All activities of any such club, except food service and such other activities as may be specifically approved by the board, must be conducted by the club itself and in its own right, and not upon any concession basis either to any member of the club or to any third party. No member of the club, officer, agent or employee of any such club shall be paid, or directly or indirectly receive, in the form of salary or otherwise, any revenue from the operation of the club beyond the amount of such reasonable compensation as may be fixed or voted by the proper authorities of the club and in accordance with the constitution and bylaws of the club.

[Rule 108, filed 6/13/63.]

WAC 314-40-070 Club roster--List of officers. (1) Every club shall keep and maintain on the premises a complete roster giving the names and addresses of all its members.

(2) Each club shall file with the board a complete list of its officers showing the address, occupation and name of each officer. When any change occurs in its officers by reason of election or otherwise, the club shall immediately file with the board a revised list of its officers.

[Rule 109, filed 6/13/63.]

WAC 314-40-080 Designated portion of club used for service and consumption of liquor. (1) Each club shall

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submit a sketch of the entire premises including the portion used for storage, sale and consumption of liquor, for approval. No change in any portion of the club premises so described and approved shall be made without the consent of the board.

(2) Where the physical setup of the club rooms or quarters renders it practical so to do, such portion of the club premises shall be a room or rooms devoted solely to such service and capable of being entirely closed from the remainder of the club rooms or quarters. Bona fide members may possess and consume their own liquor at any time and in any part of the club premises as permitted under the bylaws and/or house rules of the club, provided such bylaws and/or house rules have been approved by the board.

(3) If the club rents any portion of the club rooms or quarters for any purpose other than a strictly club purpose, or holds any function within the club rooms or quarters to which the public generally is invited or admitted, then such portion devoted to liquor service must be closed to the public generally and no one admitted therein, except bona fide members, bona fide visitors and bona fide guests. If such portion cannot be so closed, then no such liquor service whatever shall be permitted within the club rooms or quarters during the entire time when such nonclub activity is taking place or while the public generally is permitted within the club rooms or quarters.

[Rule 110, filed 6/13/63.]

Chapter 314-44 WAC LICENSED AGENTS

WAC

314-44-005 Agent's license required—Eligible employers defined—Certain classes limited—Bona fide entity defined—Prohibited practices.

DISPOSITION OF SECTIONS FORMERLY CODIFIED IN THIS CHAPTER

314-44-010 Sales to board—Registration of agents. [Rule 112, filed 6/13/63.] Repealed by Order 46, filed 6/9/76. Later promulgation, see WAC 314-44-005.

314-44-020 Salesman—Prohibited practices—Penalties. [Rule 113, filed 6/13/63.] Repealed by Order 46, filed 6/9/76. Later promulgation, see WAC 314-44-005.

WAC 314-44-005 Agent's license required—Eligible employers defined—Certain classes limited—Bona fide entity defined—Prohibited practices. (1) No person shall canvass for, solicit, receive or take orders for the purchase or sale of any liquor, or act as the agent for the purchase or sale of liquor, nor contact any licensees of the board in goodwill activities, unless such person is holder of an agent's license as provided in RCW 66.24-.310, and this regulation.

(2) An agent's license may be issued to the accredited representative of a person, firm, or corporation holding a certificate of approval issued pursuant to RCW 66.24-.270 or 66.24.206, a beer wholesaler's license, a brewer's license, a beer importer's license, a domestic winery license, a wine importer's license, or a wine wholesaler's

license within the state of Washington, or the accredited representative of a distiller, manufacturer, importer, or distributor of spirituous liquor, or foreign produced beer or wine. A person, firm, or corporation so qualified, is herein defined to be an eligible employer. Such employer shall apply to the board for such an agent's license for his accredited representatives on application forms prescribed and furnished by the board.

(3) Every firm which applies for an agent's license under the provisions of this section shall furnish the board with satisfactory proof that such firm is in fact a bona fide business entity.

(4) Only the licensed agent of a distiller, manufacturer, importer, or distributor of spirituous liquor may contact retail licensees in goodwill activities when such contacts pertain to spirituous liquor products.

(5) No distiller, manufacturer, importer, wholesaler or distributor of liquor, or agent thereof, shall solicit either in person, by mail or otherwise, any liquor vendor or employee of the board, except the purchasing agent thereof, for the purpose or with the intent of furthering the sale of a particular brand or brands of merchandise as against another brand or brands of merchandise.

(6) No distiller, manufacturer, importer, wholesaler or distributor of liquor, or agent thereof, shall visit any state liquor store or agency except for the purpose of making a purchase in the usual manner, as any other customer, and such person shall not enter any warehouse, store or agency of the board for the purpose of sales promotion or to secure information regarding inventory or any other matter relating to sales.

(7) No distiller, manufacturer, importer, wholesaler, or distributor of liquor, or agent thereof, shall give or offer to any employee of the board any entertainment, gratuity or other consideration for the purpose of inducing or promoting the sale of merchandise.

(8) No distiller, manufacturer, importer, wholesaler, or distributor, or agent thereof, shall allow, pay or rebate, directly or indirectly, any cash or merchandise to any retail licensee to induce or promote the sale of liquor, including the payment of tips to such licensees or their employees and the purchasing of drinks "for the house." Such persons, firms and licensees must operate in conformity with WAC 314-12-140, RCW 66.28.010, 66.28.040, and other applicable laws and rules.

(9) Upon the infraction of any law or regulation by any distiller, manufacturer, importer, wholesaler, distributor, or agent, the board may, in addition to imposing other penalties as prescribed by law, remove such firm's products from the sales list of the board, and/or prohibit the sale of any brand or brands of beer or wine involved as provided in RCW 66.28.030.

(10) Upon the termination of the employment of a licensed agent, his employer shall immediately notify the board and with such notice return to the board the agent's license issued to such person.

[Statutory Authority: RCW 66.08.030 and 66.98.070. 82-04-029 (Order 93, Resolution No. 102), § 314-44-005, filed 1/27/82; Order 46, § 314-44-005, Rule 111, filed 6/9/76. Formerly WAC 314-44-010 and 314-44-020.]

Chapter 314-45 WAC
SERVING AND DONATING OF LIQUOR BY
SUPPLIERS AT TRADE CONVENTIONS OF
LICENSEES

WAC
 314-45-010 Convention defined—Hospitality rooms, display booths, receptions and similar activities—Permits required—Fees—Procedures.

WAC 314-45-010 Convention defined—Hospitality rooms, display booths, receptions and similar activities—Permits required—Fees—Procedures. Activities pursuant to RCW 66.20.010 (8), (9), a manufacturer, importer, wholesaler, or agent thereof, may serve or donate liquor without charge to delegates and guests at a bona fide convention of a trade association composed of licensees of the board, subject to conditions set forth in this regulation.

(1) For the purposes of this section a "convention" is defined as a bona fide session or assembly of the general membership of a trade association composed of licensees of the board.

(2) Such manufacturer, importer, wholesaler, or agent thereof, must hold a special permit issued by the board to engage in such an activity at such convention. The fee for each such special permit shall be \$25.00. Application for such permit shall be submitted on a form prescribed by the board. The statutory permits applicable to such activities are:

(a) A special permit provided for in RCW 66.20.010(8) which authorizes the holder thereof to serve liquor without charge to delegates and guests in a hospitality room or from a booth in a board-approved suppliers' display room at such convention.

(b) A special permit provided for in RCW 66.20.010(9) which authorizes the holder thereof to donate liquor for a reception, breakfast, luncheon, or dinner for delegates and guests at such convention.

(3) Any liquor served or donated as provided herein is authorized only for consumption within a specific area designated on an application for permit and approved by the board.

(4) A special permit holder who serves or donates any beer or wine on which state taxes have not been paid, must file a report of the quantity so served or donated and remit the amount of the taxes to the board, in conformity with RCW 66.20.010 (8), (9).

(5) Any spirituous liquor served or donated shall be purchased from the board or a Class H licensee.

[Statutory Authority: RCW 66.08.030 and 66.98.070. 85-19-031 (Order 165, Resolution No. 174), § 314-45-010, filed 9/12/85; Order 46, § 314-45-010, Rule 114, filed 6/9/76.]

Chapter 314-48 WAC
TRANSPORTATION OF LIQUOR

WAC
 314-48-010 Transportation through state—Permit required.

(1986 Ed.)

WAC 314-48-010 Transportation through state—Permit required. (1) It shall be unlawful for any person to transport liquor through the state of Washington over the highways therein unless such person shall first obtain from the board a permit to transport such liquor and then only in accordance with the terms and conditions of said permit.

(2) An application for said permit shall be filed with the board which shall set forth the following information:

(a) The consignor and point of origin of shipment, and the consignee and point of destination;

(b) The route of such shipment while in transit over the highways of the state of Washington;

(c) The dates when such shipment will enter and leave the state;

(d) A description of the transporting vehicle, including license numbers and other identifying plates;

(e) A complete description of the liquor to be transported.

(3) Upon said application being filed the board may issue a permit, which permit shall describe the vehicle or vehicles in which such liquor may be lawfully transported, and shall prescribe the lawful route of such shipment and the time during which it may be lawfully moved. Said permit shall also prescribe the quantity and type of liquor which may be transported.

(4) Said permit together with bills of lading or other shipping documents signed by the consignor giving a full description of the liquor being transported shall at all times be in or on the vehicle transporting such liquor.

(5) The driver or person in charge of any vehicle or conveyance covered by said permit shall, when requested by any representative or agent of the board and/or any persons having police authority, exhibit to such person the said permit or bills of lading or other memoranda of shipment covering the cargo of such vehicle or conveyance, and shall allow such person to inspect the vehicle or conveyance and its cargo at any time while within the state of Washington.

(6) Upon arrival of said shipment at its destination, said permit shall immediately be mailed or delivered to the board at Olympia, Washington.

[Rule 115, filed 6/13/63.]

Chapter 314-52 WAC
ADVERTISING

WAC
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DISPOSITION OF SECTIONS FORMERLY CODIFIED IN THIS CHAPTER

- 314-52-060 Picture screen advertising prohibited. [Statutory Authority: RCW 66.08.030, 66.08.060 and 66.98.070. 80-09-078 (Order 73, Resolution No. 82), § 314-52-060, filed 7/18/80; Order 46, § 314-52-060, Rule 121, filed 6/9/76; 121, filed 6/13/63.] Repealed by 82-17-031 (Order 108, Resolution No. 117), filed 8/11/82. Statutory Authority: RCW 66.08.030 and 66.98.070.
- 314-52-095 Merchandising services—Prohibited. [Order 10, § 314-52-095, L.C.B. Rule 124.5, filed 10/27/70, effective 11/27/70.] Repealed by Order 28, filed 10/11/73.
- 314-52-100 Direct mail advertising prohibited—Exceptions. [Rule 125, filed 6/13/63.] Repealed by Order 10, filed 10/27/70, effective 11/27/70.
- 314-52-111 Advertising by retail licensees—On premises. [Statutory Authority: RCW 66.08.030, 66.08.060 and 66.98.070. 80-09-078 (Order 73, Resolution No. 82), § 314-52-111, filed 7/18/80; 78-02-056 (Order 62), § 314-52-111, filed 1/20/78; Order 46, § 314-52-111, Rule 126.1, filed 6/9/76.] Repealed by 82-17-031 (Order 108, Resolution No. 117), filed 8/11/82. Statutory Authority: RCW 66.08.030 and 66.98.070.
- 314-52-112 Advertising by retail licensees—Off premises. [Statutory Authority: RCW 66.08.030, 66.08.060 and 66.98.070. 80-09-078 (Order 73, Resolution No. 82), § 314-52-112, filed 7/18/80; Order 46, § 314-52-112, Rule 126.2, filed 6/9/76.] Repealed by 82-17-031 (Order 108, Resolution No. 117), filed 8/11/82. Statutory Authority: RCW 66.08.030 and 66.98.070.
- 314-52-120 Advertising by holders of special occasion Class G or J retail licenses. [Statutory Authority: RCW 66.08.030, 66.08.060 and 66.98.070. 80-09-078 (Order 73, Resolution No. 82), § 314-52-120, filed 7/18/80; 78-02-056 (Order 62), § 314-52-120, filed 1/20/78; Order 46, § 314-52-120, Rule 126.6, filed 6/9/76.] Repealed by 82-17-031 (Order 108, Resolution No. 117), filed 8/11/82. Statutory Authority: RCW 66.08.030 and 66.98.070.
- Appendix Guide to advertising. Repealed by Order 10, filed 10/27/70, effective 11/27/70.

WAC 314-52-005 Purpose and application of rules.

(1) PREAMBLE: The purpose of this title is to provide reasonable regulations as to the kind, character and location of advertising of liquor, as authorized by RCW 66.08.060.

(2) No person engaged in business as a producer, manufacturer, bottler, importer, wholesaler, or retailer of liquor, directly or indirectly, or through an affiliate, shall publish or disseminate or cause to be published or disseminated in any media any advertisement of liquor, unless such advertisement is in conformance with these rules: *Provided*, That these provisions shall not apply to the publisher of any newspaper, magazine or similar publication, nor to the operator of any radio or television station unless such publisher or operator is engaged in business as a producer, manufacturer, bottler, importer, wholesaler, or retailer of liquor, directly or indirectly, or through an affiliate.

(3) The board holds each producer, manufacturer, bottler, importer, wholesaler, or retailer of liquor responsible for complying with the advertising rules of the Washington state liquor control board in any advertising material placed by them or on their behalf by their agents. If desired, advertising may be submitted prior to publication for an advisory opinion by the advertising coordinator of the Washington state liquor control board, but advisory opinions will be restricted to advertising material submitted by said producers, manufacturers, bottlers, importers, wholesalers, or retailers of liquor, or their agents.

(4) Liquor advertising materials, defined as institutional or educational advertising in WAC 314-52-015, intended for placement in retail outlets of the Washington state liquor control board shall be presented to the advertising coordinator of the Washington state liquor control board for prior approval before placement: *Provided, however*, That all other forms of advertising approved by the board advertising coordinator and which are acceptable to the board merchandising committee under the provisions of WAC 314-52-040 shall not be prohibited under this rule.

[Statutory Authority: RCW 66.08.060. 86-15-041 (Order 191, Resolution No. 200), § 314-52-005, filed 7/16/86. Statutory Authority: RCW 66.08.030 and 66.98.070. 82-17-031 (Order 108, Resolution No. 117), § 314-52-005, filed 8/11/82. Statutory Authority: RCW 66.08.030, 66.08.060 and 66.98.070. 80-09-078 (Order 73, Resolution No. 82), § 314-52-005, filed 7/18/80; Order 46, § 314-52-005, Rule 115.5, filed 6/9/76; Order 10, § 314-52-005, Rule 115.5, filed 10/27/70, effective 11/27/70.]

WAC 314-52-010 Mandatory statements. (1) Brand advertising of spirituous liquor by any manufacturer shall contain the following information:

(a) The name and address of the manufacturer responsible for its publication. (Street number may be omitted.)

(b) A conspicuous statement of the class to which the product belongs and the type thereof corresponding with the statement of class and type which is required by federal regulations to appear on the label of the product.

(c) A statement of the alcoholic content by proof, except that for cordials and liqueurs, gin fizzes, cocktails, highballs, bitters and other specialties, the alcoholic content may be stated in percentage by volume or by proof.

(d) In the case of distilled spirits (other than cordials, liqueurs and specialties) produced by blending or rectification, if neutral spirits have been used in the production thereof, there shall be stated the percentage of neutral spirits so used and the name of the commodity from which such neutral spirits have been distilled.

(e) In the case of neutral spirits or of gin produced by a process of continuous distillation, there shall be stated the name of the commodity from which such neutral spirits or gin has been distilled.

(2) Brand advertising of wine by any manufacturer or wholesaler shall contain the following information:

(a) The name and address of the manufacturer or wholesaler responsible for its publication. (Street number may be omitted.)

(b) A conspicuous statement of the class, type or distinctive designation to which the product belongs, corresponding with the statement of class, type, or distinctive designation which is required by federal regulation to appear on the label of the product.

(3) Brand advertising of malt beverages by any manufacturer, importer, or wholesaler shall contain the following information:

(a) The name and address of the manufacturer, importer or wholesaler responsible for publication of the advertisement. (Street number may be omitted.)

(b) A conspicuous statement of the class to which the product belongs, corresponding to the statement of class which is required by federal regulations to appear on the label of the product.

(4) Alcoholic content of beer. Retail licensees who choose to offer beer for sale at both less than four percent by weight and more than four percent by weight, alcoholic content, packaged in identical packages, shall be required to separate the two strengths of beer in their displays, and shall be required to identify by point-of-sale advertising which is the higher strength and which is the lower strength beer. Manufacturers, importers and wholesalers of such beer shall supply such shelf tickets free of charge to retail licensees: *Provided, however,* That no promotion of the higher alcoholic content shall be included in such advertising.

[Statutory Authority: RCW 66.08.030 and 66.98.070. 82-17-031 (Order 108, Resolution No. 117), § 314-52-010, filed 8/11/82. Statutory Authority: RCW 66.08.030, 66.08.060 and 66.98.070. 80-09-078 (Order 73, Resolution No. 82), § 314-52-010, filed 7/18/80; Order 46, § 314-52-010, Rule 116, filed 6/9/76; Rule 116, filed 6/13/63.]

WAC 314-52-015 General. Institutional advertising shall mean advertising which promotes company or brand name identification, but does not directly solicit purchase or consumption of liquor. Educational advertising shall mean factual information on liquor, its manufacture, history, consumption and methods of ascertaining the quality of various types of liquors such as German wines, French cognacs, or other classifiable types of product. All liquor advertising shall be modest, dignified and in good taste and shall not contain:

(1) Any statement or illustration that is false or misleading in any material particular.

(2) Any statement, picture, or illustration which promotes overconsumption.

(3) Any statement, picture, illustration, design, device, or representation which is undignified, obscene, indecent, or in bad taste.

(4) Any statement, design, device, or representation of or relating to analyses, standards, or tests, irrespective of falsity, which is likely to mislead the consumer.

(5) Any statement, design, device, or representation of or relating to any guaranty, irrespective of falsity, which is likely to mislead the consumer.

Nothing in this section shall prohibit the use of any enforceable guaranty in substantially the following form: "We will refund the purchase price to the purchaser if he is in any manner dissatisfied with the contents of this package."

(6) Any statement that the product is produced, blended, made, bottled, packed or sold under, or in accordance with, any authorization, law, or regulation of any municipality, county, or state, federal or foreign government unless such statement is required or specifically authorized by the laws or regulations of such government; and if municipal, state or federal permit number is stated, such permit number shall not be accompanied by any additional statement relating thereto.

(7) Any statement, design or device representing that the use of liquor has curative or therapeutic effects, if such statement is untrue in any particular, or tends to create a misleading impression.

(8) Any statement, picture, or illustration implying that the consumption of liquor enhances athletic prowess, or any statement, picture, or illustration referring to any known athlete, if such statement, picture, or illustration implies, or if the reader may reasonably infer, that the use of liquor contributed to such known athlete's athletic achievements.

(9) Any depiction of a child or other person under legal age to consume liquor; any depiction of objects, such as toys, suggestive of the presence of a child, nor any other depiction designed in any manner as to be especially appealing to children or other persons under legal age to consume liquor.

(10) Any reference to any religious character, sign or symbol, except in relation to kosher wines or where such are a part of an approved label.

[Statutory Authority: RCW 66.08.030 and 66.98.070. 82-17-031 (Order 108, Resolution No. 117), § 314-52-015, filed 8/11/82. Statutory Authority: RCW 66.08.030, 66.08.060 and 66.98.070. 80-09-078 (Order 73, Resolution No. 82), § 314-52-015, filed 7/18/80. Statutory Authority: RCW 66.08.030, 66.08.060 and 66.08.070. 79-08-036 (Order 68, Resolution No. 77), § 314-52-015, filed 7/17/79; Order 46, § 314-52-015, Rule 116.5, filed 6/9/76; Order 10, § 314-52-015, Rule 116.5, filed 10/27/70, effective 11/27/70.]

WAC 314-52-020 Use of insignia or reference to liquor control board prohibited--Exception. No liquor advertising shall use any insignia that may be in use by the Washington state liquor control board, nor shall any such advertising refer to the Washington state liquor control board, except where required by federal law.

[Statutory Authority: RCW 66.08.060. 86-07-019 (Order 175, Resolution No. 184), § 314-52-020, filed 3/12/86. Statutory Authority: RCW 66.08.030 and 66.98.070. 82-17-031 (Order 108, Resolution No. 117), § 314-52-020, filed 8/11/82. Statutory Authority: RCW 66.08.030, 66.08.060 and 66.98.070. 80-09-078 (Order 73, Resolution No. 82), § 314-52-020, filed 7/18/80; Order 46, § 314-52-020, Rule 117, filed 6/9/76; Order 10, § 314-52-020, filed 10/27/70, effective 11/27/70; Rule 117, filed 6/13/63.]

WAC 314-52-030 Liquor advertising prohibited in school publications. No liquor advertising shall be carried in any publication connected or affiliated with any elementary or secondary schools; nor shall any liquor advertising be connected with such schools when broadcast over radio or television: *Provided,* That institutional advertising, as defined in WAC 314-52-015, may be carried, if the board advertising coordinator interposes no objection.

[Statutory Authority: RCW 66.08.030 and 66.98.070. 82-17-031 (Order 108, Resolution No. 117), § 314-52-030, filed 8/11/82. Statutory Authority: RCW 66.08.030, 66.08.060 and 66.98.070. 80-09-078 (Order 73, Resolution No. 82), § 314-52-030, filed 7/18/80; Order 46, § 314-52-030, Rule 118, filed 6/9/76; Order 10, § 314-52-030, filed 10/27/70, effective 11/27/70; Rule 118, filed 6/13/63.]

WAC 314-52-040 Contests, competitive events, premiums and coupons. Liquor advertisements may offer consumers premiums or prizes, upon completion of any coupon, contest, or competitive event, which may or may not require proof of purchase of the advertised product: *Provided, however,* That contests or sweepstakes that offer prizes or premiums to consumers through a game of chance or random drawing, shall not require proof of purchase, and must comply with the requirements of RCW 9.46.020(14) regarding lotteries: *And provided further,* That no liquor advertisements by manufacturers, importers, or wholesalers may offer any premium or prize redeemable through a Washington state liquor store or any retail liquor outlet licensed by the state of Washington.

[Statutory Authority: RCW 66.08.030 and 66.98.070. 82-17-031 (Order 108, Resolution No. 117), § 314-52-040, filed 8/11/82. Statutory Authority: RCW 66.08.030, 66.08.060 and 66.98.070. 80-09-078 (Order 73, Resolution No. 82), § 314-52-040, filed 7/18/80; Order 46, § 314-52-040, Rule 119, filed 6/9/76; Order 10, § 314-52-040, filed 10/27/70, effective 11/27/70; Rule 119, filed 6/13/63.]

WAC 314-52-050 Sound truck advertising prohibited. No liquor advertising shall be permitted by use of sound trucks.

[Statutory Authority: RCW 66.08.030, 66.08.060 and 66.98.070. 80-09-078 (Order 73, Resolution No. 82), § 314-52-050, filed 7/18/80; Order 46, § 314-52-050, Rule 120, filed 6/9/76; Order 10, § 314-52-050, filed 10/27/70, effective 11/27/70; Rule 120, filed 6/13/63.]

WAC 314-52-070 Outdoor advertising. (1) "Outdoor advertising" by manufacturers, importers, wholesalers, and retail licensees for these purposes shall include all signs visible to the general public, whether permanent or temporary, advertising the sale and service of liquor (excluding point-of-sale brand signs, which are defined and governed as otherwise provided in WAC 314-52-113) as well as trade name and room name signs.

(2) Outdoor signs shall be designed, installed, and used in a manner not offensive to the public, and shall comply with all liquor advertising rules. These rules include, but are not limited to:

(a) WAC 314-52-015(1), which:

(i) Prohibits any statement or illustration that is false or misleading in any material particular;

(ii) Prohibits any statement, picture or illustration which promotes overconsumption;

(iii) Prohibits any statement, picture, illustration, design, device, or representation which is undignified, obscene, indecent, or in bad taste.

(b) WAC 314-52-110(1), which requires that every advertisement by a retail licensee shall carry the licensed trade name or the registered franchise name or the trademark name. The term "trade name" shall mean the "licensed trade name" as it appears on the issued license.

(3) Prior board approval is not required before installation and use of outdoor signs/advertising; however, outdoor signs/advertising (excluding outdoor readerboard messages and/or interior signs visible through a window of a premises) not in compliance with board rules will be required to be altered or removed at the licensee's expense. If prior approval is desired, the licensee, applicant or their agent may submit three copies to the board advertising coordinator for approval.

(4) No outdoor advertising of liquor shall be placed in proximity to schools, churches, or playfields used primarily by minors, where administrative body of said schools, churches, playfields, object to such placement, nor any place which the board in its discretion finds contrary to the public interest.

[Statutory Authority: RCW 66.08.060. 86-15-041 (Order 191, Resolution No. 200), § 314-52-070, filed 7/16/86. Statutory Authority: RCW 66.08.030 and 66.98.070. 82-17-031 (Order 108, Resolution No. 117), § 314-52-070, filed 8/11/82. Statutory Authority: RCW 66.08.030, 66.08.060 and 66.98.070. 80-09-078 (Order 73, Resolution No. 82), § 314-52-070, filed 7/18/80; 78-02-056 (Order 62), § 314-52-070, filed 1/20/78; Order 46, § 314-52-070, Rule 122, filed 6/9/76; § 314-52-070, filed 10/27/70, effective 11/27/70; Order 2, § 314-52-070, filed 5/1/69; Rule 122, filed 6/13/63.]

WAC 314-52-080 Novelty advertising. (1) Novelty advertising items shall include, but shall not be limited to, trays, lighters, blotters, post cards, pencils, coasters, menu cards, meal checks, napkins, clocks, wearing apparel, mugs, glasses, knives, lamp shades, or similar items on which the logo, liquor brand name or name of a manufacturer of an alcoholic beverage has been imprinted.

(2) No liquor manufacturer, wholesaler, or importer, or employee thereof, shall provide without charge, directly or indirectly, any novelty advertising items to any retail licensee; nor shall any retail licensee, or employee thereof, accept without charge any liquor novelty advertising items directly or indirectly, from any manufacturer, wholesaler, or importer, or employee thereof.

(3) A manufacturer, wholesaler, or importer, or employee thereof, may sell, and a retail licensee may purchase, for use, resale, or distribution on the licensed premises any novelty advertising items. The price thereof shall be in conformity with the open market price in the locality where sold. In no event shall credit be extended to any retail licensee. The purchase by retail licensees of such items shall be supported by invoices or signed vouchers which shall be preserved for two years on premises available for immediate inspection by board enforcement officers.

(4) A manufacturer, importer, or wholesaler who sells novelty advertising items to retail licensees shall keep on file the originals or copies of all sales slips, invoices, and other memoranda covering all purchases of novelty advertising items from the supplier or manufacturer of such items and shall also keep on file a copy of all invoices, sales slips, or memoranda reflecting the sales to licensees or other disbursement of all novelty advertising items. Such records shall be maintained in a manner satisfactory to the board and must be preserved in the office of the manufacturer, importer, or wholesaler for a

period of at least two years after each purchase or sale. Any manufacturer which does not maintain a principal office within the state shall, when requested, furnish the above required records at a designated location within the state for review by the board.

[Statutory Authority: RCW 66.08.030 and 66.98.070. 82-17-031 (Order 108, Resolution No. 117), § 314-52-080, filed 8/11/82. Statutory Authority: RCW 66.08.030, 66.08.060 and 66.98.070. 81-04-011 (Order 76, Resolution No. 85), § 314-52-080, filed 1/28/81; 80-09-078 (Order 73, Resolution No. 82), § 314-52-080, filed 7/18/80; 78-02-056 (Order 62), § 314-52-080, filed 1/20/78; Order 46, § 314-52-080, Rule 123, filed 6/9/76; Order 10, § 314-52-080, filed 10/27/70, effective 11/27/70; Rule 123, filed 6/13/63.]

WAC 314-52-085 Programs and program folders.

Programs and program folders, for the purpose of this section, shall mean brochures for use at sporting arenas which have, as a part of their operations, whether directly or indirectly, a retail licensed premises. No manufacturer, importer, wholesaler, or their agent, shall provide, without cost, directly or indirectly, programs or program folders for retail licensees: *Provided, however,* That sporting arenas as described above, or their agents may accept bona fide liquor advertising from manufacturers, importers, wholesalers or their agents, for publication in the program or program folder of the sporting arena: *Provided further,* That such advertising is paid for by said manufacturer, importer, wholesaler or their agent at the published advertising rate for all program or program folder advertisers, including nonliquor advertisers: *And also provided,* That such advertising shall carry with it no express or implied offer on the part of the manufacturer, importer, wholesaler or their agent, or promise on the part of the retail licensee whose operation is directly or indirectly part of the sporting arena, to stock or list any particular brand of liquor to the total or partial exclusion of any other brand.

[Statutory Authority: RCW 66.08.030 and 66.98.070. 82-17-031 (Order 108, Resolution No. 117), § 314-52-085, filed 8/11/82.]

WAC 314-52-090 Advertising sponsored jointly by retailers and manufacturers, importers, or wholesalers, prohibited. (1) The name of a retail licensee shall not appear in, or as a part of, or supplementary to, any advertising of a manufacturer, importer or wholesaler. The brand name of liquor may appear in or as a part of advertising by a retail licensee: *Provided,* That such advertising is upon the retail licensee's free initiative and no moneys or moneys' worth has been offered the retail licensee as an inducement to secure such mention by any manufacturer, importer, or wholesaler or their agent, or solicited by the retail licensee or his agent.

(2) RCW 66.28.010 shall also apply to joint advertising insofar as it is relevant.

[Statutory Authority: RCW 66.08.030 and 66.98.070. 82-17-031 (Order 108, Resolution No. 117), § 314-52-090, filed 8/11/82. Statutory Authority: RCW 66.08.030, 66.08.060 and 66.98.070. 80-09-078 (Order 73, Resolution No. 82), § 314-52-090, filed 7/18/80; 78-02-056 (Order 62), § 314-52-090, filed 1/20/78; Order 46, § 314-52-090, Rule 124, filed 6/9/76; Order 10, § 314-52-090, filed 10/27/70, effective 11/27/70; Rule 124, filed 6/13/63.]

WAC 314-52-110 Advertising by retail licensees.

(1) Every advertisement by a retail licensee shall carry the licensed trade name or the registered franchise name or the trademark name. The term "trade name" shall be defined as the "licensed trade name" as it appears on the license issued to the licensee: *Provided, however,* That such words as tavern, cafe, grocery, market, food store, food center, delicatessen, wine shop, beer parlor and other similar words used to identify the type of business licensed, and numbers used to identify chain licensees of the same trade name, shall neither be required nor prohibited as part of the trade name in advertisements: *And provided further,* That advertisements by public Class H licensees may also refer to cocktails, bar, lounge and/or the "room name." The term "room name" shall be defined as the name of the room designated as the cocktail lounge and/or the dining room if both are in the same room.

(2) No retail licensee shall offer for sale any liquor for on premises consumption under advertising slogans such as "two for the price of one," "two for one drinks," "buy one—get one free," "two for \$____," nor any similar phrase or slogan where the express or implied meaning is that a customer, in order to receive a reduced price, would be required to purchase more than one drink or quantity of liquor at one time.

[Statutory Authority: RCW 66.08.030, 66.98.070 and 66.08.060. 83-23-122 (Order 132, Resolution No. 141), § 314-52-110, filed 11/23/83. Statutory Authority: RCW 66.08.030 and 66.98.070. 82-17-031 (Order 108, Resolution No. 117), § 314-52-110, filed 8/11/82. Statutory Authority: RCW 66.08.030, 66.08.060 and 66.98.070. 80-09-078 (Order 73, Resolution No. 82), § 314-52-110, filed 7/18/80; Order 46, § 314-52-110, Rule 126, filed 6/9/76; Order 10, § 314-52-110, filed 10/27/70, effective 11/27/70; Rule 126, filed 6/13/63.]

WAC 314-52-113 Brand signs and point-of-sale displays on retail licensed premises. Manufacturers, importers or wholesalers may furnish brand signs and point-of-sale material under the following conditions:

(1) The brand signs and point-of-sale material shall have no value to the retailer except as brand advertisement; such signs as those which provide illumination for cash registers, pool tables and other parts of the premises, have a functional value and are not authorized. The brand signs and point-of-sale material shall remain the property of, and be the responsibility of, the manufacturers, importers or wholesalers.

(2) The term "point-of-sale material" as used herein, shall include such manufacturer, importer or wholesaler-supplied items as display cards, placards, table tents, recipes, display bins, decalcomanias, price cards, shelf strips, product information pamphlets, bottle hangers, matches, scorecards, calendars, and other such brand advertising material for display at the point of sale.

(3) Giant inflatables, such as inflated beer cans, bottles, animals, and banners may be provided as point-of-sale by manufacturers, importers, or wholesalers to retailers for display purposes on their property, provided the following conditions are met:

(a) All retail licensees are afforded equal opportunity to display item;

(b) Novelty items as defined in WAC 314-52-080 are not provided by manufacturers, importers, or wholesalers to customers in conjunction with the display;

(c) The display shall be removed if objected to by local officials, or if the board, in its discretion, finds it contrary to the public interest.

(4) Animal mascots and costumed individuals representing beer, wine, or liquor manufacturers may be provided as point-of-sale by manufacturers, importers, or wholesalers to retailers for display and promotion purposes on their property, provided the following conditions are met:

(a) The costumed individual is limited to the manufacturer, importer, wholesaler, or employee thereof and the costumed individual's activities on-premises are limited to socializing with customers and not conducting any activity that the retail licensee would otherwise have to assign employees to;

(b) All retail licensees are afforded equal opportunity for such displays;

(c) Novelty items as defined in WAC 314-52-080 and including the purchase of drinks, are not to be provided to customers by the costumed individual in conjunction with such displays;

(d) The costumed individual must comply with the regulations regarding lewd and obscene conduct (WAC 314-16-125);

(e) If the board finds it contrary to the public interest, it may prohibit the use of the above-mentioned activities.

[Statutory Authority: RCW 66.24.010, 66.08.010, 66.08.030, 66.08.060 and 66.98.070. 86-19-022 (Order 199, Resolution No. 208), § 314-52-113, filed 9/10/86. Statutory Authority: RCW 66.08.030 and 66.98.070. 82-17-031 (Order 108, Resolution No. 117), § 314-52-113, filed 8/11/82. Statutory Authority: RCW 66.08.030, 66.08.060 and 66.98.070. 80-09-078 (Order 73, Resolution No. 82), § 314-52-113, filed 7/18/80; 78-02-056 (Order 62, § 314-52-113, filed 1/20/78; Order 46, § 314-52-113, Rule 126.3, filed 6/9/76.)

WAC 314-52-114 Advertising by retail licensees, offering for sale, or selling beer, wine or spirituous liquor at less than cost--Prohibited--Exceptions. (1) Beer, wine, or spirituous liquor shall not be advertised, offered for sale or sold by retail licensees at less than acquisition cost plus ten percent of acquisition cost.

(2) The provisions of this section shall not apply to any sale made:

(a) In closing out in good faith the owner's stock or any part thereof for the purpose of discontinuing his trade in any such article or product and in the case of the sale of seasonal goods or to the bona fide sale of perishable goods to prevent loss to the vendor by spoilage or depreciation: *Provided*, Notice is given to the public thereof;

(b) When the goods are damaged or deteriorated in quality, and notice is given to the public thereof;

(c) By an officer acting under the orders of any court;

(d) In an endeavor made in good faith to meet the legal prices of a competitor selling the same article or

product in the same locality or trade area and in the ordinary channels of trade.

[Statutory Authority: RCW 66.08.030, 66.98.070 and 66.08.060. 86-16-060 (Order 173, Resolution No. 182), § 314-52-114, filed 8/5/86; 83-24-060 (Order 134, Resolution No. 143), § 314-52-114, filed 12/7/83.]

WAC 314-52-115 Advertising by clubs--Signs. (1) Clubs shall not engage in any form of soliciting or advertising which may be construed as implying that the club operates a public Class H premises, a tavern open to the public, or that social functions at which club liquor may be consumed, are open to the public: *Provided, however*, Circularizing membership shall not be considered advertising, and where clubs provide lunch or dinner to the public, this may be advertised: *Provided further*, Such advertising must specify no liquor service is available.

(2) Outdoor signs as defined in WAC 314-52-070 shall make no direct or indirect reference to the sale or service of liquor.

(3) Clubs and/or their auxiliary organizations may advertise social or other club events to their membership through the public media: *Provided*, Such advertising is clearly directed to their membership only and cannot be construed as implying that the general public is welcome to attend.

(4) Advertising of the club functions by means of placards placed for public viewing shall be governed by the provisions of WAC 314-52-115(3) above.

(5) Advertising may be directed to the public generally in connection with events of special public interest such as Flag Day, Memorial Day, Veterans Day or such other occasions, under provisions set forth in WAC 314-40-080(3).

(6) Clubs desiring to have radio or television broadcasts originating from their licensed premises may do so: *Provided*, That such broadcasts consist only of entertainment or other matter which is in the public interest and may not contain any announcement of opening or closing hours, any invitation to visit the club, or any statement which may be construed as advertising or any implication that the club is operated as a public place. The only reference to the club during such broadcasts shall be limited to a statement at the opening and closing of the program as originating from the club quarters.

[Statutory Authority: RCW 66.08.030 and 66.98.070. 82-17-031 (Order 108, Resolution No. 117), § 314-52-115, filed 8/11/82. Statutory Authority: RCW 66.08.030, 66.08.060 and 66.98.070. 80-09-078 (Order 73, Resolution No. 82), § 314-52-115, filed 7/18/80; Order 46, § 314-52-114 (codified as WAC 314-52-115), Rule 126.5, filed 6/9/76; Order 10, § 314-52-114, Rule 126.5, filed 10/27/70, effective 11/27/70. Formerly WAC 314-40-090 (part), Rule 111, filed 6/13/63.]

Chapter 314-56 WAC SCIENTIFIC STUDIES AND RESEARCH

WAC

314-56-010 Scientific studies and research.
314-56-020 Report of findings.

WAC 314-56-010 Scientific studies and research. Scientific studies may be made from time to time as fixed by the board relating to alcoholic beverages and the use and effect thereof. Qualified persons possessed of scientific training and research shall be employed to make such studies.

[Rule 127, filed 6/13/63.]

WAC 314-56-020 Report of findings. The results of scientific studies relating to alcoholic beverages and the use and effect thereof shall be reported to the board by employees making such studies, at such times as the board shall require.

[Rule 128, filed 6/13/63.]

Chapter 314-60 WAC PUBLIC RECORDS

WAC

314-60-010	Purpose—Washington state liquor control board.
314-60-020	Definitions—Public records—Writing.
314-60-030	Description of central and field organization of Washington state liquor control board.
314-60-040	Operations and procedure.
314-60-050	Public records available.
314-60-060	Public records officer.
314-60-070	Office hours.
314-60-080	Requests for public records.
314-60-090	Copying.
314-60-100	Exemptions.
314-60-105	General guidelines—Exempt records.
314-60-110	Review of denials of public records requests.
314-60-120	Protection of public records.
314-60-130	Records index.
314-60-140	Communications and submissions relating to public records.

DISPOSITION OF SECTIONS FORMERLY CODIFIED IN THIS CHAPTER

314-60-150	Adoption of forms. [Order 56, § 314-60-150, filed 5/31/77, effective 7/1/77; Order 22, § 314-60-150, filed 4/17/73, effective 5/18/73.] Repealed by 82-04-030 (Order 97, Resolution No. 106), filed 1/27/82. Statutory Authority: RCW 66.08.030.
314-60-900	Organization chart (Appendix A). [Order 56, Appendix A (codified as WAC 314-60-900), filed 5/31/77, effective 7/1/77; Order 22, Appendix A, filed 4/17/73, effective 5/18/73.] Repealed by 82-04-030 (Order 97, Resolution No. 106), filed 1/27/82. Statutory Authority: RCW 66.08.030.
314-60-901	Formal hearings (Appendix B). [Order 56, Appendix B (codified as WAC 314-60-901), filed 5/31/77, effective 7/1/77; Order 22, Appendix B, filed 4/17/73, effective 5/18/73.] Repealed by 82-04-030 (Order 97, Resolution No. 106), filed 1/27/82. Statutory Authority: RCW 66.08.030.
314-60-902	Notice of proposed order of summary license suspension (Appendix C). [Order 56, Appendix C (codified as WAC 314-60-902), filed 5/31/77, effective 7/1/77; Order 22, Appendix C, filed 4/17/73, effective 5/18/73.] Repealed by 82-04-030 (Order 97, Resolution No. 106), filed 1/27/82. Statutory Authority: RCW 66.08.030.
314-60-903	Notice of proposed order of summary license suspension with added penalty (Appendix C). [Order 56, Appendix C (codified as WAC 314-60-903), filed 5/31/77, effective 7/1/77; Order 22, Appendix C, filed 4/17/73, effective 5/18/73.] Repealed by 82-

314-60-904	04-030 (Order 97, Resolution No. 106), filed 1/27/82. Statutory Authority: RCW 66.08.030. Notice of proposed order of summary license suspension with option for monetary penalty (Appendix C). [Order 56, Appendix C (codified as WAC 314-60-904), filed 5/31/77, effective 7/1/77; Order 22, Appendix C, filed 4/17/73, effective 5/18/73.] Repealed by 82-04-030 (Order 97, Resolution No. 106), filed 1/27/82. Statutory Authority: RCW 66.08.030.
314-60-905	Notice of proposed order of summary license suspension with directions to implement option for monetary penalty (Appendix C). [Order 56, Appendix C (codified as WAC 314-60-905), filed 5/31/77, effective 7/1/77; Order 22, Appendix C, filed 4/17/73, effective 5/18/73.] Repealed by 82-04-030 (Order 97, Resolution No. 106), filed 1/27/82. Statutory Authority: RCW 66.08.030.
314-60-906	Resolution No. 41 (Appendix D). [Order 56, Appendix D (codified as WAC 314-60-906), filed 5/31/77, effective 7/1/77; Order 22, Appendix D, filed 4/17/73, effective 5/18/73.] Repealed by 82-04-030 (Order 97, Resolution No. 106), filed 1/27/82. Statutory Authority: RCW 66.08.030.
314-60-907	Request for public record (Appendix E). [Order 56, Appendix E (codified as WAC 314-60-907), filed 5/31/77, effective 7/1/77; Order 22, Appendix E, filed 4/17/73, effective 5/18/73.] Repealed by 82-04-030 (Order 97, Resolution No. 106), filed 1/27/82. Statutory Authority: RCW 66.08.030.

WAC 314-60-010 Purpose—Washington state liquor control board. (1) The purpose of this chapter is to comply with the provisions of chapter 42.17 RCW dealing with public records.

(2) The "Washington state liquor control board," pursuant to RCW 66.08.012 and 66.08.014, consists of three members appointed by the governor with the consent of the senate, for terms of nine years that are staggered so that an appointment or reappointment is made every three years. The "Washington state liquor control board" shall sometimes hereinafter be referred to as the "board." Where appropriate, the term "board" also refers to the staff and employees of the Washington state liquor control board.

[Order 56, § 314-60-010, filed 5/31/77, effective 7/1/77; Order 22, § 314-60-010, filed 4/17/73, effective 5/18/73.]

WAC 314-60-020 Definitions—Public records—Writing. (1) "Public records" includes any writing containing information relating to the conduct of governmental or the performance of any governmental or proprietary function prepared, owned, used or retained by any state or local agency regardless of physical form or characteristics.

(2) "Writing" means handwriting, typewriting, printing, photostating, photographing, and every other means of recording any form of communication or representation, including letters, words, pictures, sounds; or symbols, or combination thereof, and all papers, maps, magnetic or paper tapes, photographic films and prints, magnetic or punched cards, discs, drums and other documents.

[Order 22, § 314-60-020, filed 4/17/73, effective 5/18/73.]

WAC 314-60-030 Description of central and field organization of Washington state liquor control board. The board is an agency created to exercise the police

power of the state in administering and enforcing all of the laws and regulations relating to alcoholic beverage control (Title 66 RCW).

(1) The board's major areas of activity are:

(a) Purchase, distribution and sale of liquor in the original package through its stores and agencies.

(i) All spirituous liquor in the original package is exclusively sold by the board.

(ii) Wines and malt beverages in the original package are sold by the board, and wines and beer can, under appropriate license, be sold by licensees.

(b) The licensing of the manufacture, distribution and sale of liquor. Licenses to retailers involve many different classifications and categories for the sale of liquor for on-premises and off-premises consumption. Licenses are also issued to manufacturers, breweries, wholesalers, importers, etc.

(c) The inspection of the activities and operations of liquor licensees and the enforcement of the liquor laws of the state of Washington and the rules and regulations of the board.

(2) The administrative offices of the Washington state liquor control board and its staff are located at:

(a) Main office, Capitol Plaza Building, 1025 East Union Avenue, Olympia.

(b) Distribution center and stores and agencies division, 4401 East Marginal Way South, Seattle.

(c) Enforcement offices, including one at Olympia and one at the Seattle distribution center, are maintained in major cities throughout the state.

(d) Stores and agencies are maintained in cities, towns, and areas throughout the state.

[Statutory Authority: RCW 66.08.030, 82-04-030 (Order 97, Resolution No. 106), § 314-60-030, filed 1/27/82; Order 22, § 314-60-030, filed 4/17/73, effective 5/18/73.]

WAC 314-60-040 Operations and procedure. The general course and method by which the operations of the board are channeled and determined are illustrated by the following:

(1) An organizational chart is available from the board's public records office which illustrates the general structure and composition of the board's operations.

(2) Board procedures relating to hearings involving alleged violations of the liquor act and/or revised rules and regulations of the board are covered in Title X Hearings WAC 314-04-010, and in Title XIV Practice and Procedure WAC 314-08-010 through 314-08-590.

(a) General information pertaining to formal hearings is available from the board's public records office.

(b) Forms of notice of proposed order of summary license suspension are available from the board's public records office.

(3) Pursuant to the requirements of the Open Public Meetings Act (chapter 42.30 RCW) all determinations and business of the board, except exempt matters, are made and conducted at its regular and/or special meetings. Regular meetings of the board are held on Monday through Friday of each week, except on holidays, beginning at 9:30 a.m. or as soon thereafter as a quorum is assembled at its offices on the Fifth Floor, Capitol Plaza

Building, 1025 East Union Avenue, Olympia, Washington.

[Statutory Authority: RCW 66.08.030 and 42.30.070, 82-10-021 (Order 104, Resolution No. 113), § 314-60-040, filed 4/28/82. Statutory Authority: RCW 66.08.030, 82-04-030 (Order 97, Resolution No. 106), § 314-60-040, filed 1/27/82; Order 56, § 314-60-040, filed 5/31/77, effective 7/1/77; Order 22, § 314-60-040, filed 4/17/73, effective 5/18/73.]

WAC 314-60-050 Public records available. All public records of the board as defined in WAC 314-60-020 are deemed to be available for public inspection and copying pursuant to these rules, except as provided by chapter 42.17 RCW and WAC 314-60-100 and 314-60-105.

[Order 56, § 314-60-050, filed 5/31/77, effective 7/1/77; Order 22, § 314-60-050, filed 4/17/73, effective 5/18/73.]

WAC 314-60-060 Public records officer. The Washington state liquor control board's public records shall be available for inspection and/or copying through the public records officer designated by the board. The person so designated shall be located in the main office of the board. The public records officer shall be responsible for the following: The implementation of the board's rules and regulations regarding release of public records, coordinating the staff of the board in this regard, and generally providing for the board's public records disclosure requirements of chapter 42.17 RCW.

[Order 56, § 314-60-060, filed 5/31/77, effective 7/1/77; Order 22, § 314-60-060, filed 4/17/73, effective 5/18/73.]

WAC 314-60-070 Office hours. Public records shall be available for inspection and copying at the main office of the board during its customary office hours. For the purpose of this chapter, the customary office hours shall be from 8 a.m. to noon and from 1 p.m. to 4 p.m., Monday through Friday, excluding legal holidays.

[Order 22, § 314-60-070, filed 4/17/73, effective 5/18/73.]

WAC 314-60-080 Requests for public records. In accordance with requirements of chapter 42.17 RCW that agencies prevent unreasonable invasions of privacy, protect public records from damage or disorganization, and prevent excessive interference with essential functions of the agency, public records may be obtained by members of the public at the main office of the board upon compliance with the following procedures:

(1) A request shall be made in writing. A form prescribed by the board shall be available at its main office. The written request or prescribed form shall be submitted or presented to the public records officer, or to any member of the board's staff, if the public records officer is not available, at the main office of the board during customary office hours. The request shall include the following information:

(a) The name and address of the person requesting the record.

(b) The time of day and calendar date on which the request was received at the main office of the board.

(c) The nature of the request.

(d) If the matter requested is referenced within the current index maintained by the records officer, a reference to the requested record as it is described in such current index.

(e) If the requested matter is not identifiable by reference to the board's current index, an appropriate description of the record requested.

(2) In all cases in which a member of the public is making a request, it shall be the obligation of the public records officer or staff member to whom the request is made, to assist the member of the public in appropriately identifying the public record requested.

[Order 56, § 314-60-080, filed 5/31/77, effective 7/1/77; Order 22, § 314-60-080, filed 4/17/73, effective 5/18/73.]

WAC 314-60-090 Copying. No fee shall be charged for the inspection of public records. The board will impose a reasonable charge for providing copies of public records and for the use of the board's equipment to copy its public records, such charges will not exceed the amount necessary to reimburse the board for its actual costs incident to such copying.

[Order 22, § 314-60-090, filed 4/17/73, effective 5/18/73.]

WAC 314-60-100 Exemptions. (1) The board reserves the right to determine that a public record requested in accordance with the procedures outlined in WAC 314-60-080 is exempt under the provisions of chapter 42.17 RCW.

(2) In addition, pursuant to chapter 42.17 RCW, the board reserves the right to delete identifying details when it makes available or publishes any public record, in any cases when there is reason to believe that disclosure of such details would be an invasion of personal privacy protected by chapter 42.17 RCW. The public records officer will fully justify such deletion in writing.

(3) All denials of requests for public records will be accompanied by a written statement specifying the reason for the denial, including a statement of the specific exemption authorizing the withholding of the record and a brief explanation of how the exemption applies to the record withheld.

[Order 56, § 314-60-100, filed 5/31/77, effective 7/1/77; Order 22, § 314-60-100, filed 4/17/73, effective 5/18/73.]

WAC 314-60-105 General guidelines--Exempt records. The following general guidelines relate to the board's records, or portions thereof, that are, or may be, considered as exempt from public disclosure under the provisions of the Public Disclosure Law, chapter 42.17 RCW.

A general rule in connection with the application of any of the exemptions hereinbelow set forth is that such exemptions shall be inapplicable to the extent that information, the disclosure of which would violate personal privacy or vital governmental interest, can be deleted from the specific records sought. No exemption will be construed to permit the non-disclosure of statistical information which is not descriptive of any readily identifiable person or persons.

The list of records and material generally considered exempt from disclosure by the board includes, but is not limited to, the following:

(1) Personal information of the board members and its entire staff as may be contained in the personnel records of each member or employee, with the exception that the employee's name, job title, and rate of pay for said job title, will be furnished. (See RCW 42.17.310 (1)(b).)

(2) Audits of, and investigation reports concerning, individual licensees. (See RCW 42.17.310 (1)(d).)

(3) Intelligence information and investigative data and reports pertaining to the enforcement of the liquor laws and the board's regulations, the non-disclosure of which is essential to law enforcement or to the protection of any person's right to privacy. (See RCW 42.17.310 (1)(d).)

(4) Current personal and/or financial information furnished by or pertaining to licensees. The board may determine in particular cases that it intends to and will, if not restrained by court order, disclose requested information after having first given notice to affected parties and thereafter affording any such parties a reasonable time to seek a protective order pursuant to the provisions of RCW 42.17.330.

(5) Special order requests and purchases by any person or persons, including class H licensees. (See RCW 66.16.090.)

(6) The board's records during the process of lease negotiations, when it would be both unfair and inequitable to disclose to contending parties what another party may have bid or offered. (See RCW 42.17.310 (1)(g).)

(7) Names of protestors and/or endorsers on matters pertaining to license applications, and the names of complainants in connection with alleged liquor violations, except when the protestor, endorser, or complainant authorizes the release of his or her name at the time the protest, endorsement, or complaint is submitted. (See RCW 42.17.310 (1)(d) and (e).)

(8) Computer program and research data of the board within five years of the request for disclosure when disclosure would produce private gain and public loss. (See RCW 42.17.310 (1)(h).)

(9) Preliminary drafts, notes, recommendations, and intraagency memorandums in which opinions are expressed or policies formulated or recommended except that a specific record shall not be exempt when publicly cited by the board in connection with board action. (See RCW 42.17.310 (1)(i).)

[Order 56, § 314-60-105, filed 5/31/77, effective 7/1/77.]

WAC 314-60-110 Review of denials of public records requests. (1) Any person who objects to the denial of a request for a public record may petition for prompt review of such decision by tendering a written request for review. The written request shall specifically refer to the written statement by the public records officer or other staff member which constituted or accompanied the denial.

(2) Immediately after receiving a written request for review of a decision denying a public record, the public

records officer or other staff member denying the request shall refer it to the board chairman, or in his absence, a member of the board. The board chairman or member, as the case may be, shall immediately consider the matter and either affirm or reverse such denial or call a special meeting of the board as soon as legally possible to review the denial. In any case, the request shall be returned with a final decision, within two business days following the original denial.

(3) Administrative remedies shall not be considered exhausted until the board has returned the petition with a decision or until the close of the second business day following denial of inspection, whichever first occurs.

[Order 22, § 314-60-110, filed 4/17/73, effective 5/18/73.]

WAC 314-60-120 Protection of public records. The public records officer shall:

(1) Implement whatever procedures are necessary to assure the retention and integrity of the board's records.

(2) Establish reasonable measures to provide that the board's records are not lost, stolen, altered, defaced or destroyed when such records are made available for inspection and/or copying.

(3) Records of the board made available for inspection or copying pursuant to these rules shall not be removed from the main office of the board.

[Order 22, § 314-60-120, filed 4/17/73, effective 5/18/73.]

WAC 314-60-130 Records index. (1) Index. The board is in the process of compiling and will have available to all persons a current index which provides identifying information as to the following records issued, adopted or promulgated since its inception:

(a) Final opinions, including concurring and dissenting opinions, as well as orders, made in the adjudication of cases.

(b) Those statements of policy and interpretations of policy, statute and the constitution which have been adopted by the agency.

(c) Administrative staff manuals and instructions to staff that affect a member of the public.

(d) Planning policies and goals, and interim and final planning decisions.

(e) Factual staff reports and studies, factual consultant's reports and studies, scientific reports and studies, and any other factual information derived from tests, studies, reports or surveys, whether conducted by public employees or others.

(f) Correspondence, and materials referred to therein, by and with the agency relating to any regulatory, supervisory or enforcement responsibilities of the agency, whereby the agency determines, or opines upon, or is asked to determine or opine upon, the rights of the state, the public, a subdivision of state government, or of any private party.

(2) Availability. The current index as and when promulgated by the board shall be available to all persons under the same rules and on the same conditions as are applied to public records available for inspection.

[Order 22, § 314-60-130, filed 4/17/73, effective 5/18/73.]

WAC 314-60-140 Communications and submissions relating to public records. All communications with the board including but not limited to the submission of materials pertaining to its operations and/or the administration or enforcement of chapter 42.17 RCW and these rules; requests for copies of the board's decisions and other matters, shall be addressed as follows: Washington State Liquor Control Board, c/o Public Records Officer, Capitol Plaza Building, 1025 East Union Avenue, Olympia, Washington 98504.

[Order 56, § 314-60-140, filed 5/31/77, effective 7/1/77; Order 22, § 314-60-140, filed 4/17/73, effective 5/18/73.]

Chapter 314-62 WAC

LIQUOR LAW PAMPHLETS AND ANNUAL REPORTS

WAC

314-62-010 Liquor law pamphlets.
314-62-020 Annual reports.

WAC 314-62-010 Liquor law pamphlets. Pursuant to RCW 66.08.030 as amended by section 1, chapter 115, Laws of 1977 ex. sess., pamphlets containing the liquor laws (Title 66 RCW and other liquor related statutes) and the revised rules and regulations of the board shall be made available through the board's Central Office Services Division, 1025 East Union Avenue, Olympia, Washington 98504, for distribution, upon request, to any member of the public. An updating service covering amendments to the Liquor Act and the revised rules and regulations of the board shall also be available for such distribution. Charges shall be made for these items as directed by the board from time to time to cover the costs of printing and handling.

Provided, however, That copies of the liquor laws and regulations and the update service shall be provided without charge as follows: (1) To the secretary of the senate for use of senate committees, fifteen copies; (2) to the chief clerk of the house for use of house committees, twenty copies; (3) to the state library, two copies; (4) to the state law library, two copies; (5) to licensees of the board, one copy each; (6) to recognized news reporting services maintaining permanent offices at the capitol, one copy each. One copy shall also be provided without charge, upon request, to legislators, governmental and nonprofit organizations, academic research students, libraries, and alcoholism information and treatment centers.

[Statutory Authority: RCW 66.08.030 and 66.98.070. 81-19-116 (Order 81, Resolution No. 90), § 314-62-010, filed 9/23/81; 78-02-039 (Order 63), § 314-62-010, filed 1/17/78.]

WAC 314-62-020 Annual reports. Pursuant to RCW 66.08.028, the board makes annual reports to the governor covering the administration and enforcement of the Liquor Act during the preceding fiscal year. Copies of this report shall be available through the board's Central Office Services Division, 1025 East Union Avenue, Olympia, Washington 98504, for distribution, upon

request, to any member of the public. A charge as directed by the board from time to time to cover the costs of printing and handling shall be made for each copy of this report: *Provided, however,* That copies of the annual report shall be provided without charge as follows: (1) To the secretary of the senate for use of senate committees, fifteen copies; (2) to the chief clerk of the house for use of house committees, twenty copies; (3) to the state library, two copies; (4) to the state law library, two copies; (5) to licensed agents of suppliers of liquor with whom the board does business, one copy each; (6) to recognized news reporting services maintaining permanent offices at the capitol, one copy each. One copy of the annual report shall also be provided without charge, upon request, to legislators, governmental and nonprofit organizations, academic research students, libraries, and alcoholism information and treatment centers.

[Statutory Authority: RCW 66.08.030 and 66.98.070. 81-19-116 (Order 81, Resolution No. 90), § 314-62-020, filed 9/23/81; 78-05-003 (Order 65, Resolution No. 74), § 314-62-020, filed 4/6/78; 78-02-039 (Order 63), § 314-62-020, filed 1/17/78.]

Chapter 314-64 WAC LIQUOR SAMPLES

WAC

314-64-010	Purpose.
314-64-020	Definitions.
314-64-030	Procedures for chemical analysis.
314-64-040	Procedures for board samples.
314-64-050	Accounting for board samples.
314-64-060	Purpose.
314-64-070	Definition.
314-64-080	Procedures.
314-64-090	Accounting.

WAC 314-64-010 Purpose. The purpose of this chapter is to comply with and implement provisions of section 9, chapter 175 [173], Laws of 1975 1st ex. sess., and RCW 66.28.035 [66.28.045], and section 10, chapter 175 [173], Laws of 1975 1st ex. sess., and RCW 66.28.040.

[Order 40, § 314-64-010, Rule 129, filed 8/21/75.]

WAC 314-64-020 Definitions. Samples shall mean:

(1) Beer and/or containers submitted to the board for chemical analysis of the beer, as required by WAC 314-20-020 (2)(b).

(2) Wine and/or containers submitted to the board for chemical analysis of the wine, as required by WAC 314-24-040 (1)(b).

(3) Malt liquor, wine, spirits and/or containers submitted to the board for the purpose of negotiating the sale of liquor to the state liquor control board as provided in RCW 66.28.040.

[Order 40, § 314-64-020, Rule 130, filed 8/21/75.]

WAC 314-64-030 Procedures for chemical analysis. Procedures for submitting samples of beer or wine for chemical analysis are as follows:

(1) Quantity. Samples shall consist of two containers of approximately 375 milliliters each or one container of

approximately 750 milliliters: *Provided,* That if such beer or wine is available only in containers of larger capacity, such a sample may be submitted in such package size nearest in quantity to the aforementioned sizes.

(2) Identification. Suppliers shall identify the items on the cartons and shipping documents as "samples for chemical analysis."

(3) Shipping instructions. Suppliers shall deliver or ship samples prepaid to Washington State Liquor Control Board Distribution Center, Attention Manufacturers, Importers, and Wholesalers Division, 4401 East Marginal Way South, Seattle, Washington 98134.

(4) Use and disposition of samples. Samples of beer and wine submitted for chemical analysis shall be analyzed at the Washington State Food and Drug Laboratory, University of Washington, for alcoholic content and to determine whether they conform to standards of identity and quality standards prescribed by board regulations. After such analysis, any remaining portion of said samples shall be disposed of by laboratory personnel.

(5) Reports. The laboratory shall report its findings on appropriate forms to the board's manufacturers, importers, and wholesalers division and the controller of the board. Based on the findings, and other statutory and regulatory requirements, the manufacturers, importers, and wholesalers division shall either issue a certificate of label approval to the supplier, or notify the supplier that a certificate of label approval has been denied, along with the reasons for the denial.

(6) Excess. Beer or wine received in excess of the quantity authorized in WAC 314-64-030 for chemical analysis will be held by the general manager of the distribution center or his designee until the supplier has been notified of the overshipment and given fifteen days in which to respond as to whether he wants the excess returned to him at his expense. Failure of the supplier to respond within the time limitation or notification from the supplier that he does not want the excess returned to him, will result in the excess item or items being destroyed by a liquor control board auditor in the presence of the general manager of the distribution center, or his designee, after which a destruction notice will be prepared by the auditor and be certified by the general manager of the distribution center, or his designee, who witnessed the destruction. Copies of such destruction notices shall be distributed to the general manager of the distribution center and the liquor control board controller in Olympia.

[Statutory Authority: RCW 66.08.030 and 66.98.070. 82-04-035 (Order 95, Resolution No. 104), § 314-64-030, filed 1/28/82; Order 57, § 314-64-030, filed 7/28/77, effective 9/1/77; Order 40, § 314-64-030, filed 8/21/75.]

WAC 314-64-040 Procedures for board samples. Procedures for submitting samples to the board for the purpose of negotiating the sale of liquor to the board are as follows:

(1) Quantity. Samples shall not exceed in quantity that authorized by the U.S. Bureau of Alcohol, Tobacco and Firearms.

(2) Identification. Suppliers shall identify the items on the cartons and shipping documents as "samples for the board."

(3) Shipping instructions. Suppliers shall deliver or ship samples prepaid to the Washington State Liquor Control Board, Attention Liquor Purchasing Agent, 1025 East Union Avenue, Olympia, Washington 98504.

(4) In those instances where it becomes necessary for the board to incur some costs in receiving the samples, such costs shall be recovered from the supplier.

(5) Use and disposition of samples. Samples furnished for the purpose of negotiating the sale of liquor to the board shall be examined and tested by members of the board, or their designees, and/or the liquor purchasing agent, or his designee, for appearance, aroma and taste, and to determine their probable customer acceptability. After such examination and testing, any remaining portion of said samples shall be disposed of by members of the board, or their designees who examined and tested said samples, or by the purchasing agent, or his designee who examined and tested said samples.

(6) Reports. Members of the board, or their designees, and/or the liquor purchasing agent, or his designee, shall report their findings and recommendations on appropriate forms to the liquor purchasing agent for consolidation and report to the board. The board shall consider such findings and recommendations, along with other documents furnished by the supplier, in determining whether the items represented by the samples shall be purchased by the board for resale through state liquor stores.

(7) Excess. Samples received in excess of the quantity authorized in WAC 314-64-040 for the purpose of negotiating the sale of liquor to the board will be held by the liquor board purchasing agent until the supplier has been notified of the overshipment and given fifteen days in which to respond as to whether he wants the excess returned to him at his expense. Failure of the supplier to respond within the time limitation, or notification from the supplier that he does not want the excess returned to him, will result in the excess item or items being destroyed by a liquor control board auditor in the presence of the liquor purchasing agent, or his designee, after which a destruction notice will be prepared by the auditor and be certified by the liquor board purchasing agent or his designee who witnessed the destruction. Copies of such destruct notices shall be distributed to members of the board, the liquor purchasing agent, and the liquor control board controller.

(8) Containers. Containers submitted to the board for the purpose of negotiating the sale of liquor shall, after examination by the board and/or the liquor purchasing agent, be disposed of as follows:

(a) Figurines, decanters, or other decorative containers may be retained for public display in the board offices in Olympia. After such display, the containers shall be disposed of as provided in (b) of this subsection.

(b) Figurines, decanters, or other decorative containers will be held by the liquor purchasing agent until the supplier has been notified that the containers have been examined by the board, and the supplier will be given

fifteen days in which to respond as to whether he wants the containers returned to him at his expense. Failure of the supplier to respond within the time limitation, or notification from the supplier that he does not want the containers returned to him, will result in the containers being disposed of as surplus property, pursuant to RCW 43.19.1919, if the anticipated revenue to be derived from the sale of the containers as surplus property is deemed to exceed the anticipated costs attributable to the sale.

(c) Containers whose anticipated revenue to be derived from their sale as surplus property is deemed not to exceed the anticipated costs attributable to the sale shall be disposed of by members of the board, or their designees who examined and tested said samples, or by the liquor purchasing agent, or his designee who examined and tested said samples.

[Statutory Authority: RCW 66.28.045. 86-21-117 (Order 200, Resolution No. 209), § 314-64-040, filed 10/21/86. Statutory Authority: RCW 66.08.030 and 66.98.070. 82-04-035 (Order 95, Resolution No. 104), § 314-64-040, filed 1/28/82; Order 40, § 314-64-040, filed 8/21/75.]

WAC 314-64-050 Accounting for board samples. Samples shall be accounted for as follows:

(1) Beer and wine submitted to the board for chemical analysis.

(a) Upon receipt of the samples at the distribution center in Seattle, the general manager of the distribution center, or his designee, shall prepare a multiple-copy receiving and disposition report for said samples, clearly identifying them as "samples for chemical analysis." If they are hand-delivered by the supplier, the supplier will be given a receipt.

(b) The general manager of the distribution center, or his designee, shall sign the multiple-copy receiving and disposition report in the applicable section indicating receipt of samples.

(c) If more than the amount authorized in WAC 314-64-030 is received, the general manager of the distribution center, or his designee, shall prepare a separate receiving report for the excess samples and dispose of them as provided in WAC 314-64-030(6).

(d) The general manager of the distribution center, or his designee, shall deliver the multiple-copy receiving and disposition report, with the applicable samples, to a representative of the manufacturers, importers, and wholesalers division in the Seattle distribution center.

(e) The said representative of the manufacturers, importers, and wholesalers division shall sign the multiple-copy receiving and disposition report in the applicable section, indicating his receipt of the samples.

(f) The general manager of the distribution center, or his designee, shall distribute the signed multiple-copies of the receiving and disposition report as follows: The original and three copies to the manufacturers, importers, and wholesalers division in Seattle, one copy to the general manager of the distribution center, and one copy to the liquor board controller in Olympia.

(g) A representative of the manufacturers, importers, and wholesalers division shall deliver the original and remaining copies of the receiving and disposition reports, with the applicable samples, to the Washington State

Food and Drug Laboratory, University of Washington, for chemical analysis and report as provided in WAC 314-64-030.

(h) A representative of the Washington State Food and Drug Laboratory shall sign the receiving and disposition reports in the applicable sections, indicating receipt of the samples at the laboratory.

(i) A representative of the manufacturers, importers, and wholesalers division shall distribute the signed receiving and disposition reports as follows: The original to the liquor control board controller in Olympia, one copy to the representative of the Washington State Food and Drug Laboratory, one copy to the manufacturers, importers, and wholesalers division in Olympia, and one copy to be retained by the manufacturers, importers, and wholesalers division in Seattle.

(j) The liquor control board controller in Olympia shall maintain the official copies of the receiving and disposition reports chemical analysis reports, and, where applicable, the destruction notices.

(2) Malt liquor, wine or spirits submitted to the board for the purpose of negotiating the sale of liquor to the board.

(a) Upon receipt of the samples by the liquor purchasing agent in Olympia, the liquor purchasing agent, or his designee, shall prepare a multiple-copy receiving and disposition report for said samples, clearly identifying them as "samples for the purpose of negotiating the sale of liquor to the board."

(b) If more than the amount authorized in WAC 314-64-040 is received, the liquor purchasing agent, or his designee, shall prepare a separate receiving report for the excess samples and dispose of them as provided in WAC 314-64-040(7).

(c) The liquor purchasing agent, or his designee, shall sign the multiple-copy receiving and disposition report in the applicable section, indicating his receipt of the samples.

(d) The liquor purchasing agent, or his designee, shall distribute the signed multiple-copies of the receiving and disposition reports as follows: The original to be retained by the liquor purchasing agent, one copy to each member of the board, and one copy to the liquor control board controller.

(e) The purchasing agent, or his designee, shall provide an analysis report form, as required in WAC 314-64-040(6) for each sample. The receiving and disposition reports and analysis report forms shall be numbered consecutively, and shall correspond one with the other.

(f) The liquor purchasing agent shall deliver a copy of the receiving and disposition report and the analysis report forms with the samples, to members of the board, or their designees, and/or to the liquor purchasing agent, or his designee, for examination, testing and reporting as provided in WAC 314-64-040 (4), (5) and (6).

(g) Members of the board, or their designees, and/or the liquor purchasing agent, or his designee, shall sign the receiving and disposition report in the applicable section, indicating receipt of the samples.

(h) The purchasing agent shall distribute the signed receiving and disposition report as follows: The original to the member of the board, or his designee, or the liquor purchasing agent, or his designee, to whom the sample was delivered; one copy to the liquor control board controller, and one copy to be retained by the liquor purchasing agent.

(i) Members of the board, or their designees, and/or the liquor purchasing agent, or his designee, shall examine, test and report on the sample, as provided in WAC 314-64-040 (4), (5), and (6), complete the analysis report form, and distribute the form as follows: The original to the liquor purchasing agent, one copy to the liquor control board controller, and one copy to be retained by the member of the board, or his designee, and/or the liquor purchasing agent, or his designee who examined and tested the sample.

(j) The liquor control board controller shall maintain the official copies of the receiving and disposition reports, together with the matching analysis report forms, and, where applicable, the destruction notices.

[Statutory Authority: RCW 66.08.030 and 66.98.070. 82-04-035 (Order 95, Resolution No. 104), § 314-64-050, filed 1/28/82; Order 40, § 314-64-050, filed 8/21/75.]

WAC 314-64-060 Purpose. The purpose of WAC 314-64-060 through 314-64-090 is to comply with and implement provisions of section 2, chapter 182, Laws of 1981, and RCW 66.28.040.

[Statutory Authority: RCW 66.08.030, 66.08.060 and 66.98.070. 81-23-038 (Order 84, Resolution No. 93), § 314-64-060, filed 11/18/81.]

WAC 314-64-070 Definition. Samples for the purpose of this section shall mean beer and wine and/or containers furnished to licensees for the purpose of negotiating a sale as provided in RCW 66.28.040.

[Statutory Authority: RCW 66.08.030, 66.08.060 and 66.98.070. 81-23-038 (Order 84, Resolution No. 93), § 314-64-070, filed 11/18/81.]

WAC 314-64-080 Procedures. Procedures for furnishing samples of beer and wine to licensees for the purpose of negotiating a sale are as follows:

(1) Quantity. Except as provided in (d) of this subsection, samples may be furnished only in their original packages or containers as produced by the manufacturer or bottler, as follows:

(a) Wholesaler or importer. A brewer, winery or importer may furnish a sample of beer or wine to a wholesaler or importer who has not previously purchased the brand and type or vintage year from the supplier furnishing the sample. For each wholesaler or importer, the brewer, winery or importer may give not more than seventy-two ounces of any brand and type of beer, and not more than one liter of any brand and type of wine.

(b) Retailer. A brewer, winery, importer or wholesaler may except as hereinafter provided furnish a sample of beer or wine to a retail licensee who has not previously purchased the brand and type or vintage year from the supplier furnishing the sample. For each retail licensee, the brewer, winery, importer or wholesaler may give not

more than seventy-two ounces of any brand and type of beer, and not more than one liter of any brand and type of wine. If a particular product is not available in a size within the quantity limitations of this section, a brewer, winery, importer or wholesaler may furnish the next largest size: *Provided, however,* That unpasteurized beer in its original sealed package shall not be furnished as samples.

(c) Out-of-state brewers and wineries who hold a certificate of approval to ship their products into this state who provide samples to retailers as outlined in (b) of this subsection shall be responsible for reporting monthly to the board any shipments of samples to retailers in Washington state and shall also be responsible for paying the taxes due on such beer and wine samples provided to retailers as provided for in WAC 314-20-010 and 314-24-110 as if they were a domestic brewer or a domestic winery.

(d) Samples in other than the original packages or containers may, subject to the conditions and limitations stated in (a), (b), and (c) of this subsection, be furnished as follows:

(i) A brewery, winery, importer, or wholesaler, either directly or through their licensed agents, may furnish to authorized licensees at their licensed premises or business office samples of beer and wine from an opened container carried by a licensed agent, provided such samples are furnished only in single-serving samples not to exceed two ounces of wine or twelve ounces of beer.

(ii) A brewery, winery, importer, or wholesaler, either directly or through their licensed agents, may furnish samples of beer or wine to authorized licensees at the premises of a retail licensee.

(iii) A licensed importer or licensed wholesaler may furnish samples to authorized licensees on the licensed premises of the importer or wholesaler: *Provided,* That when exercising the privileges authorized in (d)(ii) and (iii) of this subsection a brewery, winery, importer, or wholesaler may, in addition to furnishing samples of beer or wine as provided, supply small amounts of breads, crackers, cheeses, fruits, or nuts to clear the taste buds of participants between successive samples of beer or wine but shall not furnish meals or additional treats which would be violative of WAC 314-12-140.

(2) Identification. Brewers, wineries, importers or wholesalers shall identify the samples on the containers, cartons and shipping documents as "Samples for licensees."

(3) Shipping instructions. Brewers, wineries, importers or wholesalers shall, except as provided in subsection (1)(d) of this section, deliver or ship samples to licensees at their licensed premises or business office.

(4) Use and disposition of samples. Samples may be furnished for the purpose of negotiating a sale of beer or wine to a wholesaler, importer, or retail licensee.

[Statutory Authority: RCW 66.08.030, 86-11-015 (Order 185, Resolution No. 194), § 314-64-080, filed 5/13/86. Statutory Authority: RCW 66.08.030 and 66.98.070, 82-04-035 (Order 95, Resolution No. 104), § 314-64-080, filed 1/28/82. Statutory Authority: RCW 66.08-030, 66.08.060 and 66.98.070, 81-23-038 (Order 84, Resolution No. 93), § 314-64-080, filed 11/18/81.]

WAC 314-64-090 Accounting. (1) Each brewer, winery, importer or wholesaler who furnishes samples of beer or wine to licensees shall keep at his place of business a complete record of the disposition of such samples, which record shall show (a) the name and address of the importer, wholesaler or retail licensee to whom the samples were furnished, (b) the brand name and type, (c) the quantities furnished to each importer, wholesaler or retail licensee, and (d) the date the samples were furnished.

(2) Each importer or wholesaler who receives samples of beer or wine shall keep at his place of business a complete current record of all such samples received, showing (a) the name and address of the brewer, winery, importer or wholesaler from whom the samples were received, (b) the brand name and type, (c) the quantities received, and (d) the date the samples were received.

(3) Each retail licensee who receives samples of beer or wine shall keep at his place of business a complete current record of all such samples received, showing (a) the name and address of the brewer, winery, importer or wholesaler from whom the samples were received, (b) the brand name and type, (c) the quantities received, and (d) the date the samples were received.

(4) All records and documents prescribed by this section shall be retained by the person required to keep the documents for a period of not less than two years, and during this period shall be available, during business hours, for inspection and copying by members of the board or their accredited representatives.

(5) All beer or wine samples received or furnished by licensees shall be subject to the taxes imposed by RCW 66.24.290 and 66.24.210.

[Statutory Authority: RCW 66.08.030, 66.08.060 and 66.98.070, 81-23-038 (Order 84, Resolution No. 93), § 314-64-090, filed 11/18/81.]

Chapter 314-68 WAC

IMPORTATION OF ALCOHOLIC BEVERAGES FOR PERSONAL OR HOUSEHOLD USE

WAC

314-68-010	Purpose.
314-68-020	Definitions.
314-68-030	Quantity.
314-68-040	Procedures for foreign imports.
314-68-050	Procedures for domestic imports.

WAC 314-68-010 Purpose. The purpose of this chapter is to comply with and implement provisions of RCW 66.12.110 and 66.12.120 and to regulate the importation of alcoholic beverages into the state from outside the United States, or from another state within the United States, for personal or household use.

[Order 60, § 314-68-010, filed 11/1/77; Order 40, § 314-68-010, Rule 134, filed 8/21/75.]

WAC 314-68-020 Definitions. In this title, unless the context provides otherwise, the following definitions shall apply:

(1) "Alcoholic beverages" means liquor as defined in RCW 66.04.010(16).

(2) "Unlicensed individual" means a person, 21 years of age or older, bringing alcoholic beverages into the state from outside the United States, or from another state within the United States, for personal or household use.

(3) "Personal or household use" means that the alcoholic beverages are to be consumed by the unlicensed individual, in his residence, or by his family and/or guests, in his residence, at no charge to the family and/or guests. Personal or household use also means that such alcoholic beverages may not be sold or resold.

(4) "Equivalent markup and tax" means the average state markup and tax that would be applicable to the purchase of the same or similar alcoholic beverages at retail from a state liquor store.

[Order 60, § 314-68-020, filed 11/1/77; Order 40, § 314-68-020, Rule 135, filed 8/21/75.]

WAC 314-68-030 Quantity. The amount of alcoholic beverages which an unlicensed individual may bring into the state shall be governed by the following:

(1) Such quantities as have been declared and permitted to enter the United States duty free under federal law may be allowed to enter the state from without the United States, free of tax and markup, for personal or household use.

(2) Such quantity in excess of that permitted in WAC 314-68-030(1) may be allowed to enter the state from without the United States, for personal or household use, upon payment of the equivalent markup and tax.

(3) The board may authorize a reasonable amount of alcoholic beverages to be brought into the state from another state for personal and household use, upon payment of the equivalent markup and tax.

[Order 40, § 314-68-030, Rule 136, filed 8/21/75.]

WAC 314-68-040 Procedures for foreign imports. Procedures for an unlicensed individual to bring alcoholic beverages in excess of the quantity permitted in WAC 314-68-030(1) into the state from outside the United States for personal or household use are as follows:

(1) The United States Customs Service shall be requested to require each such individual to complete a declaration form prescribed by the board, and to present such form to the United States customs inspector who will review the form for completeness; compute state taxes and markup from a chart supplied by the board; sign the form; provide duplicate copies of the completed form to the unlicensed individual; mail a copy of the form to the board, and retain a copy for the United States Customs Service.

(2) The unlicensed individual who has signed the declaration form shall mail a copy of the form with payment of the total state taxes and markup to the Washington State Liquor Control Board, Purchasing Division, Olympia, Washington, within ten calendar days from the date of signing the declaration form, and

said individual shall act as custodian for the alcoholic beverages until a release is received from the board.

(3) Upon receipt of total state taxes and markup due, the board shall mail a receipt/release to the unlicensed individual signing such declaration, authorizing use of the alcoholic beverages, for which the total state taxes and markup due has been paid, for personal or household use, but not for sale or resale.

[Order 60, § 314-68-040, filed 11/1/77; Order 40, § 314-68-040, Rule 137, filed 8/21/75.]

WAC 314-68-050 Procedures for domestic imports. Procedures for an unlicensed individual to bring alcoholic beverages into the state from another state for personal or household use are as follows:

(1) Prior authorization must be obtained from the board before alcoholic beverages may be brought into the state from another state for personal or household use. Any unlicensed individual who fails to obtain prior authorization will be subject to provisions of RCW 66.44.160.

(2) An unlicensed individual may apply for such authorization to the Washington State Liquor Control Board, Attention Liquor Purchasing Agent, 1025 East Union Avenue, Olympia, Washington 98504. The application must include a list of the items to be brought into the state.

(3) The liquor purchasing agent will compute the equivalent markup and tax, and issue said authorization upon payment by the unlicensed individual of the applicable equivalent markup and tax.

(4) The authorization will list the alcoholic beverage items to which it applies, and the markup and taxes the unlicensed individual paid thereon.

(5) The authorization must be in possession of the unlicensed individual when such alcoholic beverages are brought into the state.

[Order 40, § 314-68-050, Rule 138, filed 8/21/75.]

Chapter 314-70 WAC

DISPOSITION OF LIQUOR STOCK FOLLOWING DISCONTINUANCE OF BUSINESS AND/OR LAWFUL SEIZURE OF LIQUOR BY A GOVERNMENTAL AGENCY

WAC

314-70-010	Sale by Class H licensee of liquor stock after discontinuance of business.
314-70-020	Disposition by a governmental agency of lawfully seized liquors, except those which are required to be delivered to the board under RCW 66.32.090.
314-70-030	Purchases by Class H licensee of certain liquor stocks.
314-70-040	Procedures for board purchase of liquor from governmental agencies.

WAC 314-70-010 Sale by Class H licensee of liquor stock after discontinuance of business. Notwithstanding any other provision of Title 66 RCW or Title 314 WAC, a Class H licensee who permanently discontinues business for any reason shall dispose of the salable unopened liquor remaining in stock by sale to the board of the

items originally purchased from the board. The board will pay the total amount listed in the official price list then in effect, less the Class H discount and tax exemption expressed as a percent of the total price and the percent of total expenses assigned to the merchandise division to gross sales as reported on the profit and loss statement in the last published annual report of the board. Combined percentages will be rounded up to a whole percent: *Provided, however*, That in the case of a transfer of license a Class H licensee, after obtaining the approval of the board and under the supervision of a representative of the board, may sell the entire inventory of liquor to the incoming licensee at a negotiated price.

[Statutory Authority: RCW 66.08.030 and 66.98.070. 82-17-022 (Order 109, Resolution No. 118), § 314-70-010, filed 8/9/82.]

WAC 314-70-020 Disposition by a governmental agency of lawfully seized liquors, except those which are required to be delivered to the board under RCW 66.32.090. Notwithstanding any other provision of Title 66 RCW or Title 314 WAC, governmental agencies may, after obtaining the approval of the board and under the supervision of the board, dispose of lawfully seized liquors (except those which are required to be delivered to the board under RCW 66.32.090) as follows:

(1) The governmental agency may sell spirituous unopened salable liquor, and/or wine and beer previously purchased from the board, to the board as per procedure in WAC 314-70-040.

(2) The governmental agency may sell opened containers of liquor back to the Class H licensee from whom seized, if the licensee is going out of business, for the personal use of the licensee at a negotiated price after payment by the licensee to the board of an amount to be determined by the board in lieu of the Class H discount and tax exemption in effect at that time: *Provided*, That if the licensee has not so purchased the opened bottles of liquor within the period of redemption, they shall be destroyed.

(3) The governmental agency may sell unopened beer and/or wine to the wholesaler selling the same as per procedure in WAC 314-24-210 and 314-20-070 at a negotiated price. Copies of inventory and bill of sale shall be furnished the board.

(4) The governmental agency may sell unopened salable wine to appropriately licensed retailers at a negotiated price. Copies of the inventory and bill of sale shall be furnished the board.

(5) The governmental agency may ship the liquor out of the state of Washington.

[Statutory Authority: RCW 66.08.030 and 66.98.070. 82-17-022 (Order 109, Resolution No. 118), § 314-70-020, filed 8/9/82.]

WAC 314-70-030 Purchases by Class H licensee of certain liquor stocks. Notwithstanding any other provision of Title 66 RCW or Title 314 WAC, a Class H licensee in conjunction with a transfer of license may purchase, and place into its regular stock, salable liquor as provided in WAC 314-70-010. Such liquor shall be treated for purposes of Title 66 RCW and Title 314

WAC as if it had been purchased from the board pursuant to RCW 66.24.440.

[Statutory Authority: RCW 66.08.030 and 66.98.070. 82-17-022 (Order 109, Resolution No. 118), § 314-70-030, filed 8/9/82.]

WAC 314-70-040 Procedures for board purchase of liquor from governmental agencies. The board may purchase from governmental agencies lawfully seized salable unopened liquor. Such purchases are subject to the following conditions:

(1) The governmental agency shall provide the board with a listing of the liquor and shall make the liquor available for examination and review.

(2) The board will issue a purchase order for the liquor.

(3) When the governmental agency is from within the state of Washington and the liquor was originally purchased from the board, the board will pay the total amount listed in the official board price list then in effect, less the Class H discount and tax exemption expressed as a percent of the total price and the percent of total expenses assigned to the merchandise division to gross sales as reported on the profit and loss statement in the last published annual report of the board. Combined percentages will be rounded up to a whole percent.

(4) When the governmental agency is a federal agency, or when the governmental agency is from within the state of Washington but the liquor was not originally purchased from the board, or the liquor is no longer handled by the board, the board will pay a negotiated amount not to exceed ninety percent of the original approximate cost price from the distillery or manufacturer including federal tax and duty.

(5) After receipt of the board purchase order, the governmental agency who is selling the liquor will invoice the board as per the prices listed on the purchase order.

[Statutory Authority: RCW 66.08.030 and 66.98.070. 82-17-022 (Order 109, Resolution No. 118), § 314-70-040, filed 8/9/82.]

Chapter 314-72 WAC AGENCY GUIDELINES--STATE ENVIRONMENTAL POLICY

WAC	
314-72-010	Purpose.
314-72-020	Application.

WAC 314-72-010 Purpose. The purpose of this chapter is to comply with and implement RCW 43.21C-.120 directing every state agency to adopt rules pertaining to the integration of the policies and procedures of the State Environmental Protection Act into the various programs under their jurisdiction for implementation.

[Order 44, § 314-72-010, Rule 140, filed 5/4/76.]

WAC 314-72-020 Application. Pursuant to WAC 197-10-800, the liquor control board has reviewed its authorized activities and found them to be exempt under the provisions of chapter 197-10 WAC.

[Order 44, § 314-72-020, Rule 141, filed 5/4/76.]

**Chapter 314-76 WAC
SPECIAL ORDERS**

WAC

314-76-010 Special order of liquor by customers.

WAC 314-76-010 Special order of liquor by customers. Pursuant to RCW 66.08.070 and 66.08.090, upon the request of any eligible person, the board will special order any spirituous liquor, wine or malt beverage over four percent alcohol by weight that is not listed for sale in state liquor stores. Special order request forms may be obtained in any liquor store and should be mailed directly to the Purchasing Division, Washington State Liquor Control Board, Olympia, Washington 98504. Special order requests will be accepted for case lots only. When the special order liquor is received at the liquor store specified on the customer request, the manager will notify the customer. The customer shall pay for and pick up the liquor within seven days of such notice. Any special order liquor which is not picked up within this time period will be disposed of as directed by the board.

[Order 55, § 314-76-010, Rule 145, filed 5/31/77, effective 7/1/77.]

**Chapter 314-78 WAC
OFFICIAL SEAL OF THE BOARD**

WAC

314-78-010 Official seal of the board.

WAC 314-78-010 Official seal of the board. Pursuant to the authority of RCW 66.08.030 (2)(g) the board adopts the following design as and for its official seal:



[Statutory Authority: RCW 66.08.030 and 66.98.070. 81-19-116 (Order 81, Resolution No. 90), § 314-78-010, filed 9/23/81.]