

**Chapter 314-03 WAC
ALLOWED ACTIVITIES**

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WAC

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WAC 314-03-020 Consumer orders, internet sales, and delivery for grocery stores and beer and wine specialty shops. A grocery store or beer and wine specialty shop licensee may accept orders for beer or wine from, and deliver beer or wine to, customers.

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

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

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

(4) **Sales and payment.**

(a) Only a licensee or a licensee's direct employees may accept and process orders and payments. A contractor may not do so on behalf of a licensee, except for transmittal of payment through a third-party service. The use of internet or mobile applications for retail customers to purchase alcohol in Washington state are allowed under the following conditions:

(i) The sale must be made by the licensee;

(ii) The licensee processes payment for the sale; and

(iii) The liquor licensee pays the owner of the mobile application a service fee.

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

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

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

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

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

(7) **Age requirement.**

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

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

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

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

(9) **Containers and packaging.**

(a) Individual units of liquor must be factory sealed in bottles, cans or other like packaging. Delivery of growlers, jugs or other similar, nonfactory-sealed containers is prohibited. Delivery of malt liquor in kegs or other containers capable of holding four gallons or more of liquid is allowed, provided that kegs or containers are factory sealed and that the keg sales requirements (see WAC 314-02-115) are met prior to delivery. For the purposes of this subsection, "factory sealed" means that a unit is in one hundred percent resalable condition, with all manufacturer's seals intact.

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

(i) The package contains liquor;

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

(iii) Delivery to intoxicated persons is prohibited.

(10) **Required information.**

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

(i) Name of the purchaser;

(ii) Name of the person who accepts delivery;

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

(iv) Times and dates of purchase and delivery.

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

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

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

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

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

[Statutory Authority: RCW 66.08.030. WSR 17-17-030, § 314-03-020, filed 8/9/17, effective 9/9/17; WSR 10-04-018, § 314-03-020, filed 1/25/10, effective 2/25/10.]

WAC 314-03-030 Consumer orders, internet sales, and delivery for spirits retail licensees. A spirit retail licensee may accept orders for spirits from, and deliver spirits to, customers.

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

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

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

(4) **Sales and payment.**

(a) Only a spirits retail licensee or a licensee's direct employees may accept and process orders and payments. A contractor may not do so on behalf of a spirits retail licensee, except for transmittal of payment through a third-party service. The use of internet or mobile applications for retail customers to purchase alcohol in Washington state are allowed under the following conditions:

(i) The sale must be made by the licensee;

(ii) The licensee processes the payment for the sale; and

(iii) The liquor licensee pays the owner of the mobile application a service fee.

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

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

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

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

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

(7) **Age requirement.**

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

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

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

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

(9) **Containers and packaging.**

(a) Individual units of spirits must be factory sealed in bottles. For the purposes of this subsection, "factory sealed" means that a unit is in one hundred percent resalable condition, with all manufacturer's seals intact.

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

(i) The package contains liquor;

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

(iii) Delivery to intoxicated persons is prohibited.

(10) **Required information.**

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

(i) Name of the purchaser;

(ii) Name of the person who accepts delivery;

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

(iv) Time and date of purchase and delivery.

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

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

(11) **Website requirements.** When selling over the internet, all website pages associated with the sale of liquor must display the spirits retail licensee's registered trade name.

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

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

[Statutory Authority: RCW 66.08.030. WSR 17-17-030, § 314-03-030, filed 8/9/17, effective 9/9/17; WSR 12-23-003, § 314-03-030, filed 11/7/12, effective 12/8/12.]

WAC 314-03-035 Consumer orders, internet sales, and delivery for on-premises beer and/or wine liquor licensees. An on-premises beer and/or wine licensee may accept orders for beer or wine from, and deliver beer or wine to, customers.

(1) **Resale.** Beer and wine shall not be for resale.

(2) **Stock location.** Beer and wine must come directly from a licensed on-premises retail location.

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

(4) **Sales and payment.**

(a) Only a licensee or a licensee's direct employees may accept and process orders and payments. A contractor may not do so on behalf of a licensee, except for transmittal of payment through a third-party service. The use of internet or mobile applications for retail custom-

ers to purchase alcohol in Washington state are allowed under the following conditions:

(i) The sale must be made by the licensee;
(ii) The licensee processes the payment; and
(iii) The liquor licensee pays the owner of the mobile application a service fee.

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

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

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

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

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

(7) **Age requirement.**

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

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

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

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

(9) **Containers and packaging.**

(a) Individual units of beer and wine must be factory sealed in bottles, cans or other like packaging. Delivery of growlers, jugs or other similar, nonfactory sealed containers is prohibited. Delivery of malt liquor in kegs or other containers capable of holding four gallons or more of liquid is allowed, provided that kegs or containers are factory sealed and that the keg sales requirements (see WAC 314-02-115) are met prior to delivery. For the purposes of this subsection, "factory sealed" means that a unit is in one hundred percent resalable condition, with all manufacturer's seals intact.

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

(i) The package contains liquor;
(ii) The recipient must be twenty-one years of age or older; and
(iii) Delivery to intoxicated persons is prohibited.

(10) **Required information.**

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

- (i) Name of the purchaser;
- (ii) Name of the person who accepts delivery;
- (iii) Street addresses of the purchaser and the delivery location; and
- (iv) Times and dates of purchase and delivery.

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

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

(11) **Website requirements.** When selling over the internet, all website pages associated with the sale of beer and wine must display a licensee's registered trade name.

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

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

[Statutory Authority: RCW 66.08.030. WSR 17-17-030, § 314-03-035, filed 8/9/17, effective 9/9/17; WSR 15-21-097, § 314-03-035, filed 10/21/15, effective 11/21/15.]

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

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

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

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

(4) **Sales and payment.**

(a) Only a licensee or a licensee's direct employees may accept and process orders and payments. A contractor may not do so on behalf of a licensee, except for transmittal of payment through a third-party service. The use of internet or mobile applications for retail customers to purchase alcohol in Washington state are allowed under the following conditions:

(i) The sale must be made by the licensee;

(ii) The licensee processes the payment; and

(iii) The liquor licensee pays the owner of the mobile application a service fee.

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

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

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

as long as the liquor license numbers of all licensee locations utilizing internet sales privileges are clearly identified.

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

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

(7) **Age requirement.**

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

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

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

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

(9) **Containers and packaging.**

(a) Individual units of liquor must be factory sealed in bottles, cans or other like packaging. Delivery of growlers, jugs or other similar, nonfactory sealed containers is prohibited. For the purposes of this subsection, "factory sealed" means that a unit is in one hundred percent resalable condition, with all manufacturer's seals intact.

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

(i) The package contains liquor;

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

(iii) Delivery to intoxicated persons is prohibited.

(10) **Required information.**

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

(i) Name of the purchaser;

(ii) Name of the person who accepts delivery;

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

(iv) Time and date of purchase and delivery.

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

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

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

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

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

[Statutory Authority: RCW 66.08.030. WSR 17-17-030, § 314-03-040, filed 8/9/17, effective 9/9/17. Statutory Authority: RCW 66.24.550. WSR 16-07-025, § 314-03-040, filed 3/9/16, effective 4/9/16.]

WAC 314-03-050 Limited patron participation entertainment at a spirits, beer, and wine restaurant or a beer and/or wine restaurant.

(1) A spirits, beer, and wine restaurant or a beer and/or wine restaurant may provide entertainment with limited physical participation by patrons in the dedicated dining area of their licensed premises. Examples of this form of permitted entertainment include text messaging to movie screens, watching movies, nonpatron skits, and comedy acts. Such limited patron participation is permitted under the following conditions:

The dedicated dining area meets the following criteria:

(a) Wait staff provides table service to patrons which includes interaction; and

(b) Lighting requirements outlined in WAC 314-11-085.

(2) Licensees must submit a request to the board's licensing and regulation division to provide limited patron participation entertainment in the dedicated dining area of their premises.

(a) The licensee may begin the activity as soon as the approval is received.

(b) Board approval will be based on the request meeting the requirements outlined in this section.

(3) Minors are allowed after 11:00 p.m. in the dining area of a premises that has received approval as referenced in this section.

[Statutory Authority: RCW 66.08.030. WSR 12-16-032, § 314-03-050, filed 7/25/12, effective 8/25/12.]

WAC 314-03-060 Axe throwing at liquor licensed premises. (1)

Axe throwing combined with alcohol consumption is considered a high-risk activity. Licensees should follow industry best practices for safe axe throwing participation. A liquor licensee must receive approval from the board's licensing division prior to providing axe throwing activities at liquor licensed premises.

(2) The liquor licensee or liquor license applicant must submit a safety operating plan addressing how the licensee will mitigate safety concerns associated with axe throwing at the liquor licensed premises. The safety operating plan must include the following:

(a) Protocols for monitoring alcohol consumption and ensuring patrons are not intoxicated prior to axe throwing, including:

(i) Designated MAST-certified staff in the axe throwing area at all times to monitor alcohol consumption;

(ii) Prohibiting patrons who appear intoxicated from axe throwing;

(iii) Deescalating patrons who appear intoxicated and are uncooperative or hostile; and

(iv) Training employees on the protocols included in the safety operating plan; and

(b) A floor plan for the premises. The floor plan must include the following:

(i) The designated consumption areas where alcohol may be sold, served, or consumed on-premises; and

(ii) The axe throwing areas. The axe throwing areas must be separate from the designated consumption areas. Alcohol is not allowed in the axe throwing areas. The axe throwing areas must have barriers to separate the axe throwing activity from the designated consumption areas. Barriers must prevent axes from traveling out of the axe throw-

ing areas, including behind the throwers. "Barriers" means walls, fences, cages, or similar physical obstructions.

(3) Changes to a licensee's safety operating plan must be submitted to the board's licensing division for approval. The safety operating plan must remain in effect until the licensee's change request is approved by the board's licensing division or the board determines changes are necessary due to safety concerns.

(4) Failure to adhere to the licensee's approved safety operating plan is subject to the penalty structure outlined in WAC 314-29-030, violations of a board approved operating plan.

[Statutory Authority: RCW 66.08.030. WSR 22-13-054, § 314-03-060, filed 6/8/22, effective 7/9/22.]

WAC 314-03-100 What types of activities on a licensed premises require notice to the board? Liquor licensees must notify their local enforcement office in writing at least five days prior to conducting the following activities unless the licensee has received an exception from their enforcement officer:

(1) Male/female dance reviews, subject to the provision of WAC 314-11-050;

(2) Live boxing or wrestling;

(3) Contests or games where patrons are part of the entertainment;

(4) Hours of operation in between 2:00 a.m. and 6:00 a.m. for licensees that sell liquor for on-premises consumption;

(5) Closing the business to the general public for a private party; and

(6) Outside service for one-time events such as a holiday celebration where liquor service and consumption is planned to extend to an area of the premises that does not have board approval for liquor service. The licensee must have leasehold rights to the area where alcohol service and consumption is planned.

[Statutory Authority: RCW 66.08.030. WSR 17-12-030, § 314-03-100, filed 5/31/17, effective 7/1/17.]

WAC 314-03-200 Outside or extended alcohol service. A licensee must request approval from the board's licensing division for ongoing outside or extended alcohol service. Except as provided in the temporary rules for outdoor alcohol service in WAC 314-03-205 that are effective until July 1, 2023, unless extended by law, the following conditions must be met:

(1) The area must be enclosed with a permanent or movable barrier a minimum of 42 inches in height.

(2) There must be an interior access to the licensed premises. If the interior access is from a minor restricted area of the premises, minors are prohibited in the outside or extended alcohol service area.

(3) There must be an attendant, wait staff, or server dedicated to the outside service area when patrons are present.

(4) Must have leasehold rights to the area and have and be connected to the licensed premises.

(5) Openings into and out of the outside area cannot exceed 10 feet. If there is more than one opening along one side, the total combined opening may not exceed 10 feet.

(6) **Exception.** For sidewalk cafe outside service, the board allows local regulations that, in conjunction with a local sidewalk cafe permit, requires a 42 inch barrier or permanent demarcation of the designated alcohol service areas for continued enforcement of the boundaries.

(a) The permanent demarcation must be at all boundaries of the outside service area;

(b) The permanent demarcation must be at least six inches in diameter;

(c) The permanent demarcation must be placed no more than 10 feet apart;

(d) There must be an attendant, wait staff, or server dedicated to the outside service area when patrons are present;

(e) This exception only applies to restaurant liquor licenses with sidewalk cafe service areas contiguous to the liquor licensed premises. "Contiguous" means touching along a boundary or at a point;

(f) This exception does not apply to beer gardens, standing room only venues, and permitted special events. Board approval is still required with respect to sidewalk cafe barrier requirements.

(7) **Limited exception.** The board may grant limited exceptions to the required 42 inch high barrier for outside alcohol service areas.

(a) The licensee must have exclusive leasehold rights to the outside service area.

(b) There must be permanent demarcations at all boundaries of the outside service area for continued enforcement of the boundaries.

[Statutory Authority: 2021 c 48 § 2, RCW 66.08.071, 66.08.030 and 2021 c 48. WSR 22-01-052, § 314-03-200, filed 12/8/21, effective 1/8/22. Statutory Authority: RCW 66.08.030 and 66.44.310. WSR 20-03-180, § 314-03-200, filed 1/22/20, effective 2/22/20. Statutory Authority: RCW 66.08.030. WSR 17-12-030, § 314-03-200, filed 5/31/17, effective 7/1/17.]

WAC 314-03-205 Temporary rules for outdoor alcohol service by on-premises licensees. (1) As authorized in section 2(8), chapter 48, Laws of 2021, the temporary rules for outdoor alcohol service described in this section are effective until July 1, 2023, unless extended by law. These rules create a temporary exception to the requirements in WAC 314-03-200. These rules apply to all on-premises licensees.

(2) For ongoing outdoor alcohol service located in privately owned spaces, a licensee must request approval from the board's licensing division and meet the following requirements:

(a) The licensee must have legal authority to use the outdoor alcohol service area including, but not limited to, ownership or leasehold rights;

(b) The licensee must have a building that provides indoor dining or production in order to qualify for an outdoor alcohol service area;

(c) The outdoor alcohol service area must be (i) contiguous to the licensed business, or (ii) located on the same property or parcel of land as the licensed business;

(d) The outdoor alcohol service area must have an attendant, wait staff, or server dedicated to the area when patrons are present;

(e) Interior access to the licensed premises from the outdoor alcohol service area is not required. However, unless there is (i) interior access to the licensed premises from the outdoor alcohol service area, or (ii) an unobstructed direct line of sight from inside the li-

censed premises to the outdoor alcohol service area, an employee with a mandatory alcohol server training (MAST) permit under chapter 314-17 WAC must be present in the outdoor alcohol service area at all times that patrons are present, in order to monitor alcohol consumption. This requirement is in addition to the requirement in (d) of this subsection that the outdoor alcohol service area must have an attendant, wait staff, or server dedicated to the area when patrons are present;

(f) The same food service offered inside the licensed premises must also be offered in the outdoor alcohol service area;

(g) The outdoor alcohol service area must be enclosed with a permanent or movable barrier a minimum of 42 inches in height. The board may grant limited exceptions to the required 42 inch high barrier for outdoor alcohol service areas if the licensee has permanent boundaries for the outdoor alcohol service area;

(h) Openings into and out of the outdoor alcohol service area cannot exceed 10 feet. If there is more than one opening along one side, the total combined opening may not exceed 10 feet; and

(i) Licensees must comply with local building codes, local health jurisdiction requirements, department of labor and industries requirements, and any other applicable laws and rules.

(3) For ongoing outdoor alcohol service located in public spaces, a licensee must request approval from the board's licensing division and meet the following requirements:

(a) The licensed business must have a permit from their local jurisdiction allowing the business to use the public space as a service area, such as a sidewalk cafe permit or other similar outdoor area permit authorized by local regulation;

(b) The licensee must have a building that provides indoor dining or production in order to qualify for an outdoor alcohol service area;

(c)(i) Except as provided in (c)(ii) of this subsection, the outdoor alcohol service area must be enclosed with a permanent or movable barrier a minimum of 42 inches in height. Openings into and out of the outdoor alcohol service area cannot exceed 10 feet. If there is more than one opening along one side, the total combined opening may not exceed 10 feet;

(ii) Licensees with outdoor alcohol service areas contiguous to the licensed premises may use a permanent demarcation of the designated alcohol service area for continued enforcement of the boundaries, instead of a permanent or movable barrier a minimum of 42 inches in height. If a permanent demarcation is used, the permanent demarcation must be at all boundaries of the outdoor alcohol service area, must be at least six inches in diameter, and must be placed no more than 10 feet apart;

(d) The outdoor alcohol service area must have an attendant, wait staff, or server dedicated to the area when patrons are present;

(e) The same food service offered inside the licensed premises must also be offered in the outdoor alcohol service area; and

(f) Licensees must comply with local building codes, local health jurisdiction requirements, department of labor and industries requirements, and any other applicable laws and rules.

(4) For multiple licensees to share an outdoor alcohol service area, the licensees must request approval from the board's licensing division and meet the following requirements:

(a) The licensees' property parcels or buildings must be located in direct physical proximity to one another. For the purposes of this subsection, "direct physical proximity" means that the property par-

cels or buildings are physically connected or touching each other along a boundary or at a point;

(b) (i) If the shared outdoor alcohol service area is located on public space, the licensees sharing the space must meet all of the requirements in subsection (3) of this section and shared use of the outdoor service area must be authorized by the licensees' local jurisdiction permits; or

(ii) If the shared outdoor alcohol service area is located in a privately owned space, the licensees sharing the space must meet all of the requirements in subsection (2) of this section and must have legal authority to share use of the outdoor service area including, but not limited to, ownership or leasehold rights;

(c) The licensees must maintain separate storage of products and separate financial records for the shared outdoor alcohol service area. If licensees share any point of sale system, the licensees must keep complete documentation and records for the shared point of sale system showing clear separation as to what sales items and categories belong to each respective licensee;

(d) The licensees must use distinctly marked glassware or serving containers in the shared outdoor alcohol service area to identify the source of any alcohol product being consumed. The distinctive markings may be either permanent or temporary. Any temporary markings must remain on the glassware or serving containers through the duration of use by the customer;

(e) The licensees must complete an operating plan for the shared outdoor alcohol service area. The operating plan should demonstrate in general how responsibility for the outdoor alcohol service area is shared among the licensees. Licensees are required to submit the operating plan to the board's licensing division at the time of application or alteration and must keep documentation of an up-to-date plan available for inspection on premises; and

(f) Consistent with WAC 314-11-065, a licensee may not permit the removal of alcohol in an open container from the shared outdoor alcohol service area, except to reenter the licensed premises where the alcohol was purchased. Signage prohibiting the removal of alcohol in an open container must be visible to patrons in the shared outdoor alcohol service area.

(5) If multiple licensees use a shared outdoor alcohol service area as described in subsection (4) of this section, all participating licensees are jointly responsible for any violation or enforcement issues unless it can be demonstrated that the violation or enforcement issue was due to one or more licensee's specific conduct or action, in which case the violation or enforcement action applies only to those identified licensees.

(6) The definitions in this subsection apply throughout this section unless the context clearly requires otherwise.

(a) "Alcohol service" means service of liquor as defined in RCW 66.04.010.

(b) "Contiguous" means touching along a boundary or at a point.

(c) "Sidewalk cafe" means a designated seating area on the sidewalk, curb space, or other public space where a business provides table service and seating for their patrons during business hours.

(7) This section expires July 1, 2023, pursuant to section 2(11), chapter 48, Laws of 2021, unless extended by law.

[Statutory Authority: 2021 c 48 § 2, RCW 66.08.071, 66.08.030 and 2021 c 48. WSR 22-01-052, § 314-03-205, filed 12/8/21, effective 1/8/22.]

WAC 314-03-300 Alterations to a licensed premises. The following changes to a licensed premises require approval from the board's licensing division:

(1) Any alteration that affects the size of a premises' customer service area.

(a) The licensee must submit two sets of floor plans showing the changes.

(b) The board's licensing division will make an initial response on the licensee's request for alterations within five business days.

(c) The licensee must contact their local liquor enforcement officer when the alteration is completed.

(d) The licensee may begin liquor service in conjunction with the alteration after the completed alteration is inspected by the liquor enforcement officer.

(2) Excluding persons under twenty-one years of age from a spirits, beer, and wine restaurant or a spirits, beer, and wine nightclub.

The licensee must submit their request to the board's licensing division for an approval.

(3) Excluding persons under twenty-one years of age from the dining area of a beer and/or wine restaurant.

The licensee must submit their request to the board's licensing division for an approval.

(4) Reclassifying a lounge as open to persons under twenty-one years of age for a special event.

The licensee must submit their request to the board's licensing division for an approval.

[Statutory Authority: RCW 66.08.030. WSR 17-12-030, § 314-03-300, filed 5/31/17, effective 7/1/17.]

WAC 314-03-400 Curbside service. (1) Grocery stores that have the appropriate liquor licenses may provide curbside service to customers who order groceries online and pick them up in designated pickup areas outside of the grocery store. Curbside service in a designated pickup area must be administered pursuant to all applicable RCW and WAC provisions. Drive-through service from pickup or pass-through windows is prohibited.

(2) Curbside pickup of groceries that include spirits, beer, and wine are allowed under the following conditions:

(a) Orders must include at least twenty-five dollars of nonalcohol items.

(b) Orders must be delivered by an employee of the licensee to a vehicle parked in a designated pickup area owned or controlled by the licensee as part of the licensed premises.

(c) Employees delivering orders to the customer's vehicle and completing the sale must be at least eighteen years of age and be trained on verifying ID, recognizing signs of intoxication, and preventing youth access.

(d) If ID cannot be verified, or if the driver appears intoxicated, all alcohol will be removed from the order and the customer will not be charged for any removed products.

[Statutory Authority: RCW 66.08.030 and 66.24.360. WSR 19-03-061, § 314-03-400, filed 1/10/19, effective 8/1/19.]

WAC 314-03-500 Temporary endorsement for sale of manufacturer sealed alcohol products through curbside, takeout, or delivery service. (1) As authorized in section 2, chapter 48, Laws of 2021, the temporary endorsement described in this section is available until July 1, 2023, unless extended by law. There is no fee for a licensee to apply for and obtain this endorsement.

(2)(a) Consistent with section 2(2), chapter 48, Laws of 2021, an endorsement to sell manufacturer sealed alcohol products at retail through curbside, takeout, or delivery service is available to the following licensees: Beer and wine restaurants; spirits, beer, and wine restaurants; taverns; domestic wineries; domestic breweries and microbreweries; distilleries; snack bars; nonprofit arts licensees; and caterers.

(b) This endorsement is separate from the endorsements in WAC 314-03-505 and 314-03-510 that authorize the sale through curbside, takeout, or delivery service of nonmanufacturer or nonfactory sealed premixed cocktails, cocktail kits, wine by the glass, premixed wine and spirits cocktails, premixed wine drinks, or growlers.

(3) In order to obtain and maintain the endorsement described in this section, licensees must meet the following requirements:

(a) Alcohol products must be sold in closed, factory or manufacturer sealed packages or containers, such as cans, bottles, and kegs. Licensees may only sell the types of manufacturer sealed alcohol products under this endorsement that they are authorized to sell under the terms of their license.

(b)(i) Except as provided in (b)(ii) of this subsection, if an alcohol product authorized for sale under this endorsement is enclosed inside a bag, box, or other packaging before the alcohol product is provided to the customer through curbside, takeout, or delivery service, the exterior of the bag, box, or other packaging must be clearly marked or labeled with the words "CONTAINS ALCOHOL, FOR PERSONS 21+" in a size that is legible and readily visible.

(ii) Brewery, winery, and distillery licensees are not required to mark or label the exterior of the bag, box, or other packaging as described in (b)(i) of this subsection if the alcohol product is provided to the customer through takeout service.

(c) If the alcohol products authorized for sale under this endorsement are sold through delivery service:

(i) Licensees must comply with the requirements in the consumer orders, internet sales, and delivery rules in this title. For these requirements, see WAC 314-03-020 through 314-03-040. Delivery by third-party service providers is allowed with approval by the board's licensing division of an added activity application requesting internet sales privileges.

(ii) At the time of delivery, the employee making the delivery must verify that the person receiving the delivery is at least twenty-one years of age using an acceptable form of identification in WAC 314-11-025. See RCW 66.44.270.

(iii) Consistent with section 2(9), chapter 48, Laws of 2021, upon delivery of the alcohol product, the signature of the person age twenty-one or over receiving the delivery must be obtained. Delivery sales records must meet the requirements in the consumer orders, internet sales, and delivery rules. For general record retention requirements, see WAC 314-11-095.

(iv) If no person age twenty-one or over is present to accept the alcohol product at the time of delivery, the alcohol product must be

returned. An alcohol product may not be left unattended at a delivery location.

(v) Delivery of an alcohol product may not be made to any person who shows signs of intoxication. See RCW 66.44.200.

(d)(i) In addition to the signs required by WAC 314-11-060, signs provided electronically by the board regarding public consumption and transportation of any alcohol products sold through curbside, takeout, or delivery service must be posted in plain view at:

(A) The main entrance to the area of the premises where alcohol products are sold; and

(B) The areas of the premises where alcohol products are picked up for takeout, curbside, or delivery service.

(ii) The signs will be designed to remind customers purchasing alcohol products through curbside, takeout, or delivery service that they must comply with applicable laws and rules including, but not limited to, restrictions on consuming alcohol in public in RCW 66.44.100 and restrictions on drinking or having an open container in a vehicle in RCW 46.61.519.

(4) In addition to the requirements listed in this section, licensees must comply with all applicable requirements in Title 66 RCW, Title 314 WAC, and any other applicable laws and rules including, but not limited to: Keg sale requirements in WAC 314-02-115 and restrictions on sales to minors and intoxicated persons in chapter 66.44 RCW and WAC 314-16-150.

(5) The definitions in this subsection apply throughout this section unless the context clearly requires otherwise.

(a) "Alcohol product" means liquor as defined in RCW 66.04.010.

(b) "Factory sealed" or "manufacturer sealed" means that a package or container is in one hundred percent resalable condition, with all manufacturer's seals intact.

(6) This section expires July 1, 2023, pursuant to section 2(11), chapter 48, Laws of 2021, unless extended by law.

[Statutory Authority: 2021 c 48 § 2, RCW 66.08.071, 66.08.030 and 2021 c 48. WSR 22-01-052, § 314-03-500, filed 12/8/21, effective 1/8/22.]

WAC 314-03-505 Temporary endorsement for sale of premixed cocktails, cocktail kits, wine by the glass, premixed wine and spirits cocktails, or premixed wine drinks through curbside, takeout, or delivery service. (1) As authorized in section 2, chapter 48, Laws of 2021, the temporary endorsement described in this section is available until July 1, 2023, unless extended by law. There is no fee for a licensee to apply for and obtain this endorsement.

(2) Consistent with section 2(3) and (4), chapter 48, Laws of 2021:

(a) An endorsement is available to spirits, beer, and wine restaurants to sell premixed cocktails, cocktail kits, wine by the glass, or premixed wine and spirits cocktails through curbside, takeout, or delivery service. This endorsement does not authorize the sale of full bottles of spirits for off-premises consumption, although mini-bottles may be sold as part of cocktail kits. Consistent with section 2(3), chapter 48, Laws of 2021, mini-bottle sales as part of cocktail kits are exempt from the spirits license issuance fee under RCW 66.24.630

(4)(a) and the tax on each retail sale of spirits under RCW 82.08.150.

(b) An endorsement is also available to beer and wine restaurant licensees to sell wine or premixed wine drinks by the glass through curbside, takeout, or delivery service.

(3) In order to obtain and maintain the endorsement described in this section, licensees must meet the following requirements:

(a)(i) For spirits, beer, and wine restaurants, food that qualifies as a complete meal under WAC 314-02-010 must be sold with the premixed cocktails, cocktail kits, wine by the glass, or premixed wine and spirits cocktails authorized for sale through curbside, takeout, or delivery service under this endorsement. Spirits, beer, and wine restaurants can sell up to 3 ounces of spirits per complete meal.

(ii) For beer and wine restaurants, a food item that qualifies as minimum food service under WAC 314-02-010 must be sold with the wine or premixed wine drinks by the glass authorized for sale through curbside, takeout, or delivery service under this endorsement.

(b) The alcohol products authorized for sale through curbside, takeout, or delivery service under this endorsement must be prepared the same day they are sold.

(c) The alcohol products authorized for sale through curbside, takeout, or delivery service under this endorsement must be packaged in a container that has been sealed in a manner designed to prevent consumption without removal of the tamper-evident lid, cap, or seal. For the purposes of this subsection, "tamper-evident" means a lid, cap, or seal that visibly demonstrates when a container has been opened. Tape is not a tamper-evident seal. The following list of examples is not comprehensive and is not intended to capture all of the possible types of allowed or disallowed containers:

(i) Examples of containers that are allowed:

(A) Containers with a screw top cap or lid that breaks apart when the container is opened.

(B) Containers with a plastic heat shrink wrap band, strip, or sleeve extending around the cap or lid to form a seal that must be broken when the container is opened.

(C) Vacuum or heat-sealed pouches without holes or openings for straws.

(ii) Examples of containers that are not allowed:

(A) Containers with lids with sipping holes or openings for straws.

(B) Containers such as styrofoam, paper, or plastic cups that lack a tamper-evident lid, cap, or seal.

(d) The containers that the alcohol products authorized for sale under this endorsement are packaged in must be clearly marked or labeled with the words "CONTAINS ALCOHOL, FOR PERSONS 21+" in a size and manner that is legible and readily visible. If a container of alcohol authorized for sale under this endorsement is enclosed inside a bag, box, or other packaging before it is provided to the customer through curbside, takeout, or delivery service, the exterior of the bag, box, or other packaging must be clearly marked or labeled with the words "CONTAINS ALCOHOL, FOR PERSONS 21+" in a size and manner that is legible and readily visible.

(e) To deter public consumption or consumption in a vehicle of premixed cocktails, cocktail kits, wine by the glass, premixed wine and spirits cocktails, and premixed wine drinks sold through curbside, takeout, or delivery service, licensees may not put ice directly into the containers that the alcohol products authorized for sale under this endorsement are packaged in, except for frozen or blended drinks.

Ice may be provided separately along with the curbside, takeout, or delivery order.

(f) The premixed cocktails, cocktail kits, wine by the glass, premixed wine and spirits cocktails, and premixed wine drinks authorized for sale through curbside, takeout, or delivery service under this endorsement must be placed in the trunk of the vehicle or beyond the immediate reach of the driver or any passengers in compliance with open container requirements in RCW 46.61.519 before being transported off the licensee's premises.

(g) If the premixed cocktails, cocktail kits, wine by the glass, premixed wine and spirits cocktails, and premixed wine drinks authorized for sale under this endorsement are sold through delivery service:

(i) Licensees must comply with the requirements in the consumer orders, internet sales, and delivery rules in this title, except to the extent that those rules allow delivery by third-party service providers and prohibit the sale of nonfactory sealed containers. For these requirements, see WAC 314-03-020 through 314-03-040.

(ii) Delivery must be made by an employee of the licensed business who is at least twenty-one years of age and holds a class 12 mandatory alcohol server training (MAST) permit under chapter 314-17 WAC. Delivery may not be made by third-party service providers.

(iii) At the time of delivery, the employee making the delivery must verify that the person receiving the delivery is at least twenty-one years of age using an acceptable form of identification in WAC 314-11-025. See RCW 66.44.270.

(iv) Consistent with section 2(9), chapter 48, Laws of 2021, upon delivery of the alcohol product, the signature of the person age twenty-one or over receiving the delivery must be obtained. Delivery sales records must meet the requirements in the consumer orders, internet sales, and delivery rules. For general record retention requirements, see WAC 314-11-095.

(v) If no person age twenty-one or over is present to accept the alcohol product at the time of delivery, the alcohol product must be returned. An alcohol product may not be left unattended at a delivery location.

(vi) Delivery of an alcohol product may not be made to any person who shows signs of intoxication. See RCW 66.44.200.

(h)(i) In addition to the signs required by WAC 314-11-060, signs provided electronically by the board regarding public consumption and transportation of any alcohol products sold through curbside, takeout, or delivery service must be posted in plain view at:

(A) The main entrance to the area of the premises where alcohol products are sold; and

(B) The areas of the premises where alcohol products are picked up for takeout, curbside, or delivery service.

(ii) The signs will be designed to remind customers purchasing alcohol products through curbside, takeout, or delivery service that they must comply with applicable laws and rules including, but not limited to, restrictions on consuming alcohol in public in RCW 66.44.100 and restrictions on drinking or having an open container in a vehicle in RCW 46.61.519.

(4) In addition to the requirements listed in this section, licensees must comply with all applicable requirements in Title 66 RCW, Title 314 WAC, and any other applicable laws and rules including, but not limited to, restrictions on sales to minors and intoxicated persons in chapter 66.44 RCW and WAC 314-16-150.

(5) The definitions in this subsection apply throughout this section unless the context clearly requires otherwise.

(a) "Alcohol product" or "alcoholic beverage" means liquor as defined in RCW 66.04.010.

(b) "Mini-bottles" has the same meaning as defined in section 2(10), chapter 48, Laws of 2021: Original factory-sealed containers holding not more than 50 milliliters of a spirituous beverage.

(c) "Premixed cocktail" means a drink made by combining spirits with other alcoholic or nonalcoholic beverages and ingredients including, but not limited to, fruit juice, carbonated beverages, flavorings, or cream.

(d) "Premixed wine and spirits cocktail" means a drink made by combining wine and spirits with other alcoholic or nonalcoholic beverages and ingredients including, but not limited to, fruit juice, carbonated beverages, flavorings, or cream.

(e) "Premixed wine drink" means a drink made by combining wine with nonalcoholic beverages and ingredients including, but not limited to, fruit juice, carbonated beverages, flavorings, or cream. A premixed wine drink may not include alcoholic beverages other than wine.

(f) "Spirits" has the same meaning as defined in RCW 66.04.010.

(g) "Wine" has the same meaning as defined in RCW 66.04.010.

(6) This section expires July 1, 2023, pursuant to section 2(11), chapter 48, Laws of 2021, unless extended by law.

[Statutory Authority: 2021 c 48 § 2, RCW 66.08.071, 66.08.030 and 2021 c 48. WSR 22-01-052, § 314-03-505, filed 12/8/21, effective 1/8/22.]

WAC 314-03-510 Temporary endorsement for sale of growlers through curbside, takeout, or delivery service. (1) As authorized in section 2, chapter 48, Laws of 2021, the temporary endorsement described in this section is available until July 1, 2023, unless extended by law. There is no fee for a licensee to apply for and obtain this endorsement.

(2) Consistent with section 2(5), chapter 48, Laws of 2021, an endorsement to sell growlers for off-premises consumption through curbside, takeout, or delivery service is available to licensees that were authorized by statute or rule before January 1, 2020, to sell growlers.

(a) Licensees eligible for this endorsement include: Taverns; beer and wine restaurants; spirits, beer, and wine restaurants; grocery stores; beer and wine specialty shops; breweries; microbreweries; wineries; combination spirits, beer, and wine licensees; and hotel licensees.

(b) For a beer and wine specialty shop to be eligible for the endorsement described in this section, the beer and wine specialty shop must meet the requirement in RCW 66.24.371(3), as it existed on December 31, 2019, that the licensee's beer and/or wine sales must be more than fifty percent of the licensee's total sales.

(3) In order to obtain and maintain this endorsement, licensees must meet the following requirements:

(a) Sale of growlers must meet federal alcohol and tobacco tax and trade bureau requirements.

(b)(i) Growlers must be filled at the tap by the licensee at the time of sale, except that beer and wine specialty shops licensed under RCW 66.24.371 and domestic breweries and microbreweries with this endorsement may sell prefilled growlers consistent with section 2(7),

chapter 48, Laws of 2021. Prefilled growlers must be sold the same day they are prepared for sale and not stored overnight for sale on future days.

(ii) Brewery and microbrewery products that meet federal alcohol and tobacco tax and trade bureau labeling requirements are not considered prefilled growlers and are not subject to the overnight storage prohibition.

(c) Growlers must be filled with alcohol products, such as beer, wine, or cider, that the licensee was authorized by statute or rule before January 1, 2020, to sell in growlers.

(d) If the growlers authorized for sale under this endorsement are sold through delivery service:

(i) Licensees must comply with the requirements in the consumer orders, internet sales, and delivery rules in this title, except to the extent that those rules allow delivery by third-party service providers and prohibit the delivery of growlers. For these requirements, see WAC 314-03-020 through 314-03-040.

(ii) Delivery must be made by an employee of the licensed business who is at least twenty-one years of age. Delivery may not be made by third-party service providers.

(iii) At the time of delivery, the employee making the delivery must verify that the person receiving the delivery is at least twenty-one years of age using an acceptable form of identification in WAC 314-11-025. See RCW 66.44.270.

(iv) Consistent with section 2(9), chapter 48, Laws of 2021, upon delivery of the alcohol product, the signature of the person age twenty-one or over receiving the delivery must be obtained. Delivery sales records must meet the requirements in the consumer orders, internet sales, and delivery rules. For general record retention requirements, see WAC 314-11-095.

(v) If no person age twenty-one or over is present to accept the alcohol product at the time of delivery, the alcohol product must be returned. An alcohol product may not be left unattended at a delivery location.

(vi) Delivery of an alcohol product may not be made to any person who shows signs of intoxication. See RCW 66.44.200.

(e)(i) In addition to the signs required by WAC 314-11-060, signs provided electronically by the board regarding public consumption and transportation of any alcohol products sold through curbside, takeout, or delivery service must be posted in plain view at:

(A) The main entrance to the area of the premises where alcohol products are sold; and

(B) The areas of the premises where alcohol products are picked up for takeout, curbside, or delivery service.

(ii) The signs will be designed to remind customers purchasing alcohol products through curbside, takeout, or delivery service that they must comply with applicable laws and rules including, but not limited to, restrictions on consuming alcohol in public in RCW 66.44.100 and restrictions on drinking or having an open container in a vehicle in RCW 46.61.519.

(4) In addition to the requirements listed in this section, licensees must comply with all applicable requirements in Title 66 RCW, Title 314 WAC, and any other applicable laws and rules including, but not limited to, restrictions on sales to minors and intoxicated persons in chapter 66.44 RCW and WAC 314-16-150.

(5) The definitions in this subsection apply throughout this section unless the context clearly requires otherwise.

- (a) "Alcohol product" means liquor as defined in RCW 66.04.010.
- (b) "Beer" has the same meaning as defined in RCW 66.04.010.
- (c) "Cider" has the same meaning as defined in RCW 66.24.210.
- (d) "Growlers" has the same meaning as defined in section 2(10), chapter 48, Laws of 2021: Sanitary containers brought to the premises by the purchaser or furnished by the licensee and filled by the retailer at the time of sale.
- (e) "Wine" has the same meaning as defined in RCW 66.04.010.
- (6) This section expires July 1, 2023, pursuant to section 2(11), chapter 48, Laws of 2021, unless extended by law.

[Statutory Authority: 2021 c 48 § 2, RCW 66.08.071, 66.08.030 and 2021 c 48. WSR 22-01-052, § 314-03-510, filed 12/8/21, effective 1/8/22.]