

**WSR 24-10-044
PROPOSED RULES
LIQUOR AND CANNABIS
BOARD**

[Filed April 24, 2024, 10:47 a.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 24-05-037.

Title of Rule and Other Identifying Information: This rule making relates to ESSB 6105 (chapter 250, Laws of 2024) an act relating to creating safer working conditions in adult entertainment establishments, as identified below:

Amending WAC 314-03-100 What types of activities on a licensed premises require notice to the board?, 314-11-015 What are my responsibilities as a liquor licensee?, 314-17-105 What are the penalties when a permit holder violates a liquor law or regulation?, 314-29-020 Group 1 violations against public safety, 314-29-038 Group 5 public safety violations for sports entertainment facility licenses and 314-52-113 Brand signs and point-of-sale displays on retail licensed premises; and repealing WAC 314-11-050 What types of conduct are prohibited on a premises with a liquor license?

Hearing Location(s): On June 5, 2024, at 10:00 a.m. All public liquor and cannabis board (board) activity will be held in a "hybrid" environment. This means that the public will have options for in-person or virtual attendance. The boardroom at the headquarters building in Olympia (1025 Union Avenue, Olympia, WA 98504) will be open for in-person attendance. The public may also log in using a computer or device or call in using a phone to listen to the meeting through the Microsoft Teams application. The public may provide verbal comments during the specified public comment and rules hearing segments. TVW also regularly airs these meetings. Please note that although the boardroom will be staffed during a meeting, board members and agency participants may continue to appear virtually. For more information about board meetings, please visit <https://lcb.wa.gov/Boardmeetings/> Board meetings.

Date of Intended Adoption: No earlier than June 18, 2024.

Submit Written Comments to: Daniel Jacobs, Rules and Policy Coordinator, P.O. Box 43080, Olympia, WA 98504-3080, email rules@lcb.wa.gov, fax 360-704-5027, by May 29, 2024.

Assistance for Persons with Disabilities: Contact Anita Bingham, ADA coordinator, human resources, phone 360-664-1739, fax 360-664-9689, TTY 711 or 1-800-833-6388, email anita.bingham@lcb.wa.gov, by May 29, 2024.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: The purpose of the proposed amended language is to repeal WAC 314-11-050 as instructed in section 5, chapter 250, Laws of 2024, and to remove references to WAC 314-11-050 in different sections of Title 314 WAC as described below.

Reasons Supporting Proposal: Section 5, chapter 250, Laws of 2024, instructs the board to repeal WAC 314-11-050. Several other sections of Title 314 WAC reference WAC 314-11-050, and those rules need to be amended accordingly as described below:

Rule Section	Proposed Change	Necessity
WAC 314-03-100 What types of activities on a licensed premises require notice to the board? (AMENDED)	Changed format of rule title from question to statement.	Improving clarity without changing effect.
	Striking subsection (1).	To make rules consistent with sections 4 and 5, chapter 250, Laws of 2024.
WAC 314-11-015 What are my responsibilities as a liquor licensee? (AMENDED)	Changed format of rule title from question to statement.	Improving clarity without changing effect.
	Removal of an excess comma in subsection (2).	
	Removed words "or dance" from subsection (4)(b) regarding prohibition on allowing a person to spend time with a patron for direct or indirect compensation.	To make rules consistent with sections 4 and 5, chapter 250, Laws of 2024.
	Removed sentence after subsection (4)(b) directing to WAC 314-11-050 for further guidance.	
WAC 314-11-050 What types of conduct are prohibited on a premises with a liquor license? (REPEALED)	REPEALED	Directed by the legislature in section 5, chapter 250, Laws of 2024.
WAC 314-17-105 What are the penalties when a permit holder violates a liquor law or regulation? (AMENDED)	Changed format of rule title from question to statement.	Improving clarity without changing effect.
	Corrected citation in disorderly conduct row of penalty table to WAC 314-11-015.	To make rules consistent with sections 4 and 5, chapter 250, Laws of 2024.
	Deleted row in penalty table related to violations of WAC 314-11-050.	
WAC 314-29-020 Group 1 Violations against public safety. (AMENDED)	Deleted row in penalty table for violations of "lewd conduct" rule in WAC 314-11-050.	To make rules consistent with sections 4 and 5, chapter 250, Laws of 2024.
WAC 314-29-038 Group 5 public safety violations for sports entertainment facility licenses. (AMENDED)	Deleted row in penalty table for violations of "lewd conduct" rule in WAC 314-11-050.	To make rules consistent with sections 4 and 5, chapter 250, Laws of 2024.
WAC 314-52-113 Brand signs and point-of-sale displays on retail licensed premises. (AMENDED)	Deleted subsection (3)(c) referencing violations of WAC 314-11-050.	To make rules consistent with sections 4 and 5, chapter 250, Laws of 2024.

Statutory Authority for Adoption: RCW 66.08.030, 66.98.070.

Statute Being Implemented: Sections 4 and 5, chapter 250, Laws of 2024.

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

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

Name of Agency Personnel Responsible for Drafting: Daniel Jacobs, Rules and Policy Coordinator, 1025 Union Avenue, Olympia, WA 98504, 360-480-1238; Implementation: Becky Smith, Director of Licensing, 1025 Union Avenue, Olympia, WA 98504, 360-664-1753; and Enforcement: Chandra Wax, Director of Enforcement and Education, 1025 Union Avenue, Olympia, WA 98504, 360-664-1726.

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

A cost-benefit analysis is not required under RCW 34.05.328. The proposed amended rules do not qualify as a type of rule requiring a cost-benefit analysis under RCW 34.05.328(5). The board is not a listed agency under RCW 34.05.328 (5) (a) (i), so the cost-benefit analysis

requirements in RCW 34.05.328 are not applicable to the proposed rules unless voluntarily applied or made applicable by the joint administrative rules review committee under RCW 34.05.328 (5) (a) (ii).

Scope of exemption for rule proposal from Regulatory Fairness Acts requirements:

Is not exempt.

The proposed rule does not impose more-than-minor costs on businesses. Following is a summary of the agency's analysis showing how costs were calculated. Agencies are required to consider costs imposed on business and costs associated with compliance with proposed rules. Agencies are not required under chapter 19.85 RCW to consider indirect costs not associated with compliance. Here, the board considered potential administrative costs that a licensee may incur complying with the proposed rules.

No new rules are being created, only repealed or language removed. Licensees may continue to prohibit the conduct in WAC 314-11-050 if they so choose, but they will no longer be required to do so. If licensees want to change how they operate to expand the scope of permitted activity, that is entirely within their legal authority to do so, but they are by no means required to permit activity that was previously prohibited. Because no new rules or amended rule language needs to be learned, there will be no cost to licensees by virtue of these rule changes.

A copy of the detailed cost calculations may be obtained by contacting Daniel Jacobs, Rules and Policy Coordinator, P.O. Box 43080, Olympia, WA 98504-3080, phone 360-480-1238, fax 360-704-5027, email rules@lcb.wa.gov.

April 24, 2024
David Postman
Chair

OTS-5262.1

AMENDATORY SECTION (Amending WSR 17-12-030, filed 5/31/17, effective 7/1/17)

WAC 314-03-100 (~~(What types of)~~) **Activities on a licensed premises** (~~(require)~~) **requiring 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))~~) (2) Contests or games where patrons are part of the entertainment;

~~((4))~~) (3) Hours of operation in between 2:00 a.m. and 6:00 a.m. for licensees that sell liquor for on-premises consumption;

~~((5))~~) (4) Closing the business to the general public for a private party; and

~~((6))~~) (5) 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.

OTS-5263.1

AMENDATORY SECTION (Amending WSR 22-14-111, filed 7/6/22, effective 8/6/22)

WAC 314-11-015 (~~(What are my)~~) Responsibilities as a liquor licensee (?). (1) (a) Liquor licensees are responsible for the operation of their licensed premises in compliance with the liquor laws and rules of the board (Title 66 RCW and Title 314 WAC). Any violations committed or permitted by employees will be treated by the board as violations committed or permitted by the licensee.

(b) The penalties for violations of liquor laws or rules are in: WAC 314-29-015 through 314-29-035, as now or hereafter amended, for licensees; and WAC 314-17-105 and 314-17-110, as now or hereafter amended, for employees who hold mandatory alcohol server training permits. These rules also outline aggravating and mitigating circumstances that may affect what penalty is applied if a licensee or employee violates a liquor law or rule.

(2) Licensees and their employees also have the responsibility to conduct the licensed premises in compliance with the following laws, as they now exist or may later be amended:

- Titles 9 and 9A RCW, the criminal code laws;
- Title 69 RCW, which outlines the laws regarding controlled substances; and
- Chapters 70.155((7)) and 82.24 RCW, and RCW 26.28.080 which outline laws regarding tobacco.

(3) Licensees have the responsibility to control their conduct and the conduct of employees and patrons on the premises at all times. Except as otherwise provided by law, licensees or employees may not:

- (a) Be disorderly or apparently intoxicated on the licensed premises;
- (b) Allow any disorderly person to remain on the licensed premises;
- (c) Engage in or allow behavior that provokes conduct which presents a threat to public safety;
- (d) Consume liquor of any kind while working on the licensed premises; except that:
 - (i) Entertainers per WAC 314-02-010 may drink while performing under the following conditions:
 - (A) Alcohol service must be monitored by MAST servers;
 - (B) Drinks must be served in unlabeled containers;
 - (C) Entertainers may not advertise any alcohol brands or products;
 - (D) Entertainers may not promote drink specials; and
 - (E) If any member of the entertainment group is under 21 years of age, alcohol may not be consumed by any member of the group while performing.

(ii) Licensed beer manufacturers and their employees may sample beer of their own manufacture for manufacturing, evaluating or pricing product in areas where the public is not served, so long as the licensee or employee does not become apparently intoxicated;

(iii) Licensed wine manufacturers and their employees may:

(A) Sample wine for manufacturing, evaluating, or pricing product, so long as the licensee or employee does not become apparently intoxicated; and the licensee or employee who is sampling for these purposes is not also engaged in serving alcohol to the public; and

(B) Sample wine of their own manufacture for quality control or consumer education purposes, so long as the licensee or employee does not become apparently intoxicated.

(e) Engage in, or allow others to engage in, conduct on the licensed premises which is prohibited by any portion of Titles 9, 9A, or 69 RCW;

(f) Engage in the consumption of any type of cannabis, useable cannabis, or cannabis-infused products in a liquor licensed business, including outdoor service areas or any part of the property owned or controlled by the licensee;

(g) Allow any person to consume any type of cannabis, useable cannabis, or cannabis-infused products in a liquor licensed business, including outdoor service areas or any part of the property owned or controlled by the licensee;

(h) Allow any person consuming, or who has consumed on any part of the licensed premises, any type of cannabis, useable cannabis, or cannabis-infused products to remain on any part of the licensed premises; or

(i) Sell or serve liquor by means of drive-through service from pickup or pass-through windows.

(4) Licensees have the responsibility to control the interaction between the licensee or employee and their patrons. At a minimum, licensees or employees may not:

(a) Solicit any patron to purchase any beverage for the licensee or employee, or allow a person to remain on the premises for such purpose;

(b) Spend time (~~or dance~~) with, or permit any person to spend time (~~or dance~~) with, any patron for direct or indirect compensation by a patron.

(~~See WAC 314-11-050 for further guidelines on prohibited conduct.~~)

OTS-5261.1

REPEALER

The following section of the Washington Administrative Code is repealed:

WAC 314-11-050	What types of conduct are prohibited on a premises with a liquor license?
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OTS-5264.1

AMENDATORY SECTION (Amending WSR 10-12-124, filed 6/2/10, effective 7/3/10)

WAC 314-17-105 ((What are the)) Penalties when a permit holder violates a liquor law or regulation(?). Penalties assessed for violations within a three-year period will normally be as follows:

Violation Type	1st Violation	2nd Violation	3rd Violation	4th Violation
AFTER HOURS: Selling, serving or allowing alcohol to be consumed between 2 a.m. and 6 a.m. See WAC 314-11-070.	5-day permit suspension OR \$100 monetary option	10-day permit suspension OR \$200 monetary option	30-day permit suspension OR \$400 monetary option	Revocation of permit
DISORDERLY CONDUCT: Disorderly conduct by a licensee or employee, or allowing patrons to engage in disorderly conduct. See WAC ((314-11-050)) 314-11-015.	5-day permit suspension OR \$100 monetary option	10-day permit suspension OR \$200 monetary option	30-day permit suspension OR \$400 monetary option	Revocation of permit
FALSIFICATION OF PERMIT: Falsifying a class 12 or 13 permit or possessing a class 12 or 13 permit contrary to this title. See RCW 66.20.310 and WAC 314-17-025.	5-day permit suspension OR \$100 monetary option	10-day permit suspension OR \$200 monetary option	30-day permit suspension OR \$400 monetary option	Revocation of permit
INTOXICATED PERSONS: Selling or serving to an apparently intoxicated person or allowing such a person to possess or consume alcohol. See RCW 66.44.200 and WAC 314-11-035.	5-day permit suspension OR \$100 monetary option	10-day permit suspension OR \$200 monetary option	30-day permit suspension OR \$400 monetary option	Revocation of permit
((LEWD CONDUCT: Allowing lewd conduct on a retail licensed premises. See WAC 314-11-050.	5-day permit suspension OR \$100 monetary option	10-day permit suspension OR \$200 monetary option	30-day permit suspension OR \$400 monetary option	Revocation of permit))
MISCELLANEOUS: Violation of other retail liquor laws or regulations.	5-day permit suspension OR \$100 monetary option	10-day permit suspension OR \$200 monetary option	30-day permit suspension OR \$400 monetary option	Revocation of permit
MINORS: Selling or serving alcohol to a person under twenty-one years of age. See RCW 66.44.310 and WAC 314-11-020.	5-day permit suspension OR \$200 monetary option	10-day permit suspension OR \$400 monetary option	30-day permit suspension OR \$500 monetary option	Revocation of permit
MINORS: Allowing a person under twenty-one years of age to frequent a restricted premises or area. See RCW 66.44.310 and WAC 314-11-020.	5-day permit suspension OR \$100 monetary option	10-day permit suspension OR \$200 monetary option	30-day permit suspension OR \$400 monetary option	Revocation of permit
OBSTRUCTING AN OFFICER: Obstructing a law enforcement officer, or failure to allow an inspection. See RCW 66.28.090.	5-day permit suspension OR \$100 monetary option	10-day permit suspension OR \$200 monetary option	30-day permit suspension OR \$400 monetary option	Revocation of permit
OTHER VIOLATION OF LAWS: Conviction of liquor laws, driving under the influence or felony.	5-day permit suspension OR \$100 monetary option	Revocation of permit		
PERMIT: Failure to produce permit or identification upon request. See RCW 66.20.310 and 66.20.180.	5-day permit suspension OR \$100 monetary option	10-day permit suspension OR \$200 monetary option	30-day permit suspension OR \$400 monetary option	Revocation of permit
PRIVATE CLUBS: Prohibitions involving club liquor and use by the general public. See WAC 314-40-010.	5-day permit suspension OR \$100 monetary option	10-day permit suspension OR \$200 monetary option	30-day permit suspension OR \$400 monetary option	Revocation of permit

OTS-5265.1

AMENDATORY SECTION (Amending WSR 18-21-115, filed 10/17/18, effective 11/17/18)

WAC 314-29-020 Group 1 violations against public safety. (1)

Group 1 violations are considered the most serious because they present a direct threat to public safety. Violations beyond the first violation do not have a monetary option upon issuance of a violation notice. The liquor and cannabis board may offer a monetary option in lieu of suspension days based on mitigating circumstances as outlined in WAC 314-29-015(4).

(2) Group 1 violations will be counted sequentially rather than independently by group. For example, if a licensee received a violation for over service on one day and a violation for sale to a minor a week later, the sale to a minor would be treated as a second offense since both violations are in the same violation group.

Violation Type	1st Violation	2nd Violation in a two-year window	3rd Violation in a two-year window	4th Violation in a two-year window
Violations involving minors: Sale or service to minor: Sale or service of alcohol to a person under 21 years of age. Minor frequenting a tavern, lounge, or other restricted area. RCW 66.44.270 RCW 66.44.310 WAC 314-11-020 WAC 314-16-150	5 day suspension or \$500 monetary option	7 day suspension	30 day suspension	Cancellation of license
Sale or service to apparently intoxicated person: Sale or service of alcohol to, or permitting consumption or possession by, an apparently intoxicated person. RCW 66.44.200 WAC 314-16-150	5 day suspension or \$500 monetary option	7 day suspension	30 day suspension	Cancellation of license
Conduct violations: Disorderly conduct by licensee or employee, or permitting on premises. Licensee and/or employee intoxicated on the licensed premises and/or drinking on duty. Criminal conduct: Permitting or engaging in criminal conduct. WAC 314-11-015	5 day suspension or \$500 monetary option	7 day suspension	30 day suspension	Cancellation of license
(Lewd conduct: Engaging in or permitting conduct in violation of WAC 314-11-050.	5 day suspension or \$500 monetary option	7 day suspension	30 day suspension	Cancellation of license))
Refusal to allow an inspection and/or obstructing a law enforcement officer from performing their official duties. RCW 66.28.090 RCW 66.44.370 WAC 314-11-090	5 day suspension or \$500 monetary option	7 day suspension	30 day suspension	Cancellation of license

Violation Type	1st Violation	2nd Violation in a two-year window	3rd Violation in a two-year window	4th Violation in a two-year window
Condition of suspension violation: Failure to follow any suspension restriction while liquor license is suspended. WAC 314-29-040	Original penalty plus 10 day suspension with no monetary option	Cancellation of license		

AMENDATORY SECTION (Amending WSR 16-19-106, filed 9/21/16, effective 10/22/16)

WAC 314-29-038 Group 5 public safety violations for sports entertainment facility licenses. Sports entertainment facility licenses are unique and different from other on-premises licenses since they are not open on a daily basis, but rather for specific events. Public safety violations are considered the most serious because they present a direct threat to public safety. All other violations and penalties are the same for sports entertainment facility licensees as other liquor licenses.

(1) General public safety violation penalties.

Violation Type	1st Violation	2nd Violation in a two-year window	3rd Violation in a two-year window	4th and Subsequent violation in a two-year window
Violations involving minors: Sale or service to minors outside of WAC 314-29-038(c): Sale or service of alcohol to a person under 21 years of age. Minor frequenting a restricted area. RCW 66.44.270 RCW 66.44.310 WAC 314-11-020 WAC 314-16-150	Monetary penalty will be based on ticket sales to the event, and calculated at \$0.10 per ticket sold, with a mandatory minimum of \$2,500 fine	Monetary penalty will be based on ticket sales to the event, and calculated at \$0.50 per ticket sold, with a mandatory minimum of \$7,000 fine	Monetary penalty will be based on ticket sales to the event, and calculated at \$1.25 per ticket sold, with a mandatory minimum of \$45,000 fine	Penalty to be determined by the board, including possible cancellation of license
Sale or service to an apparently intoxicated person: Sale or service of alcohol to, or permitting consumption or possession by, an apparently intoxicated person. RCW 66.44.200 WAC 314-16-150	Monetary penalty will be based on ticket sales to the event, and calculated at \$0.10 per ticket sold, with a mandatory minimum of \$2,500 fine	Monetary penalty will be based on ticket sales to the event, and calculated at \$0.50 per ticket sold, with a mandatory minimum of \$7,000 fine	Monetary penalty will be based on ticket sales to the event, and calculated at \$1.25 per ticket sold, with a mandatory minimum of \$45,000 fine	Penalty to be determined by the board, including possible cancellation of license
Conduct violations: Disorderly conduct by licensee or employee, or permitting on premises. Licensee and/or employee intoxicated on the licensed premises and/or drinking on duty. Criminal conduct: Permitting or engaging in criminal conduct. WAC 314-11-015	Monetary penalty will be based on ticket sales to the event, and calculated at \$0.10 per ticket sold, with a mandatory minimum of \$2,500 fine	Monetary penalty will be based on ticket sales to the event, and calculated at \$0.50 per ticket sold, with a mandatory minimum of \$7,000 fine	Monetary penalty will be based on ticket sales to the event, and calculated at \$1.25 per ticket sold, with a mandatory minimum of \$45,000 fine	Penalty to be determined by the board, including possible cancellation of license

Violation Type	1st Violation	2nd Violation in a two-year window	3rd Violation in a two-year window	4th and Subsequent violation in a two-year window
(Lewd conduct: Engaging in or permitting conduct in violation of WAC 314-11-050.	Monetary penalty will be based on ticket sales to the event, and calculated at \$0.10 per ticket sold, with a mandatory minimum of \$2,500 fine	Monetary penalty will be based on ticket sales to the event, and calculated at \$0.50 per ticket sold, with a mandatory minimum of \$7,000 fine	Monetary penalty will be based on ticket sales to the event, and calculated at \$1.25 per ticket sold, with a mandatory minimum of \$45,000 fine	Penalty to be determined by the board, including possible cancellation of license))
Refusal to allow an inspection and/or obstructing a law enforcement officer from performing their official duties. RCW 66.28.090 RCW 66.44.370 WAC 314-11-090	Monetary penalty will be based on ticket sales to the event, and calculated at \$0.10 per ticket sold, with a mandatory minimum of \$2,500 fine	Monetary penalty will be based on ticket sales to the event, and calculated at \$0.50 per ticket sold, with a mandatory minimum of \$7,000 fine	Monetary penalty will be based on ticket sales to the event, and calculated at \$1.25 per ticket sold, with a mandatory minimum of \$45,000 fine	Penalty to be determined by the board, including possible cancellation of license

(2) If documented ticket sales for an event are unavailable, in order to assess penalties set forth in this section, the facility maximum occupancy will be used for the penalty assessment.

(3) WSLCB youth access compliance checks, in accordance with chapter 314-31 WAC.

License Class	Compliance Threshold	1st Violation	2nd Violation	3rd Violation	4th Violation
Sports and entertainment facility	Events: 1 to 20 points of sale (1st incident/sale to minor to be a violation/compliance failure)	\$1000 x I*	\$10,000 x I*	\$25,000 x I*	Penalty to be determined by the board, including possible cancellation of license
Sports and entertainment facility	Events: 21 to 45 points of sale (2nd incident/sale to minor to be a violation/compliance failure)	\$1000 x I*	\$10,000 x I*	\$25,000 x I*	Penalty to be determined by the board, including possible cancellation of license
Sports and entertainment facility	Events: 45 or more points of sale (3rd incident/sale to minor to be a violation/compliance failure)	\$1000 x I*	\$10,000 x I*	\$25,000 x I*	Penalty to be determined by the board, including possible cancellation of license

* "I" signifies the total cumulative incidents of sales to underage person during an alcohol compliance check.

A point of sale is defined as each different concession stand, or service area (such as a lounge), not each individual cash register.

OTS-5266.1

AMENDATORY SECTION (Amending WSR 10-06-122, filed 3/3/10, effective 4/3/10)

WAC 314-52-113 Brand signs and point-of-sale displays on retail licensed premises. Manufacturers, importers or distributors may furnish brand signs and point-of-sale material to retailers 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 that 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 distributors.

(2) Giant inflatables, such as inflated beer cans, bottles, and banners may be provided as point-of-sale to retailers for display purposes inside the licensed premises, provided the following conditions are met:

(a) Novelty items as defined in WAC 314-52-080 are not provided by manufacturers, importers, or distributors to customers in conjunction with the display;

(b) Inflatables are not targeted or appeal principally to youth; and

(c) The display shall be removed if objected to by local officials, or if the board finds it contrary to the public interest.

(3) Costumed individuals representing beer, wine, or liquor manufacturers may be provided as point-of-sale 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, distributor, 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) Novelty items as defined in WAC 314-52-080 and the purchase of drinks, are not to be provided to customers by the costumed individual in conjunction with such displays;

(c) ~~((The costumed individual must comply with the regulations regarding lewd and obscene conduct (WAC 314-11-050);~~

~~(d-))~~ The costumed individual may not be targeted or appeal principally to youth; and

~~((e-))~~ (d) The board may prohibit the use of costumed individuals if the use is contrary to the public interest.