

WSR 23-24-100
PROPOSED RULES
LIQUOR AND CANNABIS
BOARD

[Filed December 6, 2023, 10:33 a.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 23-15-116.

Title of Rule and Other Identifying Information: Rules to implement SSB 5448 (chapter 279, Laws of 2023), and rules to address an accepted petition for rule making on mandatory alcohol server training (MAST) 13 permits:

Table with 2 columns: Status and Description. Rows include SSB 5448 (Amended, Repealed, New) and MAST 13 Permit Petition (Amended).

Hearing Location(s): On January 17, 2024, at 10:00 a.m. All public board activity will be held in a "hybrid" environment. This means that the public will have options for in-person or virtual attendance. The boardroom at the headquarters building, 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 January 31, 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 January 10, 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 January 10, 2024.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: The proposal reflects two separate rule-making endeavors: (1) Implementation of SSB 5448, primarily codified at RCW 66.24.710; and (2) revising rules related to MAST 13 permit holders and where they can open and pour beer and wine.

1. Adding references to RCW 66.24.710: SSB 5448 is primarily codified at RCW 66.24.710, named "Takeout or delivery." Some requirements in the rules below were put in place after the rule making done following E2SHB 1480 passed during the 2021 legislative session in the height of the COVID-19 pandemic. These requirements include requiring a purchased meal to accompany sales of alcohol sold for takeout or delivery, that delivery drivers hold certain alcohol server permits, and ID checks for customers when the alcohol is delivered, among others. Where these requirements are already in rule, a citation to RCW 66.24.710 is added to clarify that these rule requirements are also in statute. Where these requirements were not in place, the statutory language is added into the rule, with RCW 66.24.710 referenced, to clarify that these requirements are now in place.

2. Delineating takeout and delivery endorsements from other existing license privileges: Several types of liquor licensees identified in RCW 66.24.710 (1)(a) already had the ability to sell alcohol for takeout or delivery, either through off-premises endorsements that are separately available, or directly through statutory authority, and clarified in separate rules. Over the past few years, licensees have asked agency staff questions regarding the differences and different rules applicable to these licensees, depending on whether delivery or takeout is being done through the new takeout or delivery endorsement, or through the preexisting endorsement or privilege. This has caused a great deal of confusion for both licensees and agency staff. Language referring to these license types has been removed from some of the rules to help delineate the different endorsements and rules that apply to them, as well as a new rule created, WAC 314-03-600, in the form of a straightforward visual tool to answer in Yes/No form whether a meal is required or third-party delivery is allowed depending on the license type and endorsement at issue.

3. Ready to drink cocktails: Agency staff have also been frequently asked about the applicability of rules regarding the sale through delivery or takeout of "ready to drink cocktails," commonly packaged in cans, a relatively new presentation of alcohol that has become increasingly popular, and as such, increasingly inquired about to agency staff. Because these do not fit neatly into an existing rule, and to implement the takeout and delivery endorsement regarding these new drinks, explicit authorization to sell these, as well as a definition, is proposed in amended WAC 314-03-500.

4. Consolidating outside service rules: As authorized by RCW 66.24.710(7), the liquor and cannabis board (LCB) is seeking to simplify the outdoor alcohol service rules by combining what are currently two rules, WAC 314-03-200 and 314-03-205, into a single rule, amended WAC 314-03-200. WAC 314-03-205 was initially created as a temporary set of exceptions to WAC 314-03-200 following the passage of E2SHB 1480, which instructed the agency to create additional flexibility for licensees to utilize outdoor spaces for alcohol service, the idea at the time being that this would be temporary, when many state and local authorities were placing limits on the use of indoor spaces during the height of the COVID-19 pandemic. SSB 5448 made the temporary changes a permanent part of rule, and as a result, agency staff and licensees had two rules to consult regarding outdoor alcohol service. Much of the language of the two rules was identical, and to improve clarity and enable licensees and agency staff to instead consult one single rule regarding outdoor alcohol service, LCB is proposing a single amended WAC 314-03-200 that reflects the content of both rules. This necessarily involves the proposed repeal of WAC 314-03-205.

5. MAST 13 Rule Changes: During most of the COVID-19 pandemic, LCB allowed MAST 13 permit holders, employees between 18 and just under 21 years of age who can pour beer and wine at the customer's table, as well as take orders for spirits, to pour beer and wine away from the customer's table. After this allowance expired in September 2022, LCB received a petition for rule making that sought to amend WAC 314-17-015 and make this a permanent part of rule, allowing MAST 13 permit holders to pour beer and wine away from the customer's table. In January 2023, LCB accepted this petition for rule making. This rule-making project began in March 2023, and was later combined with the SSB 5448 rule making. To implement this change, the language in WAC 314-11-040 and 314-17-015 has been changed to state that MAST 13 permit holders may open and pour beer and wine without entering an age-restricted area, using language similarly used in other rules and statutes to describe the area classified by LCB as off limits to persons under the age of 21.

Reasons Supporting Proposal: The proposed rules are needed to align existing rule language with SSB 5448 (chapter 279, Laws of 2023) and implement RCW 66.24.710 as described below:

SSB 5448		
Rule Section	Description of proposed rule change	Rule Necessity
WAC 314-03-035 Consumer orders, internet sales, and delivery for on-premises beer and/or wine liquor licensees. (AMENDED)	Added language stating that on-premises beer or wine licensees must obtain the takeout or delivery endorsement identified in RCW 66.24.710 (5)(a).	Aligning existing rule language with RCW 66.24.710.
	Removed language referring to third-party delivery.	
	Changed written numbers to numeric form.	Improving clarity without changing effect.
WAC 314-03-200 Outside or extended alcohol service. (AMENDED)	Stated that all language referring to outdoor alcohol service applies also to extended indoor alcohol service.	Improving clarity, reducing confusion and the need for licensees and agency staff to reference two separate rules on outdoor alcohol service and implementing RCW 66.24.710(7).
	Rearranged order and flow of subsections to allow consolidation with WAC 314-03-205 to create one single rule for outdoor alcohol service.	
	Copied language verbatim regarding alcohol service in outdoor privately owned spaces from WAC 314-03-205(1), with the following exceptions: 1. Added language stating that if interior access is from an area classified by LCB as off limits to any person under age of 21, people under age 21 are prohibited from outdoor or extended alcohol service area. 2. Moved language from subsections (6)(f) and (7) regarding the authority of LCB to grant limited exceptions from the permanent or moveable barrier requirement.	

SSB 5448		
Rule Section	Description of proposed rule change	Rule Necessity
	<p>Copied language verbatim regarding alcohol service in outdoor public spaces from WAC 314-03-205(2), with the following exceptions:</p> <ol style="list-style-type: none"> 1. Added the word "fence-free" before "permanent demarcation." 2. Added language clarifying that certain outdoor public spaces must always have permanent or moveable barriers. 	
	<p>Copied language verbatim regarding liquor licensees sharing an outdoor service area, being jointly responsible for compliance with the outdoor service rules, and definitions from WAC 314-03-205 (3)-(5).</p>	
<p>WAC 314-03-205 Outdoor alcohol service for on-premises licensees. (REPEALED)</p>	<p>REPEALED</p>	<p>Improving clarity, reducing confusion and the need for licensees and agency staff to reference two separate rules on outdoor alcohol service and implementing RCW 66.24.710(7).</p>
<p>WAC 314-03-500 Endorsement for sale of manufacturer sealed alcohol products through takeout or delivery service. (AMENDED)</p>	<p>Replaced citations to chapter 279, Laws of 2023, with citations to RCW 66.24.710.</p>	<p>Improving clarity without changing effect.</p>
	<p>Amending language describing people age 21 and older.</p>	
	<p>Clarifying that alcohol orders that cannot be delivered must be returned to the licensee.</p>	
	<p>Defining "spirits."</p>	
	<p>Removed language referencing domestic wineries, domestic breweries, microbreweries, and distilleries.</p>	<p>Aligning rule language with RCW 66.24.710 and preexisting statutes that authorized certain licensees to deliver alcohol.</p>
	<p>Added language stating that licensees authorized to sell spirits are authorized to sell "ready to drink cocktails" through takeout or delivery services.</p>	<p>Providing clarity regarding a frequent subject of questions to agency staff.</p>
	<p>Defining "ready to drink cocktails."</p>	
	<p>Removing language regarding kegs.</p>	<p>Improving clarity because kegs are the subject of a different rule.</p>
	<p>Adding language stating that employees delivering alcohol must have an MAST 12 permit.</p>	<p>Aligning rule language with RCW 66.24.710.</p>
	<p>Adding language that alcohol must be delivered by direct employees of the licensee.</p>	
<p>Adding language that alcohol sold for takeout and delivery must be accompanied by a purchased meal.</p>		

SSB 5448		
Rule Section	Description of proposed rule change	Rule Necessity
<p>WAC 314-03-505 Endorsement for sale of premixed cocktails, wine by the glass, premixed wine and spirits cocktails, or premixed wine drinks through takeout or delivery service. (AMENDED)</p>	Replaced citations to chapter 279, Laws of 2023, with citations to RCW 66.24.710.	<p>Improving clarity without changing effect, citing RCW 66.24.710 where appropriate.</p>
	Copied language from WAC 314-03-500 clarifying that this endorsement is separate from the endorsement authorizing the sale of manufacturer sealed alcohol products at retail or growlers.	
	Adding citations to RCW 66.24.710.	
	Renumbering subsections to separate different requirements.	
	Clarifying that alcohol orders that cannot be delivered must be returned to the licensee.	
<p>WAC 314-03-510 Endorsement for sale of growlers through takeout or delivery service. (AMENDED)</p>	Replaced citations to chapter 279, Laws of 2023, with citations to RCW 66.24.710.	<p>Improved clarity without changing effect, citing RCW 66.24.710 where appropriate.</p>
	Copied language from WAC 314-03-500 clarifying that this endorsement is separate from the endorsement authorizing the sale of manufacturer sealed alcohol products at retail, and nonmanufacturer or nonfactory sealed premixed cocktails, wine by the glass, premixed wine and spirits cocktails, and premixed wine drinks.	
	Clarifying that alcohol orders that cannot be delivered must be returned to the licensee.	
	Adding language stating that growlers do not need to be accompanied by a purchased meal.	
	Replacing definition of "growler" with a reference to RCW 66.24.710.	
<p>WAC 314-03-600 Takeout/delivery endorsement comparison table. (NEW)</p>	<p>Demonstrates two tables that provide in a Yes/No format whether a meal is required to be sold with the alcohol, or third-party delivery is permitted, depending on the type of liquor licensee and the endorsement under which the alcohol is being sold. Identifies six liquor license types and six endorsements. Uses "n/a" if the liquor licensee cannot hold the endorsement at issue.</p>	<p>Some liquor license types are identified in RCW 66.24.710 as being eligible for the three different endorsements available, but already had endorsements or statutory authority to sell alcohol for takeout, and charts are necessary to provide licensees and agency staff a simple visual tool to enable them to understand what is permitted, prohibited, and required depending on the liquor license type and endorsement at issue.</p>

The changes to WAC 314-11-040 and 314-17-015 reflect the decision by LCB to make what was a temporary allowance during the COVID-19 pandemic a permanent part of rule, as indicated when LCB accepted a rule-making petition in January 2023.

MAST 13 Permit Privilege Rule Revisions			
Rule Section	Current Rule Language	Proposed New Language	Rule Necessity
WAC 314-11-040 What duties can an employee under twenty-one years of age perform on a licensed premises? (AMENDED)	"What duties can an employee under twenty-one years of age perform on a licensed premises?"	"Permissible duties of an employee under 21 years of age on a licensed premises."	Improving clarity without changing effect.
	"Mixing drinks."	"Pouring spirits and mixing cocktails."	
	"Drawing beer or wine from a tap."	"Drawing beer or wine from a tap or spigot."	
	Replacing a comma with "or."		
	Changed written numbers to numeric form.		
	Corrected spelling of "speciality" to "specialty."		
	"Pouring beer or wine anywhere except at the patron's table."	"Opening or pouring beer or wine in area classified by the board as off limits to any person under the age of 21."	Amending rule to make what was a temporary allowance during the COVID-19 pandemic a permanent rule change.
WAC 314-17-015 What are the two types of alcohol server training permits? (AMENDED)	"What are the two types of alcohol server training permits?"	"Types of alcohol server training permits."	Improving clarity without changing effect.
	Changing written numbers to numeric form.		
	"Opens or pours beer or wine into customer's glass at a customer's table."	"Opens or pours beer or wine into a customer's glass without opening or pouring in an area classified by the board as off limits to any person under the age of 21."	Amending rule to make what was a temporary allowance during the COVID-19 pandemic a permanent rule change.

Statutory Authority for Adoption: RCW 66.08.030, 66.20.330, 66.24.710(7).

Statute Being Implemented: RCW 66.04.010(13), 66.20.310, 66.20.320, 66.24.710.

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

Name of Proponent: LCB, 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). LCB 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). In this case, since most of the proposed amended rules change existing regulations in accordance with new statutory language, the agency did not decide to complete a cost-benefit analysis. Additionally, the proposed rule changes regarding the MAST 13 permits are aimed at allowing businesses to engage in a practice they were permitted to do during most of the COVID-19 pandemic, and so a de minimis amount of time is expected.

ted to be required to reacquaint staff with the new practices allowed in regulation.

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

Is exempt under RCW 19.85.025(3) as the rules are adopting or incorporating by reference without material change federal statutes or regulations, Washington state statutes, rules of other Washington state agencies, shoreline master programs other than those programs governing shorelines of statewide significance, or, as referenced by Washington state law, national consensus codes that generally establish industry standards, if the material adopted or incorporated regulates the same subject matter and conduct as the adopting or incorporating rule; and rules only correct typographical errors, make address or name changes, or clarify language of a rule without changing its effect.

Is exempt under RCW 19.85.025(3) through the exemptions in RCW 34.05.310 (4) (c) and (d).

Explanation of exemptions: Most of the proposed amended rules are exempt from the Regulatory Fairness Act's (RFA) small business economic impact statement (SBEIS) requirement under RCW 34.05.310 (4) (c) and (d) for the following reasons identified below:

The proposed amendment to WAC 314-03-035 states that on-premises beer or wine licensees must get the delivery endorsement in RCW 66.24.710 (5) (a) to deliver beer or wine, copying language from RCW 66.24.710 (5) (a) and placing it in rule. Several references to the use of third-party delivery are proposed to be removed, consistent with the framework of RCW 66.24.710. Lastly, some technical typographic changes are proposed. Because the proposed rule language is making technical changes without changing the effect of the rule and incorporating statutory provisions by reference, the proposed amendment to WAC 314-03-035 meets the requirements of RCW 34.05.310 (4) (c) and (d) and is thus exempt from RFA's SBEIS requirement.

The proposed amendment to WAC 314-03-500 replaces citations to session law with statutory citations and copies statutory language regarding the requirement for a driver delivering alcohol to have an MAST 12 permit from RCW 66.24.710 (5) (b) (i) and for certain licensees to sell an accompanying meal with the purchase of alcohol for takeout or delivery from RCW 66.24.710 (5) (b) (ii) and (c). Additionally, the proposed amendment removes references to licensees that have delivery privileges from their authorizing statutes separate from RCW 66.24.710. Also removed is a reference to kegs because the use of kegs is described in WAC 314-02-115. Because most of the proposed rule language is making technical changes without changing the effect of the rule and incorporating statutory provisions by reference, the proposed amendment to WAC 314-03-500 meets the requirements of RCW 34.05.310 (4) (c) and (d) and is thus exempt from RFA's SBEIS requirement.

There is one portion of WAC 314-03-500 regarding "ready to drink cocktails" that is not making technical changes and so is not exempt from RFA's SBEIS requirement.

The proposed amendment to WAC 314-03-505 replaces citations to session law with statutory citations and adds references to RCW 66.24.710 where the same requirements were already in place in WAC 314-03-505. Because the proposed rule language is making technical changes without changing the effect of the rule and incorporating statutory provisions by reference, the proposed amendment to WAC

314-03-505 meets the requirements of RCW 34.05.310 (4)(c) and (d) and is thus exempt from RFA's SBEIS requirement.

The proposed amendment to WAC 314-03-510 replaces citations to session law with statutory citations, replaces a definition provided in rule with a reference to one that is now in statute, and states that accompanying meals do not need to be purchased with a growler. Because the proposed rule language is making technical changes without changing the effect of the rule and incorporating statutory provisions by reference, the proposed amendment to WAC 314-03-510 meets the requirements of RCW 34.05.310 (4)(c) and (d) and is thus exempt from RFA's SBEIS requirement.

Scope of exemption for rule proposal:

Is partially exempt:

Explanation of partial exemptions:

	Proposed WAC Sections and Title	This proposed rule section is <i>not</i> exempt - Analysis is required	This proposed rule section is <i>exempt</i>. Provide RCW to support this exemption.
1.	WAC 314-03-035 Consumer orders, internet sales, and delivery for on-premises beer and/or wine liquor licensees.	<input type="checkbox"/>	RCW 34.05.310 (4)(c) because the rules are adopting or incorporating by reference Washington state statutes. RCW 34.05.310 (4)(d) because the rule also clarifies some language without changing the rule's effect
2.	WAC 314-03-200 Outside or extended alcohol service.	X	
3.	WAC 314-03-205 Outdoor alcohol service for on-premises licensees.	X	
4.	WAC 314-03-500 Endorsement for sale of manufacturer sealed alcohol products through takeout or delivery service.	<input type="checkbox"/>	RCW 34.05.310 (4)(c) because the rules are adopting or incorporating by reference Washington state statutes, and RCW 34.05.310 (4)(d) because the rule also clarifies some language without changing the rule's effect.
5.	WAC 314-03-505 Endorsement for sale of premixed cocktails, wine by the glass, premixed wine and spirits cocktails, or premixed wine drinks through takeout or delivery service.	<input type="checkbox"/>	RCW 34.05.310 (4)(c) because the rules are adopting or incorporating by reference Washington state statutes, and RCW 34.05.310 (4)(d) because the rule also clarifies some language without changing the rule's effect.
6.	WAC 314-03-510 Endorsement for sale of growlers through takeout or delivery service.	<input type="checkbox"/>	RCW 34.05.310 (4)(c) because the rules are adopting or incorporating by reference Washington state statutes, and RCW 34.05.310 (4)(d) because the rule also clarifies some language without changing the rule's effect.
7.	WAC 314-03-600 Takeout/delivery endorsement comparison table.	X	
8.	WAC 314-11-040 What duties can an employee under twenty-one years of age perform on a licensed premises?	X	
9.	WAC 314-17-015 What are the two types of alcohol server training permits?	X	

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, LCB considered potential administrative costs that a licensee may incur complying with the proposed rules.

LCB applied the North American Industry Classification System (NAICS) codes 722320 for Caterers, 722410 for Drinking Places (Alcoholic Beverages), 722511 for Full Service Restaurants and 722513 for Limited Service Restaurants. Drinking Places (Alcoholic Beverages) is described by the NAICS as follows: The industry comprised of establishments known as bars; taverns; nightclubs; or drinking places primarily engaged in preparing and serving alcohol beverages for immediate consumption. These establishments may also provide limited food service.

The industry description for this code is presented in the table below and can be accessed at <https://www.census.gov/naics/>.

LCB applied a default estimated compliance cost when analyzing whether the rules would have a disproportionate impact on small businesses as defined in RCW 19.85.020(3). This reflects a very generous estimated four hours of administrative time at \$50 per hour, for a total of \$200. The agency assumes this activity would involve reviewing the revised rules and explaining the changes to employees.

2022 Industry NAICS Code	Estimated Cost of Compliance	Industry Description	NAICS Code Title	Minor Cost Estimate	1% of Avg Annual Payroll (Threshold)	0.3% of Avg Annual Gross Business Income (Threshold)
722320	\$200	Food Services and Drinking Places	Caterers	\$2,052.03	\$2,052.03 2021 Dataset pulled from ESD	\$956.07 2021 Dataset pulled from DOR
722410	\$200	Food Services and Drinking Places	Drinking Places (Alcoholic Beverages)	\$2,347.72	\$1,338.63 2021 Dataset pulled from ESD	\$2,347.72 2021 Dataset pulled from DOR
722511	\$200	Food Services and Drinking Places	Full Service Restaurants	\$3,553.63	\$3,221.87 2021 Dataset pulled from ESD	\$3,553.63 2021 Dataset pulled from DOR
722513	\$200	Food Services and Drinking Places	Limited Service Restaurants	\$5,011.98	\$5,011.98 2021 Dataset pulled from ESD	\$4,698.03 2021 Dataset pulled from DOR

As the table demonstrates, the estimated cost of compliance does not exceed the thresholds for any of the license types. Therefore, implementation of these rules is not anticipated to result in more-than-minor costs on businesses as defined in RCW 19.85.020(2).

ESD - Washington state employment security department.

DOR - Washington state department of revenue.

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.

December 6, 2023
David Postman
Chair

OTS-4973.2

AMENDATORY SECTION (Amending WSR 17-17-030, filed 8/9/17, effective 9/9/17)

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, if the licensee obtains a delivery endorsement under RCW 66.24.710.

(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 customers to purchase alcohol in Washington state (~~are~~) is 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~~) 21 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)~~) 21 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)~~) 100 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)~~) 21 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)~~) An employee delivering beer or wine 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)~~) by employees.

(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.

OTS-4974.3

AMENDATORY SECTION (Amending WSR 23-14-119, filed 7/5/23, effective 7/5/23)

WAC 314-03-200 Outside or extended alcohol service. (1) A licensee must request approval from the board's licensing division for ongoing outside (~~(or extended)~~) alcohol service or extended indoor al-

cohol service. Any language in this rule referring to outdoor alcohol service applies also to extended indoor alcohol service.

~~(Except as provided in rules for outdoor alcohol service in WAC 314-03-205, 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.))~~

(2) **Outdoor alcohol services in privately owned spaces.** For outdoor alcohol service located in privately owned spaces, a licensee must 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 contiguous to the licensed business or 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) (i) Interior access to the licensed premises from the outdoor alcohol service area is not required. However, unless there is (A) interior access to the licensed premises from the outdoor alcohol serv-

ice area, or (B) an unobstructed direct line of sight from inside the licensed premises to the outdoor alcohol service area, an employee with a mandatory alcohol server training (MAST) permit under chapter 314-17 WAC must be 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;

(ii) If the interior access is from an area classified by the board as off limits to any person under the age of 21, people under the age of 21 are prohibited in the outside or extended alcohol service area;

(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. However, 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, but may not grant limited exceptions to beer gardens, standing room only venues, catered events, or permitted special events;

(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) **Outdoor alcohol services in public spaces.** For 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.

(ii) Licensees with outdoor alcohol service areas contiguous to the licensed premises may use a permanent fence-free 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. The permanent fence-free demarcation used must be:

(A) At all boundaries of the outdoor alcohol service area;

(B) At least six inches in diameter; and

(C) Placed no more than 10 feet apart;

(iii) The exception identified in (c) (ii) of this subsection does not apply to beer gardens, standing room only venues, catered events, and permitted special events, all of which must always have a permanent or movable barrier a minimum of 42 inches in height;

(d) 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;

(e) 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; and

(g) 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 parcels 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.

REPEALER

The following section of the Washington Administrative Code is repealed:

WAC 314-03-205 Outdoor alcohol service for on-premises licensees.

OTS-4975.4

AMENDATORY SECTION (Amending WSR 23-14-119, filed 7/5/23, effective 7/5/23)

WAC 314-03-500 Endorsement for sale of manufacturer sealed alcohol products through takeout or delivery service. (1) An endorsement for the sale of manufacturer sealed alcohol products is available through takeout and delivery service as set forth in (~~section 1 (5) (d), chapter 279, Laws of 2023~~) RCW 66.24.710. There is no fee for a licensee to apply for and obtain this endorsement.

(2) (a) (i) An endorsement to sell manufacturer sealed alcohol products at retail through 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.

(ii) This endorsement allows licensees authorized to sell spirits to sell ready-to-drink cocktails through takeout or delivery service.

(b) This endorsement is separate from the endorsements in WAC 314-03-505 and 314-03-510 that authorize the sale through takeout or delivery service of nonmanufacturer or nonfactory sealed premixed cocktails, 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 (~~(7)~~) and bottles (~~(7 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 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.

(ii) (A) At the time of delivery, the employee making the delivery must verify that the person receiving the delivery is at least 21 years of age using an acceptable form of identification in WAC 314-11-025. See RCW 66.44.270.

(B) Delivery of an alcohol product must be performed by an employee of an alcohol delivery endorsement holder who is 21 years of age or older and possesses a class 12 permit, in accordance with RCW 66.20.310.

~~(iii) As set forth in ((section 1(8), chapter 279, Laws of 2023)) RCW 66.24.710, upon delivery of the alcohol product, the signature of the person ((age 21 or over)) who is 21 years of age or older 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 21 or over is present to accept the alcohol product at the time of delivery, the alcohol product must be returned to the licensee. 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.

(vi) Alcohol delivery under this section shall be performed by direct employees of the licensee.

(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 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 or delivery service.

(ii) The signs will be designed to remind customers purchasing alcohol products through 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.

(e) Delivery services conducted and alcohol sold for takeout by beer and wine restaurant licensees and spirits, beer and wine restaurant licensees must be accompanied by a purchased meal prepared and sold by the license holder under RCW 66.24.710.

(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 (~~the 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 100 percent resalable condition, with all manufacturer's seals intact.

(c) "Ready-to-drink 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, that is:

(i) Factory sealed or manufacturer sealed;

(ii) No more than 12 percent alcohol per volume; and

(iii) No more than 12 ounces in volume.

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

(6) The delivery service endorsement described in this section expires July 1, 2025, as set forth in (~~section 1(3), chapter 279, Laws of 2023~~) RCW 66.24.710.

AMENDATORY SECTION (Amending WSR 23-14-119, filed 7/5/23, effective 7/5/23)

WAC 314-03-510 Endorsement for sale of growlers through takeout or delivery service. (1) (a) An endorsement is available for the sale of growlers through takeout and delivery service as set forth in (~~section 1(4), chapter 279, Laws of 2023~~) RCW 66.24.710. There is no fee for a licensee to apply for and obtain this endorsement.

(b) This endorsement is separate from the endorsements in WAC 314-03-500 and 314-03-505 that authorize the sale through takeout or delivery service of manufacturer sealed alcohol products at retail, or nonmanufacturer or nonfactory sealed premixed cocktails, wine by the glass, premixed wine and spirits cocktails, and premixed wine drinks.

(2) As set forth in (~~section 1(4), chapter 279, Laws of 2023~~) RCW 66.24.710, an endorsement to sell growlers for off-premises consumption through 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 50 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 as set forth in (~~section 1(4), chapter 279, Laws of 2023~~) RCW 66.24.710. 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 21 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 21 years of age using an acceptable form of identification in WAC 314-11-025. See RCW 66.44.270.

(iv) As set forth in (~~section 1(8), chapter 279, Laws of 2023~~) RCW 66.24.710, upon delivery of the alcohol product, the signature of the person age 21 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 21 or over is present to accept the alcohol product at the time of delivery, the alcohol product must be returned to the licensee. 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 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 or delivery service.

(ii) The signs will be designed to remind customers purchasing alcohol products through 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) Growlers sold under this endorsement do not need to be accompanied by a purchased meal prepared and sold by the license holder under RCW 66.24.710.

(6) 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))~~ RCW 66.24.710.

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

~~((6))~~ (7) The delivery service endorsement described in this section expires July 1, 2025, as set forth in ~~((section 1(4), chapter 279, Laws of 2023))~~ RCW 66.24.710.

OTS-5097.3

AMENDATORY SECTION (Amending WSR 23-14-119, filed 7/5/23, effective 7/5/23)

WAC 314-03-505 Endorsement for sale of premixed cocktails, wine by the glass, premixed wine and spirits cocktails, or premixed wine drinks through takeout or delivery service.

(1) An endorsement is available for the sale of premixed cocktails, wine by the glass, premixed wine and spirits cocktails, or premixed wine drinks through takeout and delivery service as set forth in ~~((section 1(3), chapter 279, Laws of 2023))~~ RCW 66.24.710. There is no fee for a licensee to apply for and obtain this endorsement.

(2) As set forth in ~~((section 1(2) and (3), chapter 279, Laws of 2023))~~ RCW 66.24.710:

(a) An endorsement is available to spirits, beer, and wine restaurants to sell premixed cocktails, wine by the glass, or premixed wine and spirits cocktails through takeout or delivery service. This endorsement does not authorize the sale of full bottles of spirits for off-premises consumption.

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

(3) This endorsement is separate from the endorsements in WAC 314-03-500 and 314-03-510 that authorize the sale through takeout or delivery service of manufacturer sealed alcohol products at retail, or growlers.

(4) 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, wine by the glass, or premixed wine and spirits cocktails authorized for sale through takeout or delivery service under this endorsement, as set forth in RCW 66.24.710.

(ii) Spirits, beer, and wine restaurants can sell up to three ounces of spirits per complete meal.

~~((ii))~~ (iii) 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 takeout or delivery service under this endorsement, as set forth in RCW 66.24.710.

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

(c) The alcohol products authorized for sale through 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, as set forth in RCW 66.24.710. 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 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, wine by the glass, premixed wine and spirits cocktails, and premixed wine drinks sold through 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 takeout or delivery order.

(f) The premixed cocktails, wine by the glass, premixed wine and spirits cocktails, and premixed wine drinks authorized for sale through 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, 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 prohibit the sale of nonfactory sealed

containers. For these requirements, see WAC 314-03-020 through 314-03-040.

(ii) As set forth in RCW 66.24.710, delivery must be made by an employee of the licensed business who is at least 21 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 21 years of age using an acceptable form of identification in WAC 314-11-025. See RCW 66.44.270.

(iv) As set forth in (~~section 1(8), chapter 279, Laws of 2023~~) RCW 66.24.710, upon delivery of the alcohol product, the signature of the person age 21 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 21 or over is present to accept the alcohol product at the time of delivery, the alcohol product must be returned to the licensee. 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 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 or delivery service.

(ii) The signs will be designed to remind customers purchasing alcohol products through 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)~~) (5) 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)~~) (6) 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) "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.

(c) "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.

(d) "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 pre-mixed wine drink may not include alcoholic beverages other than wine.
 (e) "Spirits" has the same meaning as defined in RCW 66.04.010.
 (f) "Wine" has the same meaning as defined in RCW 66.04.010.
 ((+6)) (7) The delivery service endorsement described in this section expires July 1, 2025, as set forth in ((section 1(3), chapter 279, Laws of 2023)) RCW 66.24.710.

OTS-5069.2

NEW SECTION

WAC 314-03-600 Takeout/delivery endorsement comparison table.

Meal Required

		Endorsement					
		Takeout or Delivery			Takeout Only		
License Type		Takeout/Delivery - Factory Sealed Containers WAC 314-03-500	Takeout/Delivery - Premixed Cocktails/Wine WAC 314-03-505	Growlers Takeout/Delivery WAC 314-03-510	Off premises WAC 314-02-045; 314-02-070	Off premises sale wine WAC 314-02-015	Spirits/beer/wine keg to go WAC 314-02-015
	Beer/wine restaurant	Y	Y*	N	N	n/a	n/a
	Spirits/beer/wine restaurant	Y	Y	N	n/a	N	N
	Tavern	N	n/a	N	N	n/a	n/a
	Winery	n/a	n/a	N	n/a	n/a	n/a
	Brewery	n/a	n/a	N	n/a	n/a	n/a
	Distillery	n/a	n/a	n/a	n/a	n/a	n/a

Third Party Delivery Allowed

		Endorsement					
		Takeout or Delivery			Takeout Only		
License Type		Takeout/Delivery - Factory Sealed Containers WAC 314-03-500	Takeout/Delivery - Premixed Cocktails/Wine WAC 314-03-505	Growlers Takeout/Delivery WAC 314-03-510	Off premises WAC 314-02-045; 314-02-070	Off premises sale wine WAC 314-02-015	Spirits/beer/wine keg to go WAC 314-02-015
	Beer/wine restaurant	N	N*	N	N	n/a	n/a
	Spirits/beer/wine restaurant	N	N	N	n/a	N	N
	Tavern	N	n/a	N	N	n/a	n/a
	Winery	n/a**	n/a	N	n/a	n/a	n/a
	Brewery	n/a**	n/a	N	n/a	n/a	n/a
	Distillery	n/a**	n/a	n/a	n/a	n/a	n/a

* Wine drinks only

** Third party delivery authorized by statute in RCW 66.20.410, 66.24.170, 66.24.240, 66.24.244.

OTS-4976.3

AMENDATORY SECTION (Amending WSR 12-17-006, filed 8/1/12, effective 9/1/12)

WAC 314-11-040 (~~What~~) Permissible duties (~~can~~) of an employee under (~~twenty-one~~) 21 years of age (~~perform~~) on a licensed premises (~~?~~). A person must be (~~twenty-one~~) 21 years of age or older to be employed in the sale, handling, or service of liquor, except as provided in this chapter.

(1) Per RCW 66.44.340 and RCW 66.44.350, persons between (~~eighteen and twenty-one~~) 18 and 21 years of age may perform the following duties:

	Duties 18, 19, and 20 year old employees may perform, as long as there is a person (twenty-one) <u>21</u> years of age or older on duty supervising the sale of liquor	Duties 18, 19, and 20 years old employees may not perform
(a) In a grocery store or beer/wine specialty shop:	<ul style="list-style-type: none"> ■ Sell, stock, and handle beer and wine; and ■ Deliver beer and/or wine to a customer's car with the customer (for the purposes of this rule, there is no minimum age requirement for an employee of a grocery store or a beer/wine (specialty) <u>specialty</u> shop to deliver beer and/or wine to a customer's car with the customer). 	Supervise employees who sell, stock, or handle beer and/or wine.

	Duties 18, 19, and 20 year old employees may perform, as long as there is a person ((twenty-one)) <u>21</u> years of age or older on duty supervising the sale of liquor	Duties 18, 19, and 20 years old employees may not perform
(b) In a spirits retail business:	<ul style="list-style-type: none"> ■ As long as there are at least two supervisors at least ((twenty-one)) <u>21</u> years of age on duty, persons 18, 19, and 20 years old may sell, stock, and handle spirits. ■ Deliver spirits to a customer's car with the customer (for purposes of this rule, there is no minimum age requirement for an employee of a spirits retailer to deliver spirits to a customer's car with the customer). 	Supervise employees who sell, stock, or handle spirits.
(c) In an establishment that sells liquor for on-premises consumption:	<ul style="list-style-type: none"> ■ Take orders for, serve, and sell liquor in areas classified as open to persons under ((twenty-one)) <u>21</u> years of age; and ■ Enter areas designated as off-limits to persons under ((twenty-one)) <u>21</u> years of age to perform duties such as picking up liquor for service in other parts of the establishment; cleaning up, setting up, and arranging tables; delivering messages; serving food; and seating patrons; provided the employee does not remain in the area any longer than is necessary to perform the duties. 	Functions of a bartender, including: <ul style="list-style-type: none"> ■ ((Mixing drinks)) <u>Pouring spirits or mixing cocktails;</u> ■ Drawing beer or wine from a tap <u>or spigot;</u> ■ <u>Opening or pouring beer or wine</u> ((anywhere except at the patrons table)) <u>in an area classified by the board as off limits to any person under the age of 21; and</u> ■ Providing an employee spirits(,) or beer by the pitcher or glass, or wine by the carafe or glass for delivery to a customer.
(d) In a spirits retail business:		Supervise employees who sell, stock, or handle spirits.

(2) Per RCW 66.44.316 and 66.44.318, the following persons that are ~~((eighteen, nineteen, or twenty))~~ 18, 19, or 20 years of age may remain on licensed premises or portions of premises that are restricted from persons under ~~((twenty-one))~~ 21 years of age, but only during the course of his or her employment:

- (a) Persons performing janitorial services during the hours when there is no sale, service, or consumption of liquor on the premises;
- (b) Employees of amusement device companies for the purpose of installing, maintaining, repairing, or removing any amusement device;
- (c) Security or law enforcement officers and firefighters during the course of their official duties and if they are not the direct employees of the licensee; and
- (d) Professional musicians, per WAC 314-11-045.

OTS-4977.3

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

WAC 314-17-015 (~~(What are the two)~~) Types of alcohol server training permits (??). There are two types of permits for persons who serve, mix, sell, or who supervise the sale of, alcohol at a retail licensed premises.

Class 12 permit	Class 13 permit
(1) A class 12 permit holder must be at least (twenty-one) <u>21</u> years of age.	(5) A class 13 permit holder must be at least (eighteen) <u>18</u> years of age.
(2) A class 12 permit is required for any person who: (a) Manages a retail licensed premises licensed to sell alcoholic beverages for on-premises consumption; (b) Sells, mixes or draws from a dispensing device alcoholic beverages for on-premises consumption; or (c) Supervises a class 13 permit holder.	(6) A class 13 permit is required for any person who: (a) Takes orders for alcoholic beverages for on-premises consumption; (b) Delivers alcoholic beverages to customers for on-premises consumption; or (c) Opens or pours beer or wine into a customer's glass (at a customer's table) <u>without opening or pouring in an area classified by the board as off limits to any person under the age of 21.</u>
(3) A class 12 permit includes all authorities granted under a class 13 permit.	(7) See RCW 66.20.310 for exceptions for grocery store employees.
(4) See RCW 66.20.310 for exceptions for grocery store employees.	

(8) Upon a temporary absence of a class 12 permit holder, a class 13 permit holder may perform the functions of a class 12 permit holder until a class 12 permit holder arrives to fulfill those duties provided that a class 13 permit holder:

- (a) Is (~~twenty-one~~) 21 years of age or older; and
- (b) Functions as a class 12 permit holder for no more than (~~thirty~~) 30 calendar days per year.

(9) See RCW 66.44.310, 66.44.316, 66.44.318, and 66.44.350 for additional information about permissions and restrictions for (~~eighteen to twenty~~) 18 to 20-year-old persons.