

WSR 25-01-156
PERMANENT RULES
LIQUOR AND CANNABIS
BOARD

[Filed December 18, 2024, 10:14 a.m., effective January 18, 2025]

Effective Date of Rule: Thirty-one days after filing.

Purpose: The Washington state liquor and cannabis board (board) has created one section of chapter 314-38 WAC (WAC 314-38-120) to implement HB 2204 (chapter 91, Laws of 2024), codified at RCW 66.20.010(19), which creates an emergency liquor permit for liquor manufacturers who are temporarily unable to operate or access their premises due to an emergency or road closure to allow them to operate in a retail capacity on the premises of another liquor licensee with retail sales privileges, subject to several conditions identified in RCW 66.20.010(19). The rule identifies several conditions of operation that are necessary to align the operation of a liquor manufacturer within the existing rules for liquor licensees with on-premises consumption privileges.

Citation of Rules Affected by this Order: New WAC 314-38-120.

Statutory Authority for Adoption: RCW 66.08.030, 66.20.010, 66.98.070.

Adopted under notice filed as WSR 24-21-168 on October 23, 2024.

A final cost-benefit analysis is available by contacting Daniel Jacobs, Acting Rules and Policy Manager, 1025 Union Avenue S.E., Olympia, WA 98501, phone 360-480-1238, fax 360-664-3208, email rules@lcb.wa.gov, website www.lcb.wa.gov.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 1, Amended 0, Repealed 0.

Number of Sections Adopted at the Request of a Nongovernmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's own Initiative: New 1, Amended 0, Repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 0, Repealed 0.

Number of Sections Adopted using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 1, Amended 0, Repealed 0.

Date Adopted: December 18, 2024.

Jim Vollendroff
Acting Board Chair

OTS-5783.4

NEW SECTION

WAC 314-38-120 Emergency liquor permits. (1) Per RCW 66.20.010, there is an emergency liquor permit for eligible licensees to authorize the sale, service, and consumption of liquor of their own production on the premises of another liquor licensee with retail sales

privileges when an emergency has made the permit holder's premises inaccessible and unable to operate due to an emergency or road closure.

(2) There is no fee for the emergency liquor permit.

(3) The following licensees are eligible to obtain an emergency liquor permit:

(a) Distilleries, craft distilleries, and fruit and wine distilleries;

(b) Domestic breweries and microbreweries; and

(c) Domestic wineries.

(4) The following licensees are eligible to operate as a host of a permit holder:

(a) All the licensees identified in subsection (3) of this section;

(b) All liquor licensees with retail sales privileges, except for the following:

(i) Caterers, licensed under RCW 66.24.690;

(ii) Private clubs licensed under RCW 66.24.450 or 66.24.452; and

(iii) Sports entertainment facilities licensed under RCW 66.24.570.

(5) (a) To be eligible to host a permit holder, the host must have the authority to sell the type of products manufactured by the permit holder.

(b) If the permit holder is a distillery, craft distillery, or fruit and wine distillery, the host must comply with the food offerings requirements in WAC 314-28-067.

(6) The permit holder shall identify the host when applying to the board's licensing division for an emergency liquor permit.

(7) (a) The permit shall last for 30 days.

(b) If the emergency continues, the permit may be renewed for an additional 30 days.

(8) The permit holder may store no more than a 30-day supply of liquor at the host premises.

(a) The permit holder's liquor must be kept separate from the host liquor.

(b) Host employees and agents are permitted to serve liquor provided by the permit holder if they have the MAST permits required by RCW 66.20.310 and chapter 314-17 WAC.

(c) The permit holder's employees and agents must meet the same MAST permit requirements as the host's employees and agents.

(9) A host and permit holder may not enter into any type of agreement that would involve impermissible direct or indirect interests as provided in chapter 66.28 RCW.

(10) (a) A host may have no more than three permit holders operating on its premises at a time.

(b) A permit holder may only have one permit at a time.

(c) The permit holder must conspicuously post the emergency liquor permit at the host premises at all times the permit is in use and be available for inspection by liquor enforcement officers.

(11) (a) Hosts and permit holders must maintain separate records consistent with Titles 66 RCW and 314 WAC as it applies to the host and permit holder.

(b) Hosts and permit holders must comply with all tax payment and reporting requirements in Titles 66 RCW and 314 WAC.

(c) Hosts and permit holders must use distinctively marked glassware or serving containers to identify the source of any alcohol product being consumed on the host premises. 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.

(12) Hosts and all permit holders on the hosts' premises 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.

(13) **Definitions:** For purposes of this section, the following definitions apply:

(a) "Emergency" means an emergency or disaster as defined in RCW 38.52.010.

(b) "Host" means a liquor licensee with the same retail sales privileges that allows a permit holder to operate on their premises pursuant to the terms of the emergency liquor permit.

(c) "Inaccessible" means unable to be safely entered, reached, or used for on-premises business purposes for more than 48 hours.

(d) "Permit holder" means a licensed manufacturer that has experienced an emergency that has made its premises inaccessible and unable to operate due to an emergency or road closure.

(e) "Road closure" means whenever the condition of any state highway, county road, city street, or right-of-way is such that its use by vehicles will be dangerous to traffic, or it is being constructed, altered, or repaired in such a manner as to require their use to be closed or restricted to all vehicles for more than 48 hours.

(f) "Unable to operate" means unable to perform the on-premises activities which the liquor license authorizes in Titles 66 RCW and 314 WAC.