CODE REVISER USE ONLY

# PROPOSED RULE MAKING

## CR-102 (July 2022)
## (Implements RCW 34.05.320)
Do **NOT** use for expedited rule making

**Agency:** Washington State Liquor and Cannabis Board

☒ **Original Notice**
☐ **Supplemental Notice to WSR _____**
☐ **Continuance of WSR _____**

☒ **Preproposal Statement of Inquiry was filed as WSR** 23-11-115 **; or**
☐ **Expedited Rule Making--Proposed notice was filed as WSR _____; or**
☐ **Proposal is exempt under RCW 34.05.310(4) or 34.05.330(1); or**
☐ **Proposal is exempt under RCW _____.**

**Title of rule and other identifying information:** (describe subject) Washington State Liquor and Cannabis Board (LCB) proposes amendments to existing rules to implement ESHB 1731 (chapter 257, Laws of 2023):
- Amended Section WAC 314-24-180, Wine distributors, wine importers—Certain rights granted;
- Amended Section WAC 314-24-190, Wine suppliers and distributors.

**Hearing location(s):**

| **Date:** | **Time:** | **Location:** (be specific) | **Comment:** |
|---|---|---|---|
| September 13, 2023 | 10:00 AM | 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 in Olympia (1025 Union Avenue, Olympia, WA 98504) will be open for in-person attendance. The public may also login 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 September 27, 2023 (Note: This is **NOT** the **effective** date)

| **Submit written comments to:** | **Assistance for persons with disabilities:** |
|---|---|
| Name: Daniel Jacobs, Policy & Rules Coordinator | Contact Anita Bingham, ADA Coordinator, Human Resources |
| Address: PO Box 43080, Olympia WA 98504-3080 | Phone: 360 664 1739 |
| Email: rules@lcb.wa.gov | Fax: 360 664 9689 |
| Fax: 360 704 5027 | TTY: 7-1-1 or 1-800-833-6388 |
| Other: | Email: anita.bingham@lcb.wa.gov |
| By (date) September 5, 2023 | Other: |

By (date) September 6, 2023

**Purpose of the proposal and its anticipated effects, including any changes in existing rules:** The purpose of these proposed amended rules are to implement Engrossed Substitute House Bill (ESHB) 1731 (chapter 257, Laws of 2023) passed during the 2023 legislative session. This law allows short term rental operators to obtain permits to allow them to provide a complimentary bottle of wine to rental guests over the age of 21. The new law, enacted in RCW 66.20.010(18), allow short term rental operators to obtain a permit to provide complimentary bottles of wine to rental guests who they verify are 21 years of age or older by way of in-person validation of identification, so long as they provide advanced notice to the rental guests that the complimentary wine will be provided, and an opportunity for the rental guests to decline the bottle of wine. The new law also amends RCW 66.24.200 to allow wine distributors to provide wine to short term rental operators obtaining wine pursuant to this permit.

The proposed changes to WAC 314-24-180 and WAC 314-24-190 reflect that wine distributors are now allowed to sell wine directly to holders of the short term rental permit.

**Reasons supporting proposal:** Amendments to current rule sections are needed to implement ESHB 1731, align agency rules with the law, and inform licensees about the option for short term rental operators to obtain wine directly from wine distributors for use under the newly-created permit.

**Statutory authority for adoption:** RCW 66.08.030

**Statute being implemented:** RCW 66.20.010(18); RCW 66.24.200

**Is rule necessary because of a:**

| | | |
|---|---|---|
| Federal Law? | ☐ Yes | ☒ No |
| Federal Court Decision? | ☐ Yes | ☒ No |
| State Court Decision? | ☐ Yes | ☒ No |

If yes, CITATION:

**Agency comments or recommendations, if any, as to statutory language, implementation, enforcement, and fiscal matters:** None

**Type of proponent:** ☐ Private ☐ Public ☒ Governmental
**Name of proponent:** (person or organization) Washington State Liquor and Cannabis Board

**Name of agency personnel responsible for:**

| | Name | Office Location | Phone |
|---|---|---|---|
| Drafting: Coordinator | Daniel Jacobs, Rules & Policy | 1025 Union Avenue, Olympia WA, 98504 | 360-480-1238 |
| Implementation: Licensing | Becky Smith, Director of | 1025 Union Avenue, Olympia WA, 98504 | 360-664-1753 |
| Enforcement: Enforcement & Education | Chandra Wax, Director of | 1025 Union Avenue, Olympia WA, 98504 | 360-664-1726 |

**Is a school district fiscal impact statement required under RCW 28A.305.135?** ☐ Yes ☒ No

If yes, insert statement here:

The public may obtain a copy of the school district fiscal impact statement by contacting:
Name:
Address:
Phone:
Fax:
TTY:
Email:
Other:

**Is a cost-benefit analysis required under RCW 34.05.328?**

☐ Yes: A preliminary cost-benefit analysis may be obtained by contacting:
Name:
Address:
Phone:
Fax:
TTY:
Email:
Other:

☒ No: Please explain: The proposed amended rules do not qualify as a type of rule requiring a cost-benefit analysis under RCW 34.05.328(5). The 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 the proposed amended rules implement a legislatively mandated permit, the agency did not decide to complete a cost-benefit analysis.

**Regulatory Fairness Act and Small Business Economic Impact Statement**
Note: The Governor's Office for Regulatory Innovation and Assistance (ORIA) provides support in completing this part.

**(1) Identification of exemptions:**
This rule proposal, or portions of the proposal, **may be exempt** from requirements of the Regulatory Fairness Act (see chapter 19.85 RCW). For additional information on exemptions, consult the exemption guide published by ORIA. Please check the box for any applicable exemption(s):

☐ This rule proposal, or portions of the proposal, is exempt under RCW 19.85.061 because this rule making is being adopted solely to conform and/or comply with federal statute or regulations. Please cite the specific federal statute or regulation this rule is being adopted to conform or comply with, and describe the consequences to the state if the rule is not adopted.
Citation and description:

☐ This rule proposal, or portions of the proposal, is exempt because the agency has completed the pilot rule process defined by RCW 34.05.313 before filing the notice of this proposed rule.

☐ This rule proposal, or portions of the proposal, is exempt under the provisions of RCW 15.65.570(2) because it was adopted by a referendum.

☒ This rule proposal, or portions of the proposal, is exempt under RCW 19.85.025(3). Check all that apply:

- ☐ RCW 34.05.310 (4)(b) (Internal government operations)
- ☒ RCW 34.05.310 (4)(c) (Incorporation by reference)
- ☐ RCW 34.05.310 (4)(d) (Correct or clarify language)
- ☒ RCW 34.05.310 (4)(e) (Dictated by statute)
- ☐ RCW 34.05.310 (4)(f) (Set or adjust fees)
- ☐ RCW 34.05.310 (4)(g) ((i) Relating to agency hearings; or (ii) process requirements for applying to an agency for a license or permit)

☐ This rule proposal, or portions of the proposal, is exempt under RCW 19.85.025(4) (does not affect small businesses).

☒ This rule proposal, or portions of the proposal, is exempt under RCW 19.85.025(3) through the exemptions in RCW 34.05.310 (4)(c) and (e).
Explanation of how the above exemption(s) applies to the proposed rule: The proposed amend 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 (e) for the following reasons identified below:

The amendment to WAC 314-24-180 reflects the new language in Section 2, chapter 257, Laws of 2023 which amends RCW 66.24.200 to allow wine distributors to sell wine to holders of annual special permits issued under RCW 66.20.010(18), which is the new section of RCW 66.20.010 added by ESHB 1731. The amendment to WAC 314-24-180 is limited to stating that wine distributors may participate in the activity newly permitted by statute. As such, this amended proposed rule is incorporating the new language of Section 2, chapter 257, Laws of 2023, meeting the requirement of RCW 34.05.310(4)(c). The new language of RCW 66.24.200 now permits wine distributors to sell directly to holders of the annual special permit, and if the language of WAC 314-24-180 were left unchanged, the agency rules would no longer align with the statutory language. Therefore, the proposed amendment to WAC 314-24-180 is dictated by statute, meeting the requirement of RCW 34.05.310(4)(e), and thus exempt from the RFA's SBEIS requirement.

The amendment to WAC 314-24-190 reflects the new language in Section 2, chapter 257, Laws of 2023 which amends RCW 66.24.200 to allow wine distributors to sell wine to holders of annual special permits issued under RCW 66.20.010(18), which is the new section of RCW 66.20.010 added by ESHB 1731. The amendment to WAC 314-24-190 amends the definition of "wine distributor" to include the activity newly permitted by statute. As such, this amended proposed rule is incorporating the new language of Section 2, chapter 257, Laws of 2023, meeting the requirement of RCW 34.05.310(4)(c). The new language of RCW 66.24.200 now permits wine distributors to sell directly to holders of the annual special permit, and if the language of WAC 314-24-190 were left unchanged, the agency rules would no longer align with the statutory language. Therefore, the proposed amendment to WAC 314-24-190 is dictated by statute, meeting the requirement of RCW 34.05.310(4)(e), and thus exempt from the RFA's SBEIS requirement.

**(2) Scope of exemptions:** *Check one.*
☒ The rule proposal is fully exempt *(skip section 3)*. Exemptions identified above apply to all portions of the rule proposal.
☐ The rule proposal is partially exempt *(complete section 3)*. The exemptions identified above apply to portions of the rule proposal, but less than the entire rule proposal. Provide details here (consider using this template from ORIA):
☐ The rule proposal is not exempt *(complete section 3)*. No exemptions were identified above.

**(3) Small business economic impact statement:** *Complete this section if any portion is not exempt.*

If any portion of the proposed rule is **not exempt**, does it impose more-than-minor costs (as defined by RCW 19.85.020(2)) on businesses?

☐ No Briefly summarize the agency's minor cost analysis and how the agency determined the proposed rule did not impose more-than-minor costs. _____

☐ Yes Calculations show the rule proposal likely imposes more-than-minor cost to businesses and a small business economic impact statement is required. Insert the required small business economic impact statement here:

The public may obtain a copy of the small business economic impact statement or the detailed cost calculations by contacting:

Name:
Address:
Phone:
Fax:
TTY:
Email:
Other:

| | |
|---|---|
| **Date:** August 2, 2023 | **Signature:** Place signature here |
| **Name:** David Postman | |
| **Title:** Chair | |