



Washington State Liquor and Cannabis Board

Topic: Petition for Adoption, Amendment, or Repeal of a State Administrative Rule – (Seeking New WAC Section)

Date: December 6, 2023

Presented by: Daniel Jacobs, Policy and Rules Coordinator

Background

On October 9, 2023, Brogan Adams of Cosmic Bottles submitted a petition for adoption, amendment, or repeal of a state administrative rule. The petition requests that the agency create a new endorsement to allow spirits, beer and wine restaurants and beer and wine restaurants to sell beer “to go.”

In the rule petition requesting the creation of a new rule, Brogan Adams stated:

1. NEW RULE - I am requesting the agency to adopt a new rule.

The subject (or purpose) of this rule is: Creating an endorsement for Restaurants to be able to permanently sell packaged Beer to-go

The rule is needed because: Modernize the current laws that already allow Packaged Wine, cider & mead to be sold. Beer should also be allowed as well.

The new rule would affect the following people or groups: Any Restaurant with a Liquor license that would also like to be able to sell beer to go along with wine, cider and mead.

In support of Ms. Adams’ petition, she stated the following:

As a proud owner of a Craft beer/cocktail bar in Washington, I have personally witnessed the positive impact that to-go options have had on our business during these challenging times. The COVID-19 crisis forced us to adapt and find new ways to generate revenue, and being able to sell beer to go on a temporary license has been instrumental in keeping our doors open.

However, it is disheartening that while we can sell bottles of wine, mead, cider, and other alcoholic beverages for takeout purposes, there are restrictions when it comes to selling beer. This limitation not only affects our ability to serve our loyal customers but also hinders the growth of the craft beer industry as a whole.

By creating a Beer To-Go endorsement for restaurants in Washington state, we can continue generating much-needed revenue while supporting local breweries. Smaller breweries often rely heavily on taproom sales and face challenges when it comes to selling their products at grocery stores or other retail outlets. Allowing restaurants like ours to sell craft beer for takeout would provide these smaller breweries with an additional avenue for distribution and help them thrive.

To support this petition further, let's consider some relevant facts:

1. *Economic Impact: According to data from the Brewers Association (source: brewersassociation.org), craft brewing contributed \$1.5 billion directly into Washington's economy in 2019 alone. By expanding opportunities for craft beer sales through restaurant endorsements like Beer To-Go options, we can boost this economic impact even further.*

2. *Job Creation: The craft brewing industry supports thousands of jobs across Washington state (source: washingtonbeer.com). By allowing restaurants to sell craft beer for takeout purposes under an endorsement program specifically designed for this purpose, we can help preserve existing jobs within the industry and potentially create new ones as well.*

3. *Consumer Demand: A survey conducted by the National Restaurant Association (source: restaurant.org) found that 78% of consumers are more likely to choose a restaurant if they offer alcoholic beverages for takeout or delivery. By providing restaurants with the ability to sell craft beer to go, we can meet this consumer demand and enhance their overall dining experience.*

In conclusion, I urge you to support the creation of a Beer To-Go endorsement for restaurants in Washington state. This endorsement would not only help businesses like ours continue generating revenue during these challenging times but also provide a much-needed boost to the craft beer industry, especially smaller breweries that rely on taproom sales.

Let's come together and make it easier for Washington residents to enjoy their favorite local craft beers from the comfort of their homes while supporting our vibrant restaurant and brewing community. Sign this petition today and let's create positive change together!

Issue

Whether the Board should initiate the rulemaking process to consider creating a new WAC section to create a new endorsement for spirits, beer and wine restaurants and beer and wine restaurants to sell beer “to go”?

Authority

Laws

[RCW 66.08.030\(6\)](#) provides the Liquor and Cannabis Board with the rulemaking authority to regulate the sale of liquor kept by the holders of licenses which entitle the holder to purchase and keep liquor for sale.

[RCW 66.24.400\(2\)](#) states that the board may issue an endorsement to the spirits, beer, and wine restaurant license that allows the holder of a spirits, beer, and wine restaurant

license to sell bottled wine for off-premises consumption. Spirits and beer may not be sold for off-premises consumption under this section except as provided in subsection (4) of this section.

[RCW 66.24.400\(4\)](#) describes an endorsement for spirits, beer, and wine restaurants that allows them to sell beer in kegs or growlers for off-premises consumption.

[RCW 66.24.710](#) authorized the takeout or delivery of alcohol from, among others, beer and wine restaurants and spirits, beer and wine restaurants provided a series of conditions are met.

Rules

[WAC 314-03-500](#) describes the requirements for delivery and takeout of manufacturer sealed alcohol products under the alcohol delivery and takeout endorsement described in RCW 66.24.710.

Analysis

The Board has the authority for rulemaking to create rules for endorsements and privileges established by the legislature. When creating an endorsement, the legislature typically establishes the fee for any new endorsement. As the LCB aligns policy development with governing statutes, the Board has not created an endorsement not mandated through legislation.

All existing endorsements for liquor licenses have a statute that explicitly authorizes it.¹ This approach is prevalent across other regulated product. As an example, the only endorsement available for cannabis licensees, the medical cannabis endorsement for retailers, is also explicitly authorized in statute. See [RCW 69.50.375](#).

During the 2023 legislative session, the legislature addressed to-go privileges and endorsements for alcohol, through [Substitute Senate Bill 5448](#), codified at [RCW 66.24.710](#). During the 2021 legislative session, at the height of the COVID-19 pandemic, the legislature passed [Engrossed Second Substitute House Bill 1480](#). In neither instance did the legislature decide that beer should be sold to go without the purchase of an accompanying meal.

The Board is [currently engaged](#) in rulemaking to implement SSB 5448. Creating an endorsement aimed at allowing licensees to sell beer to go without an accompanying meal would not align with the policy established by the legislature.

Furthermore, [RCW 66.24.400\(2\)](#) prohibits spirits, beer and wine restaurants from selling beer for off-premises consumption, except as allowed in kegs or growlers in accordance with the endorsement in [RCW 66.24.400\(4\)](#). Creating the requested endorsement for spirits, beer and wine restaurants would require amending this section of RCW, which would require legislative action.

Lastly, this rules coordinator followed up with the petitioner to clarify that the takeout endorsement is not subject to expiration and that alcohol can be sold “to-go” with the endorsement described in RCW 66.24.710 if it is sold with an accompanying meal, to which the petitioner reiterated that her petition was requesting a rule change to allow that sale *without the accompanying meal purchase*.

Divisional Positions

Licensing – agrees with analysis and recommendation.

Enforcement & Education

The Enforcement & Education Division’s view is that the petitioner is proposing an additional privilege that is contrary to [RCW 66.24.400\(2\)](#). A legislative change would be required in the form of a special endorsement to authorize such privileges. Furthermore, the proposal would increase alcohol availability, which may result in public safety concerns including but not limited to increased potential for youth access.

Finance, IT, and Public Health/Prevention – no additional input.

Interagency

Department of Health – no anticipated impact.

Labor & Industries – no anticipated impact.

Intergovernmental

Tribes – no anticipated impact specific to Tribes or Tribal businesses.

Conclusion and Recommendation

Creating an endorsement without a legislative mandate has not been an approach or practice of the Board. As the legislature addressed the issue during the 2021 and 2023 legislative sessions and did not include the requested privilege, and the requested change would conflict with [RCW 66.24.400\(2\)](#), Director’s Office staff recommends the Board deny the rulemaking petition submitted.

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Board Action

After considering the recommendation of Director’s Office staff, the Board denies the petition for rulemaking received from Brogan Adams on October 9, 2023.

_____ Accept _____ Deny _____
David Postman, Chair _____
Date

_____ Accept _____ Deny _____
Ollie Garrett, Board Member _____
Date

_____ Accept _____ Deny _____
Jim Vollendroff, Board Member _____
Date

Attachments

1. Email from Brogan Adams received October 9, 2023, containing rule petition.
2. Laws and Rules cited under the “Authority” section above.
3. Email Correspondence with Brogan Adams through October 16, 2023.

¹ Alcohol in Candy ([RCW 66.24.360\(11\)](#)); Beer/Wine Specialty Shop Growler, Keg, and Retailer/Reseller ([RCW 66.24.371\(1\)](#), [\(3\)](#), [66.24.179](#)); Caterer ([66.24.320\(2\)](#); [66.24.330\(3\)](#); [66.24.420\(6\)](#); [66.24.570\(4\)](#)); Grocery Store Beer/Wine Tasting, Growler, and Retailer/Reseller ([RCW 66.24.360](#), [66.24.363](#)); Limited Spirit Sampling ([RCW 66.24.670](#)); International Exporter ([RCW 66.24.360\(10\)](#)); Off-premises ([66.24.354](#), [66.24.360](#), [66.24.400\(2\)](#); [66.24.450\(4\)](#); [66.24.452\(4\)](#), [66.24.570\(5\)](#)); Soju ([RCW 66.24.400\(5\)](#)); Spirits/Beer/Wine Restaurant Keg to go ([RCW 66.24.400\(4\)](#)); Takeout/Delivery (RCW 66.24.710); and Takeout/Delivery for Growlers ([RCW 66.24.710](#)).

From: [Brogan Adams](#)
To: [LCB DL Rules](#)
Subject: Petition For Rulemaking
Date: Saturday, October 7, 2023 10:29:55 AM
Attachments: [petition.pdf](#)
[Beerendorsement.docx](#)

External Email

Hello! I am submitting a petition for rulemaking. I have attached the petition form as well as a detailed letter explaining the position of the petition.

As a proud owner of a Craft beer/cocktail bar in Washington, I have personally witnessed the positive impact that to-go options have had on our business during these challenging times. The COVID-19 crisis forced us to adapt and find new ways to generate revenue, and being able to sell beer to go on a temporary license has been instrumental in keeping our doors open.

However, it is disheartening that while we can sell bottles of wine, mead, cider, and other alcoholic beverages for takeout purposes, there are restrictions when it comes to selling beer. This limitation not only affects our ability to serve our loyal customers but also hinders the growth of the craft beer industry as a whole.

By creating a Beer To-Go endorsement for restaurants in Washington state, we can continue generating much-needed revenue while supporting local breweries. Smaller breweries often rely heavily on taproom sales and face challenges when it comes to selling their products at grocery stores or other retail outlets. Allowing restaurants like ours to sell craft beer for takeout would provide these smaller breweries with an additional avenue for distribution and help them thrive.

To support this petition further, let's consider some relevant facts:

1. Economic Impact: According to data from the Brewers Association (source: [brewersassociation.org](#)), craft brewing contributed \$1.5 billion directly into Washington's economy in 2019 alone. By expanding opportunities for craft beer sales through restaurant endorsements like Beer To-Go options, we can boost this economic impact even further.
2. Job Creation: The craft brewing industry supports thousands of jobs across Washington state (source: [washingtonbeer.com](#)). By allowing restaurants to sell craft beer for takeout purposes under an endorsement program specifically designed for this purpose, we can help preserve existing jobs within the industry and potentially create new ones as well.
3. Consumer Demand: A survey conducted by the National Restaurant Association (source: [restaurant.org](#)) found that 78% of consumers are more likely to choose a restaurant if they offer alcoholic beverages for takeout or delivery. By providing restaurants with the ability to sell craft beer to go, we can meet this consumer demand and enhance their overall dining experience.

In conclusion, I urge you to support the creation of a Beer To-Go endorsement for restaurants in Washington state. This endorsement would not only help businesses like ours continue generating revenue during these challenging times but also

provide a much-needed boost to the craft beer industry, especially smaller breweries that rely on taproom sales.

Let's come together and make it easier for Washington residents to enjoy their favorite local craft beers from the comfort of their homes while supporting our vibrant restaurant and brewing community. Sign this petition today and let's create positive change together!

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Brogan Adams
Cosmic Bottles
27116 167th PL SE
#108
Covington, WA 9804
253-226-4799



PETITION FOR ADOPTION, AMENDMENT, OR REPEAL OF A STATE ADMINISTRATIVE RULE

Print Form

In accordance with [RCW 34.05.330](#), the Office of Financial Management (OFM) created this form for individuals or groups who wish to petition a state agency or institution of higher education to adopt, amend, or repeal an administrative rule. You may use this form to submit your request. You also may contact agencies using other formats, such as a letter or email.

The agency or institution will give full consideration to your petition and will respond to you within 60 days of receiving your petition. For more information on the rule petition process, see Chapter 82-05 of the Washington Administrative Code (WAC) at <http://apps.leg.wa.gov/wac/default.aspx?cite=82-05>.

CONTACT INFORMATION *(please type or print)*

Petitioner's Name Brogan Adams

Name of Organization Cosmic Bottles

Mailing Address 27116 167th PL SE #108

City Covington State WA Zip Code 98042

Telephone 253-226-4799 Email Brogan@cosmicbottles.com

COMPLETING AND SENDING PETITION FORM

- Check all of the boxes that apply.
- Provide relevant examples.
- Include suggested language for a rule, if possible.
- Attach additional pages, if needed.
- Send your petition to the agency with authority to adopt or administer the rule. Here is a list of agencies and their rules coordinators: <http://www.leg.wa.gov/CodeReviser/Documents/RClst.htm>.

INFORMATION ON RULE PETITION

Agency responsible for adopting or administering the rule: Washington State LCB

1. NEW RULE - I am requesting the agency to adopt a new rule.

The subject (or purpose) of this rule is: Creating an endorsement for Restaurants to be able to permanently sell packaged Beer to-go

The rule is needed because: Modernize the current laws that already allow Packaged Wine, cider & mead to be sold. Beer should also be allowed as well.

The new rule would affect the following people or groups: Any Restauant with a Liquor license that would also like to be able to sell beer to go along with wine, cider and mead.

2. AMEND RULE - I am requesting the agency to change an existing rule.

List rule number (WAC), if known: _____

I am requesting the following change: _____

This change is needed because: _____

The effect of this rule change will be: _____

The rule is not clearly or simply stated: _____

3. REPEAL RULE - I am requesting the agency to eliminate an existing rule.

List rule number (WAC), if known: _____

(Check one or more boxes)

It does not do what it was intended to do.

It is no longer needed because: _____

It imposes unreasonable costs: _____

The agency has no authority to make this rule: _____

It is applied differently to public and private parties: _____

It conflicts with another federal, state, or local law or rule. List conflicting law or rule, if known: _____

It duplicates another federal, state or local law or rule. List duplicate law or rule, if known: _____

Other (please explain): _____

As a proud owner of a Craft beer/cocktail bar in Washington, I have personally witnessed the positive impact that to-go options have had on our business during these challenging times. The COVID-19 crisis forced us to adapt and find new ways to generate revenue, and being able to sell beer to go on a temporary license has been instrumental in keeping our doors open.

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RCW 66.08.030 Regulations—Scope. The power of the board to make regulations under chapter 34.05 RCW extends to:

(1) Prescribing the duties of the employees of the board, and regulating their conduct in the discharge of their duties;

(2) Prescribing an official seal and official labels and stamps and determining the manner in which they must be attached to every package of liquor sold or sealed under this title, including the prescribing of different official seals or different official labels for different classes of liquor;

(3) Prescribing forms to be used for purposes of this title or the regulations, and the terms and conditions to be contained in permits and licenses issued under this title, and the qualifications for receiving a permit or license issued under this title, including a criminal history record information check. The board may submit the criminal history record information check to the Washington state patrol and to the identification division of the federal bureau of investigation in order that these agencies may search their records for prior arrests and convictions of the individual or individuals who filled out the forms. The board must require fingerprinting of any applicant whose criminal history record information check is submitted to the federal bureau of investigation;

(4) Prescribing the fees payable in respect of permits and licenses issued under this title for which no fees are prescribed in this title, and prescribing the fees for anything done or permitted to be done under the regulations;

(5) Prescribing the kinds and quantities of liquor which may be kept on hand by the holder of a special permit for the purposes named in the permit, regulating the manner in which the same is kept and disposed of, and providing for the inspection of the same at any time at the instance of the board;

(6) Regulating the sale of liquor kept by the holders of licenses which entitle the holder to purchase and keep liquor for sale;

(7) Prescribing the records of purchases or sales of liquor kept by the holders of licenses, and the reports to be made thereon to the board, and providing for inspection of the records so kept;

(8) Prescribing the kinds and quantities of liquor for which a prescription may be given, and the number of prescriptions which may be given to the same patient within a stated period;

(9) Prescribing the manner of giving and serving notices required by this title or the regulations, where not otherwise provided for in this title;

(10) Regulating premises in which liquor is kept for export from the state, or from which liquor is exported, prescribing the books and records to be kept therein and the reports to be made thereon to the board, and providing for the inspection of the premises and the books, records and the liquor so kept;

(11) Prescribing the conditions and qualifications requisite for the obtaining of club licenses and the books and records to be kept and the returns to be made by clubs, prescribing the manner of licensing clubs in any municipality or other locality, and providing for the inspection of clubs;

(12) Prescribing the conditions, accommodations, and qualifications requisite for the obtaining of licenses to sell beer, wines, and spirits, and regulating the sale of beer, wines, and spirits thereunder;

(13) Specifying and regulating the time and periods when, and the manner, methods and means by which manufacturers must deliver liquor within the state; and the time and periods when, and the manner, methods and means by which liquor may lawfully be conveyed or carried within the state;

(14) Providing for the making of returns by brewers of their sales of beer shipped within the state, or from the state, showing the gross amount of such sales and providing for the inspection of brewers' books and records, and for the checking of the accuracy of any such returns;

(15) Providing for the making of returns by the wholesalers of beer whose breweries are located beyond the boundaries of the state;

(16) Providing for the making of returns by any other liquor manufacturers, showing the gross amount of liquor produced or purchased, the amount sold within and exported from the state, and to whom so sold or exported, and providing for the inspection of the premises of any such liquor manufacturers, their books and records, and for the checking of any such return;

(17) Providing for the giving of fidelity bonds by any or all of the employees of the board. However, the premiums therefor must be paid by the board;

(18) Providing for the shipment of liquor to any person holding a permit and residing in any unit which has, by election pursuant to this title, prohibited the sale of liquor therein;

(19) Prescribing methods of manufacture, conditions of sanitation, standards of ingredients, quality and identity of alcoholic beverages manufactured, sold, bottled, or handled by licensees and the board; and conducting from time to time, in the interest of the public health and general welfare, scientific studies and research relating to alcoholic beverages and the use and effect thereof;

(20) Seizing, confiscating and destroying all alcoholic beverages manufactured, sold or offered for sale within this state which do not conform in all respects to the standards prescribed by this title or the regulations of the board. However, nothing herein contained may be construed as authorizing the *liquor board to prescribe, alter, limit or in any way change the present law as to the quantity or percentage of alcohol used in the manufacturing of wine or other alcoholic beverages;

(21) Monitoring and regulating the practices of license holders as necessary in order to prevent the theft and illegal trafficking of liquor pursuant to RCW 66.28.350. [2014 c 63 § 2; 2012 c 2 § 204 (Initiative Measure No. 1183, approved November 8, 2011); 2002 c 119 § 2; 1977 ex.s. c 115 § 1; 1971 c 62 § 1; 1943 c 102 § 1; 1933 ex.s. c 62 § 79; RRS § 7306-79. Formerly RCW 66.08.030 and 66.08.040.]

***Reviser's note:** The "state liquor control board" was renamed the "state liquor and cannabis board" by 2015 c 70 § 3.

Finding—Application—Rules—Effective date—Contingent effective date—2012 c 2 (Initiative Measure No. 1183): See notes following RCW 66.24.620.

RCW 66.24.400 Liquor by the drink, spirits, beer, and wine restaurant license—Liquor by the bottle for hotel or club guests—Soju endorsement—Removing unconsumed liquor, when.

(1) There shall be a retailer's license, to be known and designated as a spirits, beer, and wine restaurant license, to sell spirituous liquor by the individual glass, beer, and wine, at retail, for consumption on the premises, including mixed drinks and cocktails compounded or mixed on the premises only. A club licensed under chapter 70.62 RCW with overnight sleeping accommodations, that is licensed under this section may sell liquor by the bottle to registered guests of the club for consumption in guest rooms, hospitality rooms, or at banquets in the club. A patron of a bona fide restaurant or club licensed under this section may remove from the premises recorked or recapped in its original container any portion of wine or sake which was purchased for consumption with a meal, and registered guests who have purchased liquor from the club by the bottle may remove from the premises any unused portion of such liquor in its original container. Such license may be issued only to bona fide restaurants and clubs, and to dining, club and buffet cars on passenger trains, and to dining places on passenger boats and airplanes, and to dining places at civic centers with facilities for sports, entertainment, and conventions, and to such other establishments operated and maintained primarily for the benefit of tourists, vacationers and travelers as the board shall determine are qualified to have, and in the discretion of the board should have, a spirits, beer, and wine restaurant license under the provisions and limitations of this title.

(2) The board may issue an endorsement to the spirits, beer, and wine restaurant license that allows the holder of a spirits, beer, and wine restaurant license to sell bottled wine for off-premises consumption. Spirits and beer may not be sold for off-premises consumption under this section except as provided in subsection (4) of this section. The annual fee for the endorsement under this subsection is one hundred twenty dollars.

(3) The holder of a spirits, beer, and wine license or its manager may furnish beer, wine, or spirituous liquor to the licensee's employees free of charge as may be required for use in connection with instruction on beer, wine, or spirituous liquor. The instruction may include the history, nature, values, and characteristics of beer, wine, or spirituous liquor, the use of wine lists, and the methods of presenting, serving, storing, and handling beer, wine, and spirituous liquor. The spirits, beer, and wine restaurant licensee must use the beer, wine, or spirituous liquor it obtains under its license for the sampling as part of the instruction. The instruction must be given on the premises of the spirits, beer, and wine restaurant licensee.

(4) The board may issue an endorsement to the spirits, beer, and wine restaurant license that allows the holder of a spirits, beer, and wine restaurant license to sell for off-premises consumption malt liquor in kegs or other containers that are capable of holding four gallons or more of liquid and are registered in accordance with RCW 66.28.200. Beer may also be sold under the endorsement to a purchaser in a sanitary container brought to the premises by the purchaser or furnished by the licensee and filled at the tap by the retailer at the time of sale. The annual fee for the endorsement under this subsection is one hundred twenty dollars.

(5)(a) The board shall create a soju endorsement to the spirits, beer, and wine restaurant license that allows the holder of a spirits,

beer, and wine restaurant license to serve soju for on-premises consumption by the bottle to tables of two or more patrons twenty-one years of age or older. Cost of the endorsement is fifty dollars.

(b) The holder of a soju endorsement may serve soju in bottles that are three hundred seventy-five milliliters or less. Empty bottles of soju must remain on the patron's table until the patron has left the premises of the licensee.

(c) The patron of a holder of a soju endorsement may remove from the premises recapped in its original container any unused portion of soju that was purchased for consumption with a meal.

(d) The board must develop additional responsible sale and service of soju training curriculum related to the provisions of the soju endorsement under this subsection (5) that includes but is not limited to certification procedures and enforcement policies. This information must be provided in both Korean and English languages to licensees holding the soju endorsement. Soju endorsement holders must ensure servers providing soju to patrons are trained in the soju curriculum developed under this subsection (5). [2019 c 169 § 3; 2019 c 61 § 2; 2011 c 119 § 401; (2009 c 507 § 8 expired July 1, 2011); 2008 c 41 § 10. Prior: 2007 c 370 § 13; 2007 c 53 § 1; 2005 c 152 § 2; 2001 c 199 § 4; 1998 c 126 § 5; 1997 c 321 § 26; 1987 c 196 § 1; 1986 c 208 § 1; 1981 c 94 § 2; 1977 ex.s. c 9 § 4; 1971 ex.s. c 208 § 1; 1949 c 5 § 1 (adding new section 23-S-1 to 1933 ex.s. c 62); Rem. Supp. 1949 § 7306-23S-1.]

Reviser's note: This section was amended by 2019 c 61 § 2 and by 2019 c 169 § 3, each without reference to the other. Both amendments are incorporated in the publication of this section under RCW 1.12.025(2). For rule of construction, see RCW 1.12.025(1).

Expiration date—2009 c 507: See note following RCW 66.24.320.

Effective date—2008 c 41 §§ 3, 10, and 11: See note following RCW 66.20.310.

Effective date—2007 c 370 §§ 10-20: See note following RCW 66.04.010.

Effective date—1998 c 126: See note following RCW 66.20.010.

Effective date—1997 c 321: See note following RCW 66.24.010.

Effective date—1986 c 208: "This act is necessary for the immediate preservation of the public peace, health, and safety, the support of state government and its existing public institutions, and shall take effect on May 1, 1986." [1986 c 208 § 2.]

RCW 66.24.710 Takeout or delivery. (1) (a) Except as provided in (b) of this subsection, the following licensees may sell alcohol products at retail for takeout or delivery or both under liquor and cannabis board licenses and endorsements: Beer and wine restaurants; spirits, beer, and wine restaurants; taverns; domestic wineries; domestic breweries and microbreweries; distilleries; snack bars; nonprofit arts licensees; and caterers.

(b) No alcohol products may be sold by delivery under this section after July 1, 2025.

(2) Spirits, beer, and wine restaurant licensees may sell premixed cocktails for takeout and, until July 1, 2025, for delivery. The board may establish by rule the manner in which premixed cocktails for off-premises consumption must be provided. This subsection does not authorize the sale of bottles of spirits by licensees for off-premises consumption.

(3) Spirits, beer, and wine restaurant licensees may sell wine by the glass or premixed wine and spirits cocktails for takeout and, until July 1, 2025, delivery. Beer and wine restaurant licensees may sell wine or premixed wine drinks by the glass for takeout and, until July 1, 2025, delivery. The board may establish by rule the manner in which wine by the glass and premixed cocktails for off-premises consumption must be provided.

(4) Licensees that were authorized by statute or rule before January 1, 2020, to sell growlers for on-premises consumption may sell growlers for off-premises consumption through takeout or, until July 1, 2025, delivery. Sale of growlers under this subsection must meet federal alcohol and tobacco tax and trade bureau requirements.

(5) (a) Licensees must obtain from the board an endorsement to their license in order to conduct activities authorized under subsections (1) through (4) of this section. The board may adopt rules governing the manner in which the activities authorized under this section must be conducted. Licensees must not be charged a fee in order to obtain an endorsement required under this section.

(b) (i) Alcohol delivery under this section 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.

(ii) Delivery services conducted by beer and wine restaurant licensees and spirits, beer, and wine restaurant licensees under this section must be accompanied by a purchased meal prepared and sold by the license holder.

(c) Alcohol sold for takeout by beer and wine restaurant licensees and spirits, beer, and wine restaurant licensees under this section must be accompanied by a purchased meal prepared and sold by the license holder.

(d) Any alcohol product sold for takeout or delivery under this section must be in a factory sealed container or a tamper-resistant container.

(6) Beer and wine specialty shops licensed under RCW 66.24.371 and domestic breweries and microbreweries may sell prefilled growlers for off-premises consumption through takeout and, until July 1, 2025, delivery, provided that prefilled growlers are sold the same day they are prepared for sale and not stored overnight for sale on future days.

(7) The board must adopt or revise current rules to allow for outdoor service of alcohol by on-premises licensees holding licenses issued by the board for the following license types: Beer and wine

restaurants; spirits, beer, and wine restaurants; taverns; domestic wineries; domestic breweries and microbreweries; distilleries; snack bars; and private clubs licensed under RCW 66.24.450 and 66.24.452. The board may adopt requirements providing for clear accountability at locations where multiple licensees use a shared space for serving customers.

(8) Upon delivery of any alcohol product authorized to be delivered under this section, the signature of the person age 21 or over receiving the delivery must be obtained.

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

(a) "Board" means the liquor and cannabis board.

(b) "Growlers" means sanitary containers brought to the premises by the purchaser or furnished by the licensee and filled by the retailer at the time of sale. [2023 c 279 § 1; 2021 c 48 § 2.]

Effective date—2023 c 279: "This act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and takes effect July 1, 2023." [2023 c 279 § 8.]

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. There is no fee for a licensee to apply for and obtain this endorsement.

(2)(a) 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.

(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, bottles, and kegs. Licensees may only sell the types of manufacturer sealed alcohol products under this endorsement that they are authorized to sell under the terms of their license.

(b)(i) Except as provided in (b)(ii) of this subsection, if an alcohol product authorized for sale under this endorsement is enclosed inside a bag, box, or other packaging before the alcohol product is provided to the customer through 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) 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.

(iii) As set forth in section 1(8), chapter 279, Laws of 2023, 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.

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

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

(d)(i) In addition to the signs required by WAC 314-11-060, signs provided electronically by the board regarding public consumption and

transportation of any alcohol products sold through 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: 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.

(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.

[Statutory Authority: 2023 c 279, RCW 66.08.071, and 66.08.030. WSR 23-14-119, § 314-03-500, filed 7/5/23, effective 7/5/23. Statutory Authority: 2021 c 48 § 2, RCW 66.08.071, 66.08.030 and 2021 c 48. WSR 22-01-052, § 314-03-500, filed 12/8/21, effective 1/8/22.]

From: [Brogan Adams](#)
To: [Jacobs, Daniel \(LCB\)](#)
Subject: Re: Follow up to Petition for Rulemaking
Date: Monday, October 16, 2023 9:17:10 AM

External Email

Good morning!

I would like to express my gratitude for the informative explanation you provided, which has provided me with a sense of reassurance as we approach the upcoming changes on July 25.

Allow me to provide some context regarding our establishment. In 2021, we successfully launched our Bottle shop/Restaurant, navigating the challenges posed by the pandemic. During these trying times, our commitment to offering locally crafted beer in commercial packaging became the cornerstone of our survival. Our offerings include Growlers, and Kegs to cater to evolving consumer preferences.

In response to the escalating costs of beer and the unfortunate closure of numerous breweries, we made a strategic shift. We transitioned our tavern license to a restaurant, enabling us to serve a broader range of alcoholic beverages, While we have obtained a temporary endorsement for delivery/takeout cocktails, it's important to note that our primary focus remains on the sale of beer.

As a business primarily dependent on dine-in and takeout services, the recent requirement for a mandatory food item with to-go orders has impacted our "to-go" business significantly. The purpose of my correspondence is to request consideration for a modification that would permit any qualifying bar or restaurant to sell commercially packaged beer to go and hopefully Growler fills, complementing existing options for wine, cider, and mead without the food component.

We have witnessed a substantial increase in demand for our craft beer offerings in all to-go formats, without the obligatory purchase of accompanying food. It has come to our attention that numerous establishments share a similar sentiment, prompting us to advocate for the creation of an endorsement that would address this specific need.

Implementing such an endorsement would not only benefit establishments like ours but also contribute positively to the broader hospitality industry. Smaller breweries, in particular, would find relief by gaining access to a more extensive market, overcoming challenges associated with securing shelf space in large retail outlets.

In conclusion, we believe that the proposed endorsement would not only support businesses like ours but also foster resilience within the industry, especially during unforeseen events such as those experienced during the COVID-19 pandemic.

Thank you for your time and consideration. We look forward to the possibility of contributing to the success and sustainability of our industry through this proposed change.

Cheers!

On Mon, Oct 16, 2023 at 8:28 AM Jacobs, Daniel (LCB) <daniel.jacobs@lcb.wa.gov> wrote:

Brogan:

Thank you for your rulemaking petition. Before the Rules & Policy Staff proceed with preparing a response, I wanted to point out that alcohol to go is authorized by the delivery & takeout endorsement for various licensees in [RCW 66.24.710\(1\)\(a\)](#). While the endorsement for delivery is currently set to expire in July 2025, there is no such expiration date for the takeout aspect of the endorsement. [See WAC 314-03-500\(2\)\(a\), and \(6\)](#). A licensee who has the takeout/delivery endorsement can already sell beer to go so long as they comply with the other relevant provisions of [RCW 66.24.710](#) and [WAC 314-03-500](#), including being sold in a factory-sealed or tamper-resistant container and accompanied by a purchased meal prepared and sold by the licensee. [See RCW 66.24.710\(5\)\(c\), \(d\)](#).

I am more than happy to proceed with preparing a response to your petition submitted. But I want to make sure that you have all of the information, including that you are already allowed to do what you are asking for in the petition. If I don't hear back from you, I am going to proceed with responding to the petition as described in my prior email.

Lastly, I wanted to make sure you knew about the stakeholder rule workshops scheduled for this week via teams that are being [held](#) Today at 10:00 AM and on Wednesday at 1:00 PM. They are going to cover some draft rule language about alcohol delivery, and you can find more information at the [rulemaking webpage](#) on the topic.

Please feel free to follow up with any questions,

Sincerely,

Daniel Jacobs, Esq.

(he/him/his)

Rules & Policy Coordinator

Washington State Liquor and Cannabis Board

Daniel.jacobs@lcb.wa.gov

Mobile: (360) 480-1238



Washington State Liquor and Cannabis Board

DISCLAIMER: The information provided above does not, and is not intended to, constitute legal advice; instead, all information, content, and materials included are done so in the scope of my employment as Policy & Rules Coordinator with the Washington State Liquor & Cannabis Board (LCB).