



NOTICE OF RULE MAKING – Proposed Rules #09-22

The Washington State Liquor Control Board would like your input on the attached proposed rules to implement **EHB 2040 and portions of SSB 5834 regarding non-retail license regulation.**

This notice contains a summary of changes being proposed as well as the actual text of the proposed rules. You can provide input by submitting written comments or by participating in the public hearing (see below).

This rule making is filed with the Office of the Code Reviser in the Washington State Register number # 09-22-102.

Why is rule making necessary?

The following bills were passed during the 2009 legislative sessions that require changes in existing administrative rules (WAC) or the development of new rules:

- EHB 2040 – changes in beer and wine regulation including financial ownership or interest, money's worth – advertising, price post and hold, and minimum markup
- SSB 5834 – addresses authorized representatives, creates a winery warehouse, provides new exceptions to tied house

Rules are also required to implement the following Interim Board Policy:

- Liquor Control Board Interim Policy #03-2009 – Washington Domestic Winery Returning Exported Product back to Producing Winery

This notice can be found at <http://www.liq.wa.gov/laws.asp> under Proposed Rules. The text of the WAC chapter under review can be found at <http://apps.leg.wa.gov/WAC/default.aspx?cite=Non-Retail Licensees>

Public Comment

You may attend the public hearing listed below, or forward your comments to the Board by mail, e-mail, or fax by **December 9, 2009.**

By mail: Rules Coordinator
Liquor Control Board
P.O. Box 43080
Olympia, WA 98504-3080

By e-mail:
rules@liq.wa.gov

By fax:
360-360-664-9689

What changes are being proposed?

Amendatory Section WAC 314-11-015 – What are my responsibilities as a liquor licensee? Corrected WAC references for the penalties for violations.

Amendatory Section WAC 314-11-095 – What records am I required to keep regarding my licensed premises? Changed the requirement to keep records from two years to three years to be consistent with federal laws. To keep all rules regarding general records in one chapter, the language from 314-12-135 (business entertainment records) was added to this rule.

New Section – WAC 314-11-097 – Credit on nonliquor food items—Conditions—Recordkeeping. To keep all rules regarding general records in one chapter, the language from 314-12-145 (the title of this section) was added to this chapter by creating a new section.

New Section – WAC 314-12-027 – Financial interest and ownership. Created a new section to implement the allowance of financial interest and/or ownership between the tiers. Included examples to explain when a separate business entity would be required to purchase financial interest or ownership.

Repealed Section – WAC 314-12-135 – Business entertainment—Records. Moved this language to 314-11-095 in order to keep recordkeeping rules in one chapter.

Amendatory Section – WAC 314-12-140 – Prohibited practices—Contract—Gifts—Rebates, etc. Amended this section to reflect changes to the law in EHB 2040 (manufacturers, distributors, and importers are all included in the name “industry member”). Plain-talked.

Amendatory Section – WAC 314-12-141 – Courses of instruction. Amended this section to reflect changes to the law in EHB 2040 (manufacturers, distributors, and importers are all included in the name “industry member”).

Repealed Section – WAC 314-12-145 – Credit on nonliquor food items—Conditions—Recordkeeping. Moved this language to 314-11-097 in order to keep recordkeeping rules in one chapter.

Amendatory Section – WAC 314-13-015 – What method of payment can a retailer use to purchase beer or wine from an industry member? Amended this section to reflect changes to the law in EHB 2040 (manufacturers, distributors, and importers are all included in the name “industry member”). Revised language regarding initiation and payment of electronic fund transfers (EFT).

Amendatory Section – WAC 314-13-020 – What if a check, EFT transaction, or credit/debit card transaction is reported as having nonsufficient funds (NSF)? Amended this section to reflect changes to the law in EHB 2040 (manufacturers, distributors, and importers are all included in the name “industry member”).

Amendatory Section – WAC 314-13-025 – How do retail licensees purchase spirituous liquor at a discount from the board? Added the new spirits, beer, and wine nightclub license to the list of licensees that must purchase spirituous liquor from the board at a fifteen percent discount.

Amendatory Section – WAC 314-19-015 – What are the monthly reporting and tax payment requirements? Added language to implement interim board policy #01-2009 (Washington domestic wineries returning exported product back to the producing winery).

Amendatory Section – WAC 314-19-035 – Reduced tax rate for beer. Added language to implement a change in the tax rate for strong beer (effective in 2003). Strong beer is any malt beverage that contains more than 8% alcohol by weight.

Amendatory Section – WAC 314-20-001 – Definitions. Revised the definition of “authorized representative”.

Amendatory Section – WAC 314-20-050 – Beer distributors—Importers—Brewers—Records--Preservation. Revised language to required three years records be kept to be consistent with the federal laws.

Amendatory Section – WAC 314-20-100 – Beer suppliers and distributors. The title of this section was previously “price postings”. Revised language to remove price posting requirements and added a requirement that a “price list” be available at the suppliers and distributors liquor licensed location. Defines “price list”. Added language requiring all prices be available to all retail licensees and all retail licensees must be given reasonable notice of all prices and changes in price. Plain talked.

Amendatory Section – WAC 314-24-001 – Definitions. Revised the definition of “authorized representative”.

Amendatory section – WAC 314-24-070 – Domestic wineries—Purchase and use of bulk wines, brandy or wine spirits—Import permit required—Records—Wine returned to Washington. Added subsection (3) to implement interim board policy #03-2009 (Washington domestic winery returning exported product back to producing winery).

New Section – WAC 314-24-207 – Winery warehouse license. Added a new section to implement the winery warehouse license requirements.

Amendatory section – WAC 314-24-150 – Wine records—Preservation.

Revised language to required three years records be kept to be consistent with the federal laws.

Amendatory section – WAC 314-24-190 – Wine suppliers and distributors. The title of this section was previously “price postings”. Revised language to remove price posting requirements and added a requirement that a “price list” be available at the suppliers and distributors liquor licensed location. Defines “price list”. Added language requiring all prices be available to all retail licensees and all retail licensees must be given reasonable notice of all prices and changes in price. Plain talked.

Amendatory section – WAC 314-24-210 – Return of wine by retailer—Replacement—Conditions. Revised language to required three years records be kept to be consistent with the federal laws.

Amendatory section – WAC 314-44-005 – Agent’s license required—Eligible employees defined—Certain classes limited—Bona fide entity defined—Prohibited practices. Plain talked.

Amendatory section – WAC 314-44-015 – Agency license limited authority. Plain talked.

Amendatory section – WAC 314-52-080 – Novelty advertising. Added language to implement the allowance in EHB 2040 regarding novelty branded promotional advertising items of nominal value. Industry members may provide these items to retailers. Included language regarding action by the board if a complaint is filed by any industry member, retailer, or any other person asserting the provision of branded promotional items has resulted in or is more likely than not to result in undue influence or an adverse impact on public health and safety.