



Notice of Permanent Rules

Regarding axe throwing at liquor licensed premises.

This concise explanatory statement concerns the Washington State Liquor and Cannabis Board's adoption of new rule section WAC 314-03-060 Axe throwing at liquor licensed premises, and amendment to WAC 314-29-030 Group 3 license violations.

The Administrative Procedure Act (RCW 34.05.325(6)) requires agencies to complete a concise explanatory statement before filing adopted rules with the Office of the Code Reviser. The concise explanatory statement must be provided to any person upon request, or from whom the Board received comment.

The Board appreciates and encourages your involvement in the rule making process. If you have questions, please contact Audrey Vasek, Policy and Rules Coordinator, at (360) 664-1758 or by email at rules@lcb.wa.gov.

Background and reasons for adopting these rules:

Axe throwing has become increasingly popular as an activity that businesses would like to offer in combination with liquor service. Beginning in 2018, the Licensing Division began receiving applications from businesses that either had axe throwing as their primary activity and wanted to add liquor service, or from established liquor licensed businesses that wanted to add axe throwing as an on-premises activity.

The rule proposal and final rules were developed through a collaborative rule development process involving both internal and external stakeholders, and including input from public health and prevention groups, axe throwing businesses, liquor licensees, and other interested members of the public. The rule development and stakeholder engagement process are described in more detail in the CR 103 Memorandum.

The final rules are needed to provide a framework to address the public health and safety concerns that arise when alcohol service is combined with axe throwing, as well as provide consistency for licensees and applicants that seek approval to offer axe throwing at liquor licensed premises.

Rulemaking history for this adopted rule:

CR 101 – filed as WSR #21-20-067 on September 29, 2021.

CR 102 – filed as WSR #22-07-058 on March 16, 2022.

Public hearing held April 27, 2022. No oral testimony was provided during the public hearing.

Public comments received on the rule proposal:

The following comments were received during the CR 102 public comment period from March 16, 2022, to April 27, 2022, as indicated below. No oral testimony was provided during the public hearing. Several comments received after the formal public comment period closed but before the CR 103 was filed are also included below. A response to each comment is provided, along with an indication regarding whether the comment is reflected in the adopted rule.

1. *Emails received on March 17, March 23, April 8, and April 11, 2022—Direct quotations included below:*

From Jason Bos:

Email received on March 17, 2022:

“Hello Audrey,

My name is Jason Bos with Brothers Cascadia Brewing in Vancouver, WA. I was given your contact by Ryan Nielsen who suggested I bring my question to you.

Our brewery is interested in starting an ax throwing facility and would love to acquire a liquor license for this. I saw the CR 101 Memo in regards to this, my question is has there been any updates or movement on getting liquor licenses opened up for ax throwing businesses?

Any info would be greatly appreciated! Thank you!

Jason Bos”

Email received on March 23, 2022:

“Hello Audrey,

Thank you so much for all this information!!! This is so helpful!

I have one remaining question at the moment that I couldn’t find in the material you sent over. Do you know what sort of liquor license types will be available for facilities that offer ax throwing? We are trying to see what we will need to plan for.

Again, thank you very much for your help!

Jason Bos”

Email received on April 8, 2022:

“Hello Audrey,

We are trying to stay up to date with this axe throwing situation, as we are looking to start an axe throwing facility with beer when that opens up. I was hoping to hear from you where we are at with this? Is it safe to assume that this will likely go through? I also heard that it is open to public comment, but I can’t seem to find where to comment. Could you please send me a link or something so I can comment?

Thank you very much for your time!

Jason Bos”

Email received on April 11, 2022:

“Hello,

In regards to axe throwing within a liquor licensed facility - I am for it. I believe it can be done safely. We can look toward other states that already allow it. I’m sure we can come up a safe environment for people to enjoy axe throwing.

Jason Bos”

Board response: The Board appreciates these comments and the demonstration of interest in collaborative participation in the rulemaking process. The Policy and Rules Coordinator reached out to Jason Bos to provide information about the rulemaking project and answer questions about the rulemaking process.

Was the comment reflected in the adopted rule? This comment is not reflected in the final rule.

2. *Email received on April 7, 2022—Direct quotation included below:*

From Patrick Tate:

“Hi Dustin,

I hope this finds you well!

I received your email address from Dave Maher, owner of Celtic Axe Throwing in Portland, OR. I am considering an opportunity to bring axe throwing to an existing microbrewery taproom in Vancouver. Dave indicated that the LCB approval to have this activity paired with a beer & wine establishment will be announced at the end of May (and is likely to pass). I was wondering if you could provide any details about this approval, the timing, the likelihood of it passing, and any other information you can offer at this time. This will be very helpful as I consider this investment opportunity.

I really appreciate it! Happy to schedule a phone call to discuss if that's easier.

Thank you,
Patrick Tate”

Board response: The Board appreciates these comments and the demonstration of interest in collaborative participation in the rulemaking process. The Policy and Rules Coordinator reached out to Patrick Tate to provide information about the rulemaking project and answer questions about the rulemaking process.

Was the comment reflected in the adopted rule? This comment is not reflected in the final rule.

3. **Email received on April 13, 2022—Direct quotation included below:**

From Matt Kinney:

“Any progress on axe throwing venues and alcohol?
Thanks,
MATT KINNEY”

Board response: The Board appreciates this question and the demonstration of interest in collaborative participation in the rulemaking process. The Policy and Rules Coordinator reached out to Matt Kinney to provide information about the rulemaking project.

Was the comment reflected in the adopted rule? This comment is not reflected in the final rule.

4. **Two emails received on April 27, 2022 during the public comment period and one email received on May 18, 2022 after the public comment period closed—Direct quotations included below:**

From Katrina Brede:

First email received on April 27, 2022:

“Hello Dustin,

Thank you so much for sharing the meeting information with me. My question relates to CR102 filed on 3/16/22 related to licensing establishments that have axe-throwing on premises.

Audrey Vasek suggested that rules may be brought to the board on 5/11/22.

My question is where it is possible to see what at least the preliminary rules are so that clients may begin making any necessary modifications to their premises in advance of the finalization of the rules.

Is this information accessible anywhere?

Thank you,

Katrina”

Second email received on April 27, 2022:

“Thank you both!

One last question – must an establishment wait until the proposal has been submitted to the rules committee before submitting a safety plan?

Katrina”

Email received on May 18, 2022:

“Hello Audrey,

I wanted to follow up on this overall question. It appears that the rules were not presented and/or adopted by the Board on May 11th, correct? Do you happen to have any insight into when the Board plans to take up those rules?

Best,
Katrina”

Board response: The Board appreciates these questions and the demonstration of interest in collaborative participation in the rulemaking process. The Policy and Rules Coordinator reached out to Katrina Brede to provide information about the rulemaking project and answer questions about the rulemaking process.

Was the comment reflected in the adopted rule? This comment is not reflected in the final rule.

5. **Two emails received on May 2, 2022 and one email received on May 20, 2022 after the public comment period closed—Direct quotations included below:**

From Amy Groth:

First email received on May 2, 2022:

“Hello,

My name is Amy Groth, I am the owner of Axe Bliss Axe Throwing LLC in Wenatchee. I’m reaching out to see if there are any updates on getting a snack license? I still have not recovered from the covid shut down situation. I was only open for 6 weeks before having to close. I was then closed for 3 weeks shy of a year. Getting a snack license would be a game changer for me!

Can you please get back to me with any update information?

Thank you,

Amy Groth

Axe Bliss Axe Throwing LLC”

Second email received on May 2, 2022:

“Thank you so much for getting back to me and for the information! I’ve signed up for email updates. Fingers crossed the dates you laid out happen! This will be a game changer for me! I was only open 6 weeks when Covid hit and closed for 3 weeks shy of a year. Still struggling even after being open again since February 18, 2021. When should I put in an application for a snack license? I’d like to be ready to go as soon as it’s official!

Thank you,

Amy Groth

Axe Bliss Axe Throwing LLC”

Email received on May 20, 2022:

“Hi Audrey, Sorry to be a bother to you but I’ve been eager to find out what’s going on with beer licenses from the May 11th session. I have not received an email update. Do you mind letting me know what’s happening?!

Thank you,

Amy

Axe Bliss Axe Throwing LLC”

Board response: The Board appreciates these questions and the demonstration of interest in collaborative participation in the rulemaking process. The Policy and Rules

Coordinator reached out to Amy Groth to provide information about the rulemaking project and answer questions about the rulemaking process.

Was the comment reflected in the adopted rule? This comment is not reflected in the final rule.

6. **Three emails received on May 11, May 16, and May 26, 2022 after the public comment period closed—Direct quotations included below:**

From Riely Harris:

Email received on May 11, 2022:

“Hi Audrey,

We are manage the timing of our application for liquor license for Casting Iron, but saw that the CR103 for Axe throwing venues had been removed from the agenda for today’s board meeting. We were planning to submit our application this week in anticipation of that going into effect. Can you tell me if it is still safe to go ahead and apply? We have been waiting a long time and would love to be able to serve when the new WAC codes take effect. Will that be proposed at the next Board meeting in 2 weeks?

Riely Harris”

Email received on May 16, 2022:

“Hi Audrey,

Yes, I certainly understand the timing of the rules taking effect, and read the referenced WAC. Obviously, we will not be able to serve alcohol any sooner than 31 days after the board approves the CR103.

However, It seems once the CR103 is officially approved, the applications can be accepted, but that the license cannot be active until that 30-day mark - do I understand correctly? The WAC you quoted was referencing the lag between approval of rules and effective date of rules, but I don’t see that licenses cannot be accepted or processed immediately after board approval.

We absolutely understand and are not trying to push any boundaries on the timing of when we would actually be legally allowed to serve alcohol. However, our customers definitely ask us daily when the bar will be open, and it certainly impacts us financially to push the date further and further out. We would like to be ready to submit our application when the CR103 has board approval, and hope that when the new codes go into effect, we will be ready (or almost ready) to serve.

Thanks for your help on this project, as stakeholders it obviously has a huge impact on our small business.

Riely Harris”

Email received on May 26, 2022:

“Audrey,

I was disappointed to see that the Board Meeting, scheduled for yesterday, was cancelled. Since this was already two weeks after the originally planned date of adopting the CR103, we are now looking at a minimum of a month long delay, pushing a large portion of our business model out again. The summer months are particularly important to businesses in the Northwest, and these delays are not minor in their impact on our ability to stay afloat as a brand new small business.

We continue to hear promises of how Washington wants to support minority and women-owned businesses, yet have hit road blocks with the LCB at every turn that feel rather discriminatory. Not only has the LCB allowed a large, multi-location franchise to have the only pilot program in the state for over a year, creating a monopoly, but there have then been multiple unreasonable delays in the rule-making process. The decisions of the LCB seem to intentionally favor those with deep pockets in large cities, leaving us small businesses in rural towns with less opportunity to remain profitable in a difficult economy. In addition, we have been told that we cannot even apply for our license when the CR103 is approved, which is not a rule supported by the RCWs. The RCW states that the CR103 does not take effect for 30 days, but does not say that applicants cannot apply or that they cannot be approved in the 30-day span between CR103 approval and the effective date. To say that we need to wait for “instructions,” when the CR103 is exactly that, is just another unreasonable delay.

At this point, it would be a reasonable expectation to call a special Board Meeting to approve the CR103 that has been completed for several weeks.

Riely Harris”

Board response: The Board appreciates these questions, comments, and the demonstration of interest in collaborative participation in the rulemaking process. The Policy and Rules Coordinator reached out to Riely Harris to provide information about the rulemaking project and answer questions about the rulemaking process.

Was the comment reflected in the adopted rule? This comment is not reflected in the final rule.

7. **Email received on May 26, 2022 after the public comment period closed—
Direct quotation included below:**

From Thomas Sauvageau:

Email received on May 26, 2022:

“Good morning Audrey,
My name is Thomas Sauvageau, I’m a City Councilman for the city of Enumclaw. Mr. and Mrs. Harris expressed their concern over the delays of adopting CR103 and I offered to assist in any way that I could in getting this moved forward for them. I don’t pretend to carry any authority within the LCB, however as a government employee I understand the severity of claims of discrimination as explained by Mrs. Harris below. If possible, I’d encourage the board to consider an emergency board meeting to proceed further on adoption(or reference back for changes) CR103 so that this isn’t held up due to any further administrative delays.

I greatly appreciate your attention on the matter.

Thank you,

Thomas”

Board response: The Board appreciates this comment and the demonstration of interest in collaborative participation in the rulemaking process.

Was the comment reflected in the adopted rule? This comment is not reflected in the final rule.

8. **Email received on May 26, 2022 after the public comment period closed—
Direct quotation included below:**

From Aleksei Kniazev:

“Hi Robert,
May we get an update about the status of axe throwing laws?

Thank you,
Alex”

Board response: The Board appreciates this question and the demonstration of interest in collaborative participation in the rulemaking process. The Policy and Rules Coordinator reached out to Alex Kniazev to provide information about the rulemaking project.

Was the comment reflected in the adopted rule? This comment is not reflected in the final rule.

9. **Email received on May 30, 2022 after the public comment period closed —
Direct quotation included below:**

From David Maher:

“Hi Dustin, have rules been finalized for Axe Throwing?”

Board response: The Board appreciates this question and the demonstration of interest in collaborative participation in the rulemaking process. The Policy and Rules Coordinator reached out to David Maher to provide information about the rulemaking project.

Was the comment reflected in the adopted rule? This comment is not reflected in the final rule.

Changes from Proposed Rules (CR102) to the Final Rules as Adopted:

There were no changes from the proposed rules to the final rules as adopted.