

Chapter 314-64 WAC

LIQUOR SAMPLES

WAC

314-64-010	Purpose.
314-64-020	Definitions.
314-64-040	Procedures for board samples.
314-64-050	Accounting for board samples.
314-64-070	Definition.
314-64-080	Procedures.
314-64-08001	Procedures for providing spirit samples to authorized retail licensees for the purpose of negotiating a sale.
314-64-090	Accounting.

DISPOSITION OF SECTIONS FORMERLY CODIFIED IN THIS CHAPTER

314-64-030	Procedures for chemical analysis. [Statutory Authority: RCW 66.08.030, 88-14-001 (Order 252, Resolution No. 261), § 314-64-030, filed 6/23/88. Statutory Authority: RCW 66.08.030 and 66.98.070, 82-04-035 (Order 95, Resolution No. 104), § 314-64-030, filed 1/28/82; Order 57, § 314-64-030, filed 7/28/77, effective 9/1/77; Order 40, § 314-64-030, filed 8/21/75.] Repealed by 91-19-070, filed 9/16/91, effective 10/17/91. Statutory Authority: RCW 66.08.030.
314-64-060	Purpose. [Statutory Authority: RCW 66.08.030, 66.08.-060 and 66.98.070, 81-23-038 (Order 84, Resolution No. 93), § 314-64-060, filed 11/18/81.] Repealed by 94-14-021, filed 6/27/94, effective 7/28/94. Statutory Authority: RCW 66.08.030.

WAC 314-64-010 Purpose. The purpose of this chapter is to comply with and implement provisions of section 9, chapter 175 [173], Laws of 1975 1st ex. sess., and RCW 66.28.035 [66.28.045], and section 10, chapter 175 [173], Laws of 1975 1st ex. sess., and RCW 66.28.040.

[Order 40, § 314-64-010, Rule 129, filed 8/21/75.]

WAC 314-64-020 Definitions. Samples shall mean: Beer, wine, spirits and/or containers submitted to the board for the purpose of negotiating the sale of liquor to the state liquor control board as provided in RCW 66.28.040.

[Statutory Authority: RCW 66.08.030, 66.28.045, 09-14-035, § 314-64-020, filed 6/24/09, effective 7/25/09; Order 40, § 314-64-020, Rule 130, filed 8/21/75.]

WAC 314-64-040 Procedures for board samples. Procedures for submitting samples to the board for the purpose of negotiating the sale of liquor to the board are as follows:

(1) Quantity. Samples shall not exceed in quantity that authorized by the Tobacco Tax and Trade Bureau.

(2) Identification. Suppliers shall identify the items on the cartons and shipping documents as "samples for the board."

(3) Shipping instructions. Suppliers shall deliver or ship samples prepaid to the Washington State Liquor Control Board, Attention Director of Purchasing, 3000 Pacific Ave. S.E., Olympia, Washington 98504.

(4) In those instances where it becomes necessary for the board to incur some costs in receiving the samples, such costs shall be recovered from the supplier.

(6/24/09)

(5) Use and disposition of samples. Samples furnished for the purpose of negotiating the sale of liquor to the board shall be examined and tested by members of the board, or their designees, and/or the director of purchasing, or their designee, for appearance, aroma and taste, and to determine their probable customer acceptability.

(6) Reports. Members of the board, or their designees, and/or the director of purchasing or their designee, shall report their findings and recommendations on sample surveys to the director of purchasing or their designee. The board shall consider such findings and recommendations, along with other documents furnished by the supplier, in determining whether the items represented by the samples shall be purchased by the board for resale through state liquor stores.

(7) Excess. Samples received in excess of the quantity authorized in this section for the purpose of negotiating the sale of liquor to the board will be held by the director of purchasing until the supplier has been notified of the oversight and given fifteen days in which to respond as to whether he wants the excess returned to him at his expense. Failure of the supplier to respond within the time limitation, or notification from the supplier that he does not want the excess returned to him, will result in the excess item or items being destroyed by a liquor control board auditor in the presence of the director of purchasing, or their designee, after which a destruction notice will be prepared by the auditor and be certified by the director of purchasing or their designee who witnessed the destruction. Copies of such destruct notices shall be kept in the purchasing division of the liquor control board.

(8) Containers. Containers submitted without alcohol to the board for the purpose of negotiating the sale of liquor shall, after examination by the board and/or the director of purchasing, be disposed of as follows:

(a) Figurines, decanters, or other decorative containers may be retained for public display in the board offices in Olympia. After such display, the containers shall be disposed of as provided in (b) of this subsection.

(b) Figurines, decanters, or other decorative containers will be held by the director of purchasing until the supplier has been notified that the containers have been examined by the board, and the supplier will be given fifteen days in which to respond as to whether he wants the containers returned to him at his expense. Failure of the supplier to respond within the time limitation, or notification from the supplier that he does not want the containers returned to him, will result in the containers being disposed of as surplus property, pursuant to RCW 43.19.1919, if the anticipated revenue to be derived from the sale of the containers as surplus property is deemed to exceed the anticipated costs attributable to the sale.

[Statutory Authority: RCW 66.08.030, 66.28.045, 09-14-035, § 314-64-040, filed 6/24/09, effective 7/25/09. Statutory Authority: RCW 66.28.045, 86-21-117 (Order 200, Resolution No. 209), § 314-64-040, filed 10/21/86. Statutory Authority: RCW 66.08.030 and 66.98.070, 82-04-035 (Order 95, Res-

olution No. 104), § 314-64-040, filed 1/28/82; Order 40, § 314-64-040, filed 8/21/75.]

WAC 314-64-050 Accounting for board samples. Samples as defined in WAC 314-64-020 shall be accounted for as follows:

(1) Upon receipt of the samples by the director of purchasing in Olympia, the director of purchasing, or his designee, shall record the receipt for said samples.

(2) If more than the amount authorized in WAC 314-64-040 is received, the director of purchasing, or their designee, will record them as excess samples and dispose of them as provided in WAC 314-64-040(7).

(3) The director of purchasing, or their designee, shall sign the record of receipt indicating receipt of the samples.

(4) The director of purchasing, or their designee, shall retain the signed record of receipt.

(5) The director of purchasing, or their designee, shall provide a sample survey for each sample.

(6) The director of purchasing shall deliver a copy of the sample survey with the samples, to members of the board, or their designees, and/or to the director of purchasing, or their designee, for examination, testing and reporting as provided in WAC 314-64-040 (4) and (5).

(7) Members of the board, or their designees, and/or the director of purchasing, or their designee, shall sign the copy of the record of receipt in the applicable section, indicating receipt of the samples.

(8) Members of the board, or their designees, and/or the director of purchasing, or their designee, shall examine, test and report on the sample, as provided in WAC 314-64-040 complete the sample survey, sign, and return to the director of purchasing, or their designee.

(9) The purchasing division shall maintain the official copies of the records of receipt, together with the sample surveys, and, where applicable, the destruction notices.

[Statutory Authority: RCW 66.08.030, 66.28.045, 09-14-035, § 314-64-050, filed 6/24/09, effective 7/25/09. Statutory Authority: RCW 66.08.030, 91-19-070, § 314-64-050, filed 9/16/91, effective 10/17/91; 88-14-001 (Order 252, Resolution No. 261), § 314-64-050, filed 6/23/88. Statutory Authority: RCW 66.08.030 and 66.98.070, 82-04-035 (Order 95, Resolution No. 104), § 314-64-050, filed 1/28/82; Order 40, § 314-64-050, filed 8/21/75.]

WAC 314-64-070 Definition. Samples for the purpose of this section shall mean beer and wine and/or containers furnished to licensees for the purpose of negotiating a sale as provided in RCW 66.28.040.

[Statutory Authority: RCW 66.08.030, 66.08.060 and 66.98.070, 81-23-038 (Order 84, Resolution No. 93), § 314-64-070, filed 11/18/81.]

WAC 314-64-080 Procedures. Procedures for furnishing samples of beer and wine to licensees for the purpose of negotiating a sale are as follows:

(1) Quantity. Except as provided in (d) of this subsection, samples may be furnished only in their original packages or containers as produced by the manufacturer or bottler, as follows:

(a) Wholesaler or importer. A brewer, winery or importer may furnish a sample of beer or wine to a wholesaler or importer who has not previously purchased the brand and type or vintage year from the supplier furnishing the sample. For each wholesaler or importer, the brewer, winery or

importer may give not more than seventy-two ounces of any brand and type of beer, and not more than one liter of any brand and type of wine.

(b) Retailer. A brewer, winery, importer or wholesaler may, except as hereinafter provided, furnish a sample of beer or wine to a retail licensee who has not previously purchased the brand and type or vintage year from the supplier furnishing the sample. For each retail licensee, the brewer, winery, importer or wholesaler may give not more than seventy-two ounces of any brand and type of beer, and not more than one liter of any brand and type of wine. If a particular product is not available in a size within the quantity limitations of this section, a brewer, winery, importer or wholesaler may furnish the next largest size.

(c) Out-of-state brewers and wineries who hold a certificate of approval to ship their products into this state who provide samples to retailers as outlined in (b) of this subsection shall be responsible for reporting monthly to the board any shipments of samples to retailers in Washington state and shall also be responsible for paying the taxes due on such beer and wine samples provided to retailers as provided for in WAC 314-20-010 and 314-24-110 as if they were a domestic brewer or a domestic winery.

(d) Samples in other than the original packages or containers may, subject to the conditions and limitations stated in (a), (b), and (c) of this subsection, be furnished as follows:

(i) A brewery, winery, importer, or wholesaler, either directly or through their licensed agents, may furnish to authorized licensees at their licensed premises or business office samples of beer and wine from an opened container carried by a licensed agent, provided such samples are furnished only in single-serving samples not to exceed two ounces of wine or twelve ounces of beer.

(ii) A brewery, winery, importer, or wholesaler, either directly or through their licensed agents, may furnish samples of beer or wine to authorized licensees at the premises of a retail licensee.

(iii) A licensed importer or licensed wholesaler may furnish samples to authorized licensees on the licensed premises of the importer or wholesaler.

(2) Identification. Brewers, wineries, importers or wholesalers shall identify the samples on the containers, cartons and shipping documents as "Samples for licensees."

(3) Shipping instructions. Brewers, wineries, importers or wholesalers shall, except as provided in subsection (1)(d) of this section, deliver or ship samples to licensees at their licensed premises or business office.

(4) Use and disposition of samples. Samples may be furnished for the purpose of negotiating a sale of beer or wine to a wholesaler, importer, or retail licensee.

[Statutory Authority: RCW 66.08.030, 66.28.045, 09-14-035, § 314-64-080, filed 6/24/09, effective 7/25/09. Statutory Authority: RCW 66.08.030, 94-14-022, § 314-64-080, filed 6/27/94, effective 7/28/94; 86-11-015 (Order 185, Resolution No. 194), § 314-64-080, filed 5/13/86. Statutory Authority: RCW 66.08.030 and 66.98.070, 82-04-035 (Order 95, Resolution No. 104), § 314-64-080, filed 1/28/82. Statutory Authority: RCW 66.08.030, 66.08.-060 and 66.98.070, 81-23-038 (Order 84, Resolution No. 93), § 314-64-080, filed 11/18/81.]

WAC 314-64-08001 Procedures for providing spirit samples to authorized retail licensees for the purpose of negotiating a sale. A distiller, craft distiller, or their agent

may, for the purpose of product promotion, provide without charge single samples to retail licensees authorized to sell spirits and their employees.

(1) Samples are limited to 750 ml and no more than one sample of each product may be provided to any one licensed business.

(2) All spirit samples must be purchased at retail from the board from existing stocks or by special order.

(3) Only products not purchased by the retail licensee within the last twelve months from the distiller or their agent or existing products with a change in alcohol proof or formula may be sampled. If there is a complete change of ownership of the retail licensee to another entity, the former retail licensee's purchase of the product is not deemed a purchase made by the successor retail licensee for purposes of this provision.

(4) Both the retailer and distiller must retain records of sampling for a period of two years. The records shall include the brand and type of sample and the date of sampling.

(5) If the distiller keeps records within an automated data processing (ADP) system, the system must include a method for producing legible records that will provide the required information. The ADP system is acceptable if it complies with the following guidelines:

(a) Provides an audit trail so that details (invoices) underlying the summary account data may be identified and made available upon request.

(b) Provides the opportunity to trace any transaction back to the original source or forward to a final total. If print-outs of transactions are not made when they are processed, the system must have the ability to reconstruct these transactions.

(c) Has available a full description of the ADP portion of the accounting system. This should show the applications being performed, the procedures employed in each application, and the controls used to ensure accurate and reliable processing.

(6) The provisions contained in subsection (4) of this section do not eliminate the requirement to maintain source documents, but they do allow the source documents to be maintained in some other location.

[Statutory Authority: RCW 66.08.030, 66.28.045, 09-14-035, § 314-64-08001, filed 6/24/09, effective 7/25/09. Statutory Authority: RCW 66.08.-030, 98-08-041, § 314-64-08001, filed 3/25/98, effective 4/25/98.]

WAC 314-64-090 Accounting. (1) Each brewer, winery, importer or wholesaler who furnishes samples of beer or wine to licensees shall keep at his place of business a complete record of the disposition of such samples, which record shall show (a) the name and address of the importer, wholesaler or retail licensee to whom the samples were furnished, (b) the brand name and type, (c) the quantities furnished to each importer, wholesaler or retail licensee, and (d) the date the samples were furnished.

(2) Each importer or wholesaler who receives samples of beer or wine shall keep at his place of business a complete current record of all such samples received, showing (a) the name and address of the brewer, winery, importer or wholesaler from whom the samples were received, (b) the brand name and type, (c) the quantities received, and (d) the date the samples were received.

(3) Each retail licensee who receives samples of beer or wine shall keep at his place of business a complete current record of all such samples received, showing (a) the name and address of the brewer, winery, importer or wholesaler from whom the samples were received, (b) the brand name and type, (c) the quantities received, and (d) the date the samples were received.

(4) All records and documents prescribed by this section shall be retained by the person required to keep the documents for a period of not less than two years, and during this period shall be available, during business hours, for inspection and copying by members of the board or their accredited representatives.

(5) All beer or wine samples received or furnished by licensees shall be subject to the taxes imposed by RCW 66.24.290 and 66.24.210.

[Statutory Authority: RCW 66.08.030, 66.08.060 and 66.98.070, 81-23-038 (Order 84, Resolution No. 93), § 314-64-090, filed 11/18/81.]