

Chapter 66.08 RCW
LIQUOR AND CANNABIS BOARD—GENERAL PROVISIONS

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RCW 66.08.010 Title liberally construed. This entire title shall be deemed an exercise of the police power of the state, for the protection of the welfare, health, peace, morals, and safety of the people of the state, and all its provisions shall be liberally construed for the accomplishment of that purpose. [1933 ex.s. c 62 § 2; RRS § 7306-2.]

RCW 66.08.012 Creation of board—Chair—Quorum—Salary. There shall be a board, known as the "Washington state liquor and cannabis board," consisting of three members, to be appointed by the governor, with the consent of the senate, who shall each be paid an annual salary to be fixed by the governor in accordance with the provisions of RCW 43.03.040. The governor may, in his or her discretion, appoint one of the members as chair of the board, and a majority of the members shall constitute a quorum of the board. [2015 c 70 § 3; 2012 c 117 § 265; 1961 c 307 § 7; 1949 c 5 § 8; 1945 c 208 § 1; 1937 c 225 § 1; 1933 ex.s. c 62 § 63; Rem. Supp. 1949 § 7306-63. Formerly RCW 43.66.010.]

Short title—2015 c 70: "This act may be known and cited as the cannabis patient protection act." [2015 c 70 § 1.]

Findings—Intent—2015 c 70: "The legislature finds that since voters approved Initiative Measure No. 692 in 1998, it has been the public policy of the state to permit the medical use of marijuana [cannabis]. Between 1998 and the present day, there have been multiple legislative attempts to clarify what is meant by the medical use of marijuana [cannabis] and to ensure qualifying patients have a safe, consistent, and adequate source of marijuana [cannabis] for their medical needs."

The legislature further finds that qualifying patients are people with serious medical conditions and have been responsible for finding their own source of marijuana [cannabis] for their own personal medical use. Either by growing it themselves, designating someone to grow for them, or participating in collective gardens, patients have developed methods of access in spite of continued federal opposition to the medical use of marijuana [cannabis]. In a time when access itself was an issue and no safe, consistent source of marijuana [cannabis] was available, this unregulated system was permitted by the state to ensure some, albeit limited, access to marijuana [cannabis] for medical use. Also permitted were personal possession limits of

fifteen plants and twenty-four ounces of useable marijuana [cannabis], which was deemed to be the amount of marijuana [cannabis] needed for a sixty-day supply. In a time when supply was not consistent, this amount of marijuana [cannabis] was necessary to ensure patients would be able to address their immediate medical needs.

The legislature further finds that while possession amounts are provided in statute, these do not amount to protection from arrest and prosecution for patients. In fact, patients in compliance with state law are not provided arrest protection. They may be arrested and their only remedy is to assert an affirmative defense at trial that they are in compliance with the law and have a medical need. Too many patients using marijuana [cannabis] for medical purposes today do not know this; many falsely believe they cannot be arrested so long as their health care provider has authorized them for the medical use of marijuana [cannabis].

The legislature further finds that in 2012 voters passed Initiative Measure No. 502 which permitted the recreational use of marijuana [cannabis]. For the first time in our nation's history, marijuana [cannabis] would be regulated, taxed, and sold for recreational consumption. Initiative Measure No. 502 provides for strict regulation on the production, processing, and distribution of marijuana [cannabis]. Under Initiative Measure No. 502, marijuana [cannabis] is trackable from seed to sale and may only be sold or grown under license. Marijuana [Cannabis] must be tested for impurities and purchasers of marijuana [cannabis] must be informed of the THC level in the marijuana [cannabis]. Since its passage, two hundred fifty producer/processor licenses and sixty-three retail licenses have been issued, covering the majority of the state. With the current product canopy exceeding 2.9 million square feet, and retailers in place, the state now has a system of safe, consistent, and adequate access to marijuana [cannabis]; the marketplace is not the same marketplace envisioned by the voters in 1998. While medical needs remain, the state is in the untenable position of having a recreational product that is tested and subject to production standards that ensure safe access for recreational users. No such standards exist for medical users and, consequently, the very people originally meant to be helped through the medical use of marijuana [cannabis] do not know if their product has been tested for molds, do not know where their marijuana [cannabis] has been grown, have no certainty in the level of THC or CBD in their products, and have no assurances that their products have been handled through quality assurance measures. It is not the public policy of the state to allow qualifying patients to only have access to products that may be endangering their health.

The legislature, therefore, intends to adopt a comprehensive act that uses the regulations in place for the recreational market to provide regulation for the medical use of marijuana [cannabis]. It intends to ensure that patients retain their ability to grow their own marijuana [cannabis] for their own medical use and it intends to ensure that patients have the ability to possess more marijuana [cannabis]-infused products, useable marijuana [cannabis], and marijuana [cannabis] concentrates than what is available to a nonmedical user. It further intends that medical specific regulations be adopted as needed and under consultation of the departments of health and agriculture so that safe handling practices will be adopted and so that testing standards for medical products meet or exceed those standards in use in the recreational market.

The legislature further intends that the costs associated with implementing and administering the medical marijuana [cannabis] authorization database shall be financed from the health professions account and that these funds shall be restored to the health professions account through future appropriations using funds derived from the dedicated marijuana [cannabis] account." [2015 c 70 § 2.]

References to Washington state liquor control board—Draft legislation—2015 c 70: "All references to the Washington state liquor control board must be construed as referring to the Washington state liquor and cannabis board. The code reviser must prepare legislation for the 2016 legislative session changing all references in the Revised Code of Washington from the Washington state liquor control board to the Washington state liquor and cannabis board." [2015 c 70 § 47.]

RCW 66.08.014 Terms of members—Vacancies—Principal office—Removal—Devotion of time to duties—Bond—Oath. (1) The members of the board to be appointed after December 2, 1948, shall be appointed for terms beginning January 15, 1949, and expiring as follows: One member of the board for a term of three years from January 15, 1949; one member of the board for a term of six years from January 15, 1949; and one member of the board for a term of nine years from January 15, 1949. Each of the members of the board appointed hereunder shall hold office until his or her successor is appointed and qualified. After June 11, 1986, the term that began on January 15, 1985, will end on January 15, 1989, the term beginning on January 15, 1988, will end on January 15, 1993, and the term beginning on January 15, 1991, will end on January 15, 1997. Thereafter, upon the expiration of the term of any member appointed after June 11, 1986, each succeeding member of the board shall be appointed and hold office for the term of six years. In case of a vacancy, it shall be filled by appointment by the governor for the unexpired portion of the term in which said vacancy occurs. No vacancy in the membership of the board shall impair the right of the remaining member or members to act, except as herein otherwise provided.

(2) The principal office of the board shall be at the state capitol, and it may establish such other offices as it may deem necessary.

(3) Any member of the board may be removed for inefficiency, malfeasance, or misfeasance in office, upon specific written charges filed by the governor, who shall transmit such written charges to the member accused and to the chief justice of the supreme court. The chief justice shall thereupon designate a tribunal composed of three judges of the superior court to hear and adjudicate the charges. Such tribunal shall fix the time of the hearing, which shall be public, and the procedure for the hearing, and the decision of such tribunal shall be final and not subject to review by the supreme court. Removal of any member of the board by the tribunal shall disqualify such member for reappointment.

(4) Each member of the board shall devote his or her entire time to the duties of his or her office and no member of the board shall hold any other public office. Before entering upon the duties of his or her office, each of said members of the board shall enter into a surety bond executed by a surety company authorized to do business in

this state, payable to the state of Washington, to be approved by the governor in the penal sum of fifty thousand dollars conditioned upon the faithful performance of his or her duties, and shall take and subscribe to the oath of office prescribed for elective state officers, which oath and bond shall be filed with the secretary of state. The premium for said bond shall be paid by the board. [2012 c 117 § 266; 1986 c 105 § 1; 1949 c 5 § 9; 1947 c 113 § 1; 1945 c 208 § 2; 1933 ex.s. c 62 § 64; Rem. Supp. 1949 § 7306-64. Formerly RCW 43.66.020.]

RCW 66.08.016 Employees of the board. The board may employ such number of employees as in its judgment are required from time to time. [1961 c 1 § 30 (Initiative Measure No. 207, approved November 8, 1960); 1947 c 113 § 2; 1933 ex.s. c 62 § 65; Rem. Supp. 1947 § 7306-65. Formerly RCW 43.66.030.]

RCW 66.08.020 Liquor control board to administer. The administration of this title is vested in the *liquor control board, constituted under this title. [2012 c 2 § 202 (Initiative Measure No. 1183, approved November 8, 2011); 1933 ex.s. c 62 § 5; RRS § 7306-5.]

***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 66.08.022 Attorney general is general counsel of board—Duties—Assistants. The attorney general shall be the general counsel of the *liquor control board and he or she shall institute and prosecute all actions and proceedings which may be necessary in the enforcement and carrying out of the provisions of this chapter and this title.

He or she shall assign such assistants as may be necessary to the exclusive duty of assisting the *liquor control board in the enforcement of this title. [2012 c 117 § 267; 1961 ex.s. c 6 § 2; 1933 ex.s. c 62 § 66; RRS § 7306-66. Formerly RCW 43.66.140.]

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

Effective date—Transfer of liquor revolving fund to state treasurer—Outstanding obligations—1961 ex.s. c 6: See notes following RCW 66.08.170.

RCW 66.08.024 Annual audit—State auditor's duties—Additional audits—Public records. The state auditor shall audit the books, records, and affairs of the board annually. The board may provide for additional audits by certified public accountants. All such audits shall be public records of the state. The payment of the audits provided for in this section shall be paid as provided in RCW 66.08.026 for other administrative expenses. [1987 c 74 § 1; 1981 1st

ex.s. c 5 § 2; 1961 ex.s. c 6 § 3; 1937 c 138 § 1; 1935 c 174 § 12; 1933 ex.s. c 62 § 71; RRS § 7306-71. Formerly RCW 43.66.150.]

Effective date—1981 1st ex.s. c 5: See RCW 66.98.100.

Effective date—Transfer of liquor revolving fund to state treasurer—Outstanding obligations—1961 ex.s. c 6: See notes following RCW 66.08.170.

RCW 66.08.026 Appropriation and payment of administrative expenses from liquor revolving fund—"Administrative expenses" defined. Administrative expenses of the board must be appropriated and paid from the liquor revolving fund. These administrative expenses include, but not be [are not] limited to: The salaries and expenses of the board and its employees, legal services, pilot projects, annual or other audits, and other general costs of conducting the business of the board. The administrative expenses do not include those amounts distributed pursuant to RCW 66.08.180, 66.08.190, 66.08.200, or 66.08.210. Agency commissions for contract liquor stores must be established by the *liquor control board after consultation with and approval by the director of the office of financial management. All expenditures and payment of obligations authorized by this section are subject to the allotment requirements of chapter 43.88 RCW. [2012 c 2 § 203 (Initiative Measure No. 1183, approved November 8, 2011); 2008 c 67 § 1; 2005 c 151 § 2; 2004 c 63 § 1; 2001 c 313 § 1; 1998 c 265 § 2; 1997 c 148 § 1; 1996 c 291 § 3; 1983 c 160 § 2; 1963 c 239 § 1; 1961 ex.s. c 6 § 4. Formerly RCW 43.66.161.]

***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.

Effective date—2008 c 67: "This act takes effect July 1, 2009." [2008 c 67 § 2.]

Intent—1998 c 265: "It is the intent of the legislature that expenditures associated with the implementation of using credit and debit cards in state liquor stores and agency liquor vendor stores not have a negative impact to the liquor revolving fund balance and that transfers to the state general fund, the cities, and the counties not be reduced because of these costs." [1998 c 265 § 1.]

Severability—1963 c 239: "If any provision of this act, or its application to any person or circumstance is held invalid, the remainder of the act, or the application of the provision to other persons or circumstances is not affected." [1963 c 239 § 2.]

Effective date—Transfer of liquor revolving fund to state treasurer—Outstanding obligations—1961 ex.s. c 6: See notes following RCW 66.08.170.

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 66.08.050 Powers of board in general. The board, subject to the provisions of this title and the rules, must:

(1) Determine the nature, form and capacity of all packages to be used for containing liquor kept for sale under this title;

(2) Execute or cause to be executed, all contracts, papers, and documents in the name of the board, under such regulations as the board may fix;

(3) Pay all customs, duties, excises, charges and obligations whatsoever relating to the business of the board;

(4) Require bonds from all employees in the discretion of the board, and to determine the amount of fidelity bond of each such employee;

(5) Perform services for the state lottery commission to such extent, and for such compensation, as may be mutually agreed upon between the board and the commission;

(6) Accept and deposit into the general fund-local account and disburse, subject to appropriation, federal grants or other funds or donations from any source for the purpose of improving public awareness of the health risks associated with alcohol and cannabis consumption by youth and the abuse of alcohol and cannabis by adults in Washington state. The board's alcohol awareness program must cooperate with federal and state agencies, interested organizations, and individuals to effect an active public beverage alcohol awareness program. For the purposes of this subsection, "cannabis" has the meaning provided in RCW 69.50.101;

(7) Monitor and regulate the practices of licensees as necessary in order to prevent the theft and illegal trafficking of liquor pursuant to RCW 66.28.350;

(8) Perform all other matters and things, whether similar to the foregoing or not, to carry out the provisions of this title, and has full power to do each and every act necessary to the conduct of its regulatory functions, including all supplies procurement, preparation and approval of forms, and every other undertaking necessary to perform its regulatory functions whatsoever, subject only to audit by the state auditor. However, the board has no authority to regulate the content of spoken language on licensed premises where wine and other liquors are served and where there is not a clear and present danger of disorderly conduct being provoked by such language or to restrict advertising of lawful prices. [2022 c 16 § 46; 2015 2nd sp.s. c 4 § 601; 2014 c 63 § 3; 2012 c 2 § 107 (Initiative Measure No. 1183, approved November 8, 2011); (2011 1st sp.s. c 45 § 7 repealed by 2012 c 2 § 216 (Initiative Measure No. 1183)); (2011 c 186 § 2 expired December 1, 2012); 2005 c 151 § 3; 1997 c 228 § 1; 1993 c 25 § 1; 1986 c 214 § 2; 1983 c 160 § 1; 1975 1st ex.s. c 173 § 1; 1969 ex.s. c 178 § 1; 1963 c 239 § 3; 1935 c 174 § 10; 1933 ex.s. c 62 § 69; RRS § 7306-69.]

Intent—Finding—2022 c 16: See note following RCW 69.50.101.

Findings—Intent—Effective dates—2015 2nd sp.s. c 4: See notes following RCW 69.50.334.

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

Spirit sampling—Liquor store pilot project—2011 c 186: "(1) The liquor control board shall establish a pilot project to allow spirits

sampling in state liquor stores as defined in *RCW 66.16.010 and contract stores as defined in RCW 66.04.010(11) for the purpose of promoting the sponsor's products. For purposes of this section, "sponsors" means: A domestic distiller licensed under RCW 66.24.140 or an accredited representative of a distiller, manufacturer, importer, or distributor of spirituous liquor licensed under RCW 66.24.310.

(a) The pilot project shall consist of thirty locations with at least six samplings to be conducted at each location between September 1, 2011, and September 1, 2012. However, no state liquor store or contract store may hold more than one spirits sampling per week during the project period.

(b) The pilot project locations shall be determined by the board. Before the board determines which state liquor stores or contract stores will be eligible to participate in the sampling pilot, it shall give:

(i) Due consideration to the location of the state liquor store or contract store with respect to the proximity of places of worship, schools, and public institutions;

(ii) Due consideration to motor vehicle accident data in the proximity of the state liquor store or contract store; and

(iii) Written notice by certified mail of the proposed spirits sampling to places of worship, schools, and public institutions within five hundred feet of the liquor store proposed to offer spirits sampling.

(c) Sampling must be conducted under the following conditions:

(i) Sampling may take place only in an area of a state liquor store or contract store in which access to persons under twenty-one years of age is prohibited;

(ii) Samples may be provided free of charge;

(iii) Only persons twenty-one years of age or over may sample spirits;

(iv) Each sample must be one-quarter ounce or less, with no more than one ounce of samples provided per person per day;

(v) Only sponsors may serve samples;

(vi) Any person involved in the serving of such samples must have completed a mandatory alcohol server training program;

(vii) No person who is apparently intoxicated may sample spirits;

(viii) The product provided for sampling must be available for sale at the state liquor store or contract store where the sampling occurs at the time of the sampling; and

(ix) Customers must remain on the state liquor store or contract store premise while consuming samples.

(d) The liquor control board may prohibit sampling at a pilot project location that is within the boundaries of an alcohol impact area recognized by resolution of the board if the board finds that the sampling activities at the location are having an adverse effect on the reduction of chronic public inebriation in the area.

(e) All other criteria needed to establish and monitor the pilot project shall be determined by the board.

(f) The board shall report on the pilot project to the appropriate committees of the legislature by December 1, 2012. The board's report shall include the results of a survey of liquor store managers and contract liquor store managers.

(2) The liquor control board may adopt rules to implement this section." [2011 c 186 § 1.]

***Reviser's note:** RCW 66.16.010 was repealed by 2012 c 2 § 215 (Initiative Measure No. 1183).

Expiration date—2011 c 186: "This act expires December 1, 2012." [2011 c 186 § 5.]

Severability—1975 1st ex.s. c 173: "If any phrase, clause, subsection, or section of this 1975 amendatory act shall be declared unconstitutional or invalid by any court of competent jurisdiction, it shall be conclusively presumed that the legislature would have enacted this 1975 amendatory act without the phrase, clause, subsection, or section so held unconstitutional or invalid and the remainder of the act shall not be affected as a result of said part being held unconstitutional or invalid." [1975 1st ex.s. c 173 § 13.]

Effective date—1975 1st ex.s. c 173: "This 1975 amendatory act is necessary for the immediate preservation of the public peace, health, and safety, the support of the state government and its existing public institutions, and shall take effect July 1, 1975." [1975 1st ex.s. c 173 § 14.]

Severability—1963 c 239: See note following RCW 66.08.026.

Minors, access to tobacco, role of liquor and cannabis board: Chapter 70.155 RCW.

RCW 66.08.0501 Adoption of rules. The *liquor control board may adopt appropriate rules pursuant to chapter 34.05 RCW for the purpose of carrying out the provisions of chapter 321, Laws of 1997. [1997 c 321 § 56.]

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

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

RCW 66.08.055 Oaths may be administered and affidavits, declarations received. Every member of the board, and every employee authorized by the board to issue permits under this title may administer any oath and take and receive any affidavit or declaration required under this title or the regulations. [1933 ex.s. c 62 § 80; RRS § 7306-80. Formerly RCW 43.66.050.]

RCW 66.08.060 Advertising regulations. The board has power to adopt any and all reasonable rules as to the kind, character, and location of advertising of liquor. [2012 c 2 § 108 (Initiative Measure No. 1183, approved November 8, 2011); 2005 c 231 § 3; 1933 ex.s. c 62 § 43; RRS § 7306-43.]

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

RCW 66.08.071 Rules—Food service menu requirements. The board must consider revising current rules in order to provide greater flexibility regarding food service menu requirements that businesses holding a license issued by the board under Title 66 RCW must provide in conjunction with alcohol sales. This subsection [section] does not apply to licensees that were not required to provide food service under rules in effect on January 1, 2020. The purpose of this subsection [section] is to ease food menu requirements to make it more feasible financially for licensees to comply with the board's food service requirements but not replace food safety requirements in rule adopted by the department of health in chapter 246-215 WAC. [2021 c 48 § 3.]

Findings—Intent—2021 c 48: "The COVID-19 pandemic that arrived in Washington in 2020 led to historic economic disruptions and devastating health impacts in the state. In an effort to assist businesses and employees whose assets and livelihoods have been impacted by the strategies used to protect the public's health, the legislature finds that steps must be taken in the public interest to support the most severely impacted industries. The hospitality industry has suffered some of the most devastating impacts of any sector of the state's economy. The legislature finds that assisting this sector of the state's economy to survive and recover from the effects of the pandemic and the steps taken to combat its spread are an urgent priority that is in the best interests of the state and its residents. The legislature intends that these revisions at the same time continue to promote regulation of an orderly market for liquor sales while maintaining protection of public health and efficient collection of taxes and fees." [2021 c 48 § 1.]

Expiration of temporary authorization—Customer identification—2021 c 48: "Except as provided in section 2(9), chapter 48, Laws of 2021, any temporary authorization or relaxation of requirements provided by the Washington state liquor and cannabis board, in effect on April 14, 2021, related to authorizing the photographing or scanning of customer identification in lieu of obtaining a physical signature to document liquor product delivery or verify the age of customers, expires at the end of the governor's proclamation of emergency related to COVID-19." [2021 c 48 § 8.]

Expiration of temporary authorization—Food requirements—2021 c 48: "Any temporary authorization or relaxation of statutory requirements provided by the Washington state liquor and cannabis board related to food requirements associated with wine and beer sampling at farmers markets expires at the end of the governor's proclamation of emergency related to COVID-19." [2021 c 48 § 9.]

Effective date—2021 c 48: "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 immediately [April 14, 2021]." [2021 c 48 § 10.]

Tax preference performance statement and expiration exemption—2021 c 48: See note following RCW 82.08.150.

RCW 66.08.080 Interest in manufacture or sale of liquor prohibited. Except as provided by chapter 42.52 RCW, no member of the board and no employee of the board shall have any interest, directly or indirectly, in the manufacture of liquor or in any liquor sold under this title, or derive any profit or remuneration from the sale of liquor, other than the salary or wages payable to him or her in respect of his or her office or position, and shall receive no gratuity from any person in connection with such business. [2012 c 117 § 268; 1994 c 154 § 313; 1981 1st ex.s. c 5 § 3; 1933 ex.s. c 62 § 68; RRS § 7306-68.]

Effective date—1994 c 154: See RCW 42.52.904.

Effective date—1981 1st ex.s. c 5: See RCW 66.98.100.

RCW 66.08.090 Sale of liquor by employees of board. No employee shall sell liquor in any other place, nor at any other time, nor otherwise than as authorized by the board under this title and the regulations. [1933 ex.s. c 62 § 31; RRS § 7306-31.]

RCW 66.08.095 Liquor for training or investigation purposes. The *liquor control board may provide liquor at no charge, including liquor forfeited under chapter 66.32 RCW, to recognized law enforcement agencies within the state when the law enforcement agency will be using the liquor for bona fide law enforcement training or investigation purposes. [1993 c 26 § 3.]

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

RCW 66.08.100 Jurisdiction of action against board—Immunity from personal liability of members. No court of the state of Washington other than the superior court of Thurston county shall have jurisdiction over any action or proceeding against the board or any member thereof for anything done or omitted to be done in or arising out of the performance of his or her or their duties under this title. Neither the board nor any member or members thereof shall be personally liable in any action at law for damages sustained by any person because of any acts performed or done or omitted to be done by the board or any employee of the board in the performance of his or her duties and in the administration of this title or chapter 69.50 or 69.51A RCW. [2017 c 317 § 4; 2012 c 117 § 269; 1935 c 174 § 9 (adding new section 62-A to 1933 ex.s. c 62); RRS § 7306-62A. Formerly RCW 66.08.100 and 66.08.110.]

Findings—Application—2017 c 317: See notes following RCW 69.50.325.

RCW 66.08.120 Preemption of field by state—Exception. No municipality or county shall have power to license the sale of, or impose an excise tax upon, liquor as defined in this title, or to license the sale or distribution thereof in any manner; and any power now conferred by law on any municipality or county to license premises

which may be licensed under this section, or to impose an excise tax upon liquor, or to license the sale and distribution thereof, as defined in this title, shall be suspended and shall be of no further effect: PROVIDED, That municipalities and counties shall have power to adopt police ordinances and regulations not in conflict with this title or with the regulations made by the board. [1933 ex.s. c 62 § 29; RRS § 7306-29.]

RCW 66.08.130 Inspection of books and records—Goods possessed or shipped—Refusal as violation. For the purpose of obtaining information concerning any matter relating to the administration or enforcement of this title, the board, or any person appointed by it in writing for the purpose, may inspect the books and records of

- (1) any manufacturer;
- (2) any license holder;
- (3) any drug store holding a permit to sell on prescriptions;
- (4) the freight and express books and records and all waybills, bills of lading, receipts and documents in the possession of any common carrier doing business within the state, containing any information or record relating to any goods shipped or carried, or consigned or received for shipment or carriage within the state. Every manufacturer, license holder, drug store holding a permit to sell on prescriptions, and common carrier, and every owner or officer or employee of the foregoing, who neglects or refuses to produce and submit for inspection any book, record or document referred to in this section when requested to do so by the board or by a person so appointed by it shall be guilty of a violation of this title. [1981 1st ex.s. c 5 § 4; 1933 ex.s. c 62 § 56; RRS § 7306-56.]

Effective date—1981 1st ex.s. c 5: See RCW 66.98.100.

RCW 66.08.140 Inspection of books and records—Financial dealings—Penalty for refusal. For the purpose of obtaining information concerning any matter relating to the administration or enforcement of this title, the board, or any person appointed by it in writing for the purpose, may inspect the books, documents and records of any person lending money to or in any manner financing any license, holder or applicant for license insofar as such books, documents and/or records pertain to the financial transaction involved. Every person who neglects or refuses to produce and submit for inspection any book, record or document as required by this section when requested to do so by the board or by a person duly appointed by it shall be guilty of a violation of this title. [1945 c 48 § 1 (adding new section 56-A to 1933 ex.s. c 62); RRS § 7306-56A.]

RCW 66.08.145 Subpoena issuing authority. (1) The liquor and cannabis board may issue subpoenas in connection with any investigation, hearing, or proceeding for the production of books, records, and documents held under this chapter or chapters 70.155, 70.158, 70.345, 82.24, 82.26, and 82.25 RCW, and books and records of common carriers as defined in RCW 81.80.010, or vehicle rental agencies relating to the transportation or possession of cigarettes, vapor products, or other tobacco products.

(2) The liquor and cannabis board may designate individuals authorized to sign subpoenas.

(3) If any person is served a subpoena from the board for the production of records, documents, and books, and fails or refuses to obey the subpoena for the production of records, documents, and books when required to do so, the person is subject to proceedings for contempt, and the board may institute contempt of court proceedings in the superior court of Thurston county or in the county in which the person resides. [2019 c 445 § 201; 2016 sp.s. c 38 § 29; 2007 c 221 § 1.]

Conflict with federal requirements—Effective date—2019 c 445:
See RCW 82.25.900 and 82.25.901.

Automatic expiration date and tax preference performance statement exemption—2019 c 445: See note following RCW 82.08.0318.

RCW 66.08.150 Board's action as to permits and licenses—Administrative procedure act, applicability—Adjudicative proceeding—Opportunity for hearing—Summary suspension. The action, order, or decision of the board as to any denial of an application for the reissuance of a permit or license or as to any revocation, suspension, or modification of any permit or license must be an adjudicative proceeding and subject to the applicable provisions of chapter 34.05 RCW.

(1) An opportunity for a hearing may be provided an applicant for the reissuance of a permit or license prior to the disposition of the application, and if no such opportunity for a prior hearing is provided then an opportunity for a hearing to reconsider the application must be provided the applicant.

(2) An opportunity for a hearing must be provided a permittee or licensee prior to a revocation or modification of any permit or license and, except as provided in subsection (4) of this section, prior to the suspension of any permit or license.

(3) No hearing may be required until demanded by the applicant, permittee, or licensee.

(4) The board may summarily suspend a license or permit for a period of up to one hundred eighty days without a prior hearing if it finds that public health, safety, or welfare imperatively require emergency action, and it incorporates a finding to that effect in its order. Proceedings for revocation or other action must be promptly instituted and determined. An administrative law judge may extend the summary suspension period for up to one calendar year in the event the proceedings for revocation or other action cannot be completed during the initial one hundred eighty day period due to actions by the licensee or permittee. The board's enforcement division must complete a preliminary staff investigation of the violation before requesting an emergency suspension by the board.

(5) The issues that may be considered at a hearing to contest a suspension of a license or the denial of an application for a new license or renewal of an existing license, under RCW 66.24.010(3)(c), do not include the right to challenge the amount of any spirits taxes assessed against the licensee or applicant by the department of revenue. For purposes of this subsection, "spirits taxes" has the same meaning as in RCW 82.08.155. [2012 c 39 § 5; 2007 c 370 § 3; 2003 c

320 § 1; 1989 c 175 § 122; 1967 c 237 § 23; 1933 ex.s. c 62 § 62; RRS § 7306-62.]

Construction—Effective date—2012 c 39: See notes following RCW 82.08.155.

Effective date—1989 c 175: See note following RCW 34.05.010.

RCW 66.08.170 Liquor revolving fund—Creation—Composition—State treasurer as custodian—Daily deposits, exceptions—Budget and accounting act applicable. There shall be a fund, known as the "liquor revolving fund," which shall consist of all license fees, permit fees, penalties, forfeitures, and all other moneys, income, or revenue received by the board. The state treasurer shall be custodian of the fund. All moneys received by the board or any employee thereof, except for change funds and an amount of petty cash as fixed by the board within the authority of law shall be deposited each day in a depository approved by the state treasurer and transferred to the state treasurer to be credited to the liquor revolving fund. During the 2009-2011 fiscal biennium, the legislature may transfer funds from the liquor revolving account [fund] to the state general fund and may direct an additional amount of liquor profits to be distributed to local governments. Neither the transfer of funds nor the additional distribution of liquor profits to local governments during the 2009-2011 fiscal biennium may reduce the excess fund distributions that otherwise would occur under RCW 66.08.190. During the 2011-2013 fiscal biennium, the state treasurer shall transfer from the liquor revolving fund to the state general fund forty-two million five hundred thousand dollars for fiscal year 2012 and forty-two million five hundred thousand dollars for fiscal year 2013. The transfer during the 2011-2013 fiscal biennium may not reduce the excess fund distributions that otherwise would occur under RCW 66.08.190. Sales to licensees are exempt from any liquor price increases that may result from the transfer of funds from the liquor revolving fund to the state general fund during the 2011-2013 fiscal biennium. Disbursements from the revolving fund shall be on authorization of the board or a duly authorized representative thereof. During the 2017-2019 fiscal biennium, the legislature may also appropriate from the account for local government studies. In order to maintain an effective expenditure and revenue control the liquor revolving fund shall be subject in all respects to chapter 43.88 RCW but no appropriation shall be required to permit expenditures and payment of obligations from such fund. During the 2013-2015 and 2015-2017 fiscal biennia, the legislature may transfer from the liquor revolving fund to the state general fund such amounts as reflect the excess fund balance of the account. [2017 3rd sp.s. c 1 § 978; 2015 3rd sp.s. c 4 § 966; 2011 1st sp.s. c 50 § 959; 2009 c 564 § 947; 2002 c 371 § 917; 1961 ex.s. c 6 § 1; 1933 ex.s. c 62 § 73; RRS § 7306-73. Formerly RCW 43.66.060.]

Effective date—2017 3rd sp.s. c 1: See note following RCW 43.41.455.

Effective dates—2015 3rd sp.s. c 4: See note following RCW 28B.15.069.

Effective dates—2011 1st sp.s. c 50: See note following RCW 15.76.115.

Effective date—2009 c 564: See note following RCW 2.68.020.

Severability—Effective date—2002 c 371: See notes following RCW 9.46.100.

Transfer of liquor revolving fund to state treasurer—Outstanding obligations: "On June 30, 1961, the Washington state liquor control board shall deliver and transfer to the state treasurer, as custodian, all moneys and accounts which comprise the liquor revolving fund, except change funds and petty cash, and the state treasurer shall assume custody thereof. All obligations outstanding as of June 30, 1961 shall be paid out of the liquor revolving fund." [1961 ex.s. c 6 § 5.]

Effective date—1961 ex.s. c 6: "This act shall take effect on June 30, 1961." [1961 ex.s. c 6 § 7.]

RCW 66.08.180 Liquor revolving fund—Distribution—Reserve for administration—Disbursement to universities and state agencies. Except as provided in RCW 66.24.290(1), moneys in the liquor revolving fund shall be distributed by the board at least once every three months in accordance with RCW 66.08.190, 66.08.200 and 66.08.210. However, the board shall reserve from distribution such amount not exceeding five hundred thousand dollars as may be necessary for the proper administration of this title.

(1) All license fees, penalties, and forfeitures derived under chapter 13, Laws of 1935 from spirits, beer, and wine restaurant; spirits, beer, and wine private club; hotel; spirits, beer, and wine nightclub; spirits, beer, and wine VIP airport lounge; and sports entertainment facility licenses shall every three months be disbursed by the board as follows:

(a) Three hundred thousand dollars per biennium, to the death investigations account for the state toxicology program pursuant to RCW 68.50.107; and

(b) Of the remaining funds:

(i) 6.06 percent to the University of Washington and 4.04 percent to Washington State University for alcoholism and drug abuse research and for the dissemination of such research; and

(ii) 89.9 percent to the general fund to be used by the health care authority solely to carry out the purposes of RCW 71.24.535;

(2) The first fifty-five dollars per license fee provided in RCW 66.24.320 and 66.24.330 up to a maximum of one hundred fifty thousand dollars annually shall be disbursed every three months by the board to the general fund to be used for juvenile alcohol and drug prevention programs for kindergarten through third grade to be administered by the superintendent of public instruction;

(3) Twenty percent of the remaining total amount derived from license fees pursuant to RCW 66.24.320, 66.24.330, 66.24.350, and 66.24.360, shall be transferred to the general fund to be used by the health care authority solely to carry out the purposes of RCW 71.24.535; and

(4) One-fourth cent per liter of the tax imposed by RCW 66.24.210 shall every three months be disbursed by the board to Washington State University solely for wine and wine grape research, extension programs related to wine and wine grape research, and resident instruction in both wine grape production and the processing aspects of the wine industry in accordance with RCW 28B.30.068. The director of financial management shall prescribe suitable accounting procedures to ensure that the funds transferred to the general fund to be used by the department of social and health services and appropriated are separately accounted for. [2019 c 325 § 5018; 2011 c 325 § 7; 2009 c 271 § 3; 2007 c 370 § 14; 2000 c 192 § 1. Prior: 1999 c 281 § 1; 1999 c 40 § 7; prior: 1997 c 451 § 3; 1997 c 321 § 57; 1995 c 398 § 16; 1987 c 458 § 10; 1986 c 87 § 1; 1981 1st ex.s. c 5 § 6; 1979 c 151 § 166; 1967 ex.s. c 75 § 1; 1965 ex.s. c 143 § 2; 1949 c 5 § 10; 1935 c 13 § 2; 1933 ex.s. c 62 § 77; Rem. Supp. 1949 § 7306-77. Formerly RCW 43.66.080.]

Effective date—2019 c 325: See note following RCW 71.24.011.

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

Effective date—1999 c 40: See note following RCW 43.103.010.

Effective date—1997 c 451: See note following RCW 66.24.290.

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

Severability—1987 c 458: See note following RCW 48.21.160.

Effective date—1986 c 87: "This act shall take effect July 1, 1987." [1986 c 87 § 3.]

Effective date—1981 1st ex.s. c 5: See RCW 66.98.100.

Effective date—1967 ex.s. c 75: "The effective date of this 1967 amendatory act is July 1, 1967." [1967 ex.s. c 75 § 8.]

Distribution for state toxicological lab: RCW 68.50.107.

Wine grape industry, instruction relating to—Purpose—Administration: RCW 28B.30.067 and 28B.30.068.

RCW 66.08.190 Liquor revolving fund—Disbursement of excess funds to border areas, counties, cities, and towns—Disbursements to the municipal research and services center. (1) Prior to making distributions described in subsection (2) of this section, amounts must be retained to support allotments under RCW 43.88.110 from any legislative appropriation for municipal research and services. The legislative appropriation for such services must be in the amount specified under RCW 66.24.065.

(2) When excess funds are distributed during the months of June, September, December, and March of each year, all moneys subject to distribution must be disbursed to border areas, counties, cities, and towns as provided in RCW 66.24.065.

(3) The amount remaining after distributions under subsections (1) and (2) of this section must be deposited into the general fund. [2012 2nd sp.s. c 5 § 8; 2011 1st sp.s. c 50 § 960; 2003 1st sp.s. c 25 § 927; 2002 c 38 § 2; 2000 c 227 § 2; 1995 c 159 § 1; 1991 sp.s. c 32 § 34; 1988 c 229 § 4; 1957 c 175 § 6. Prior: 1955 c 109 § 2; 1949 c 187 § 1, part; 1939 c 173 § 1, part; 1937 c 62 § 2, part; 1935 c 80 § 1, part; 1933 ex.s. c 62 § 78, part; Rem. Supp. 1949 § 7306-78, part. Formerly RCW 43.66.090.]

Effective date—2012 2nd sp.s. c 5: See note following RCW 43.135.045.

Effective dates—2011 1st sp.s. c 50: See note following RCW 15.76.115.

Severability—Effective date—2003 1st sp.s. c 25: See notes following RCW 19.28.351.

Effective date—2000 c 227: See note following RCW 43.110.030.

Effective date—1995 c 159: "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 shall take effect July 1, 1995." [1995 c 159 § 6.]

Section headings not law—1991 sp.s. c 32: See RCW 36.70A.902.

Finding—1988 c 229: "The legislature finds and declares that certain counties and municipalities near international borders are subjected to a constant volume and flow of travelers and visitors for whom local government services must be provided. The legislature further finds that it is in the public interest and for the protection of the health, property, and welfare of the residents and visitors to provide supplemental resources to augment and maintain existing levels of police protection in such areas and to alleviate the impact of such added burdens." [1988 c 229 § 2.]

Effective date—1988 c 229 §§ 2-4: "Sections 2 through 4 of this act shall take effect July 1, 1989." [1988 c 229 § 5.]

RCW 66.08.195 Liquor revolving fund—Definition of terms relating to border areas. For the purposes of this chapter:

(1) "Border area" means any incorporated city or town, or unincorporated area, located within seven miles of the Washington-Canadian border or any unincorporated area that is a point of land surrounded on three sides by salt water and adjacent to the Canadian border.

(2) "Border area per-capita law-enforcement spending" equals total per capita expenditures in a border area on: Law enforcement operating costs, court costs, law enforcement-related insurance, and detention expenses, minus funds allocated to a border area under RCW 66.08.190 and 66.08.196.

(3) "Border-crossing traffic total" means the number of vehicles, vessels, and aircraft crossing into the United States through a United States customs service border crossing that enter into the border area

during a federal fiscal year, using border crossing statistics and criteria included in guidelines adopted by the department of commerce.

(4) "Border-related crime statistic" means the sum of infractions and citations issued, and arrests of persons permanently residing outside Washington state in a border area during a calendar year. [2023 c 470 § 2109; 2001 c 8 § 1; 1995 c 159 § 2; 1988 c 229 § 3.]

Explanatory statement—2023 c 470: See note following RCW 10.99.030.

Effective date—1995 c 159: See note following RCW 66.08.190.

Finding—Effective date—1988 c 229: See notes following RCW 66.08.190.

RCW 66.08.196 Liquor revolving fund—Distribution of funds to border areas. (1) Distribution of funds to border areas under RCW 66.08.190 and 66.24.290 (1)(c) and (4) is as follows:
(a) Sixty-five percent of the funds must be distributed to border areas ratably based on border area traffic totals;
(b) Twenty-five percent of the funds must be distributed to border areas ratably based on border-related crime statistics; and
(c) Ten percent of the funds must be distributed to border areas ratably based upon border area per capita law enforcement spending.
(2) Distributions to an unincorporated area must be made to the county in which such an area is located and may only be spent on services provided to that area. [2012 2nd sp.s. c 5 § 9; 2001 c 8 § 2; 1997 c 451 § 4; 1995 c 159 § 3.]

Effective date—2012 2nd sp.s. c 5: See note following RCW 43.135.045.

Effective date—1997 c 451: See note following RCW 66.24.290.

Effective date—1995 c 159: See note following RCW 66.08.190.

RCW 66.08.198 Liquor revolving fund—Distribution of funds to border areas—Guidelines adoption. The department of commerce shall develop guidelines to determine the figures used under the three distribution factors defined in RCW 66.08.195. At the request of any border community, the department may review these guidelines once every three years. [2023 c 470 § 2110; 1995 c 159 § 4.]

Explanatory statement—2023 c 470: See note following RCW 10.99.030.

Effective date—1995 c 159: See note following RCW 66.08.190.

RCW 66.08.200 Liquor revolving fund—Computation for distribution to counties—"Unincorporated area" defined. With respect to the distribution of funds to the counties, the computations for distribution must be made by the state agency responsible for collecting the same as follows:

(1) The share coming to each eligible county must be determined by a division among the eligible counties according to the relation which the population of the unincorporated area of such eligible county, as last determined by the office of financial management, bears to the population of the total combined unincorporated areas of all eligible counties, as determined by the office of financial management. However, no county in which the sale of liquor is forbidden in the unincorporated area thereof as the result of an election is entitled to share in such distribution. "Unincorporated area" means all that portion of any county not included within the limits of incorporated cities and towns.

(2) When a special county census has been conducted for the purpose of determining the population base of a county's unincorporated area for use in the distribution of liquor funds, the census figure becomes effective for the purpose of distributing funds as of the official census date once the census results have been certified by the office of financial management and officially submitted to the office of the secretary of state. [2012 2nd sp.s. c 5 § 10; 1979 c 151 § 167; 1977 ex.s. c 110 § 2; 1957 c 175 § 7. Prior: 1955 c 109 § 3; 1949 c 187 § 1, part; 1939 c 173 § 1, part; 1937 c 62 § 2, part; 1935 c 80 § 1, part; 1933 ex.s. c 62 § 78, part; Rem. Supp. 1949 § 7306-78, part. Formerly RCW 43.66.100.]

Effective date—2012 2nd sp.s. c 5: See note following RCW 43.135.045.

Population determinations, office of financial management: Chapter 43.62 RCW.

RCW 66.08.210 Liquor revolving fund—Computation for distribution to cities. (1) With respect to the distribution of funds to the incorporated cities and towns under RCW 66.24.290(1)(c), the computations for distribution must be made by the state agency responsible for collecting the same as provided in subsection (2) of this section.

(2) The share coming to each eligible city or town must be determined by a division among the eligible cities and towns within the state ratably on the basis of population as last determined by the office of financial management. However, no city or town in which the sale of liquor is forbidden as the result of an election is entitled to any share in such distribution. [2012 2nd sp.s. c 5 § 11; 1979 c 151 § 168; 1977 ex.s. c 110 § 3; 1957 c 175 § 8. Prior: 1949 c 187 § 1, part; 1939 c 173 § 1, part; 1937 c 62 § 2, part; 1935 c 80 § 1, part; 1933 ex.s. c 62 § 78, part; Rem. Supp. 1949 § 7306-78, part. Formerly RCW 43.66.110.]

Effective date—2012 2nd sp.s. c 5: See note following RCW 43.135.045.

Allocation of state funds on population basis: RCW 43.62.020, 43.62.030.

Determining population of territory annexed to city: RCW 35.13.260.

RCW 66.08.240 Transfer of funds pursuant to government service agreement. Funds that are distributed to counties, cities, or towns pursuant to this chapter may be transferred by the recipient county, city, or town to another unit of government pursuant to a government service agreement as provided in RCW 36.115.040 and 36.115.050. [1994 c 266 § 10.]