



**Potentially Discriminatory Language or  
Interpretation that May Highlight Personal Bias  
in Title 314 WAC**

Legislative Report

September 2024

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## Executive Summary

**Purpose:** This report reviews [Title 314](#) of the Washington Administrative Code (WAC) for potentially discriminatory language or interpretations that may highlight bias, as mandated by [Engrossed Substitute Senate Bill \(ESSB\) 5950](#) (chapter 376, Laws of 2024). The review aligns with [RCW 49.60.010](#) protections while considering statutory requirements, and recent and ongoing rulemaking activities.

### Key Findings:

- Gender-specific language is being addressed through [WSR 24-19-026](#)
- Outdated disability terminology requires further attention
- Potential economic barriers in licensing, which are being partially addressed by implementation of [E2SSB 5080 \(WSR 24-16-130\)](#)
- Repeal of prohibited conduct rules ([WSR 24-13-096](#)) may improve possible culturally specific disparity, reducing the risk of bias

### Summary of Recommendations:

1. Continue and expand current rulemaking efforts to identify, remove, and prevent bias-based language in regulation
2. Improve accessibility of regulatory information through plain language initiatives when developing or modifying rules and creating guidance documents and other communication platforms
3. Address language concerns, particularly disability terminology
4. Conduct regular language assessments to ensure bias is not present in regulations
5. Consistently focus on identifying existing systemic bias and barriers during stakeholder engagement to ensure diverse perspectives are understood, remove identified bias-based language in current rule and during rule development
6. Address specific regulatory gaps (e.g., religious accommodations, family structures)
7. Continuously assess socio-economic equity measures across all regulated industries
8. Improve language clarity to reduce risk of bias in discretionary decision-making associated with applying laws and rules

9. Collaborate with other state agencies on best practices to provide equitable and inclusive regulations
10. Identify and advocate for necessary statutory changes

## **Introduction**

The Washington State Liquor and Cannabis Board (LCB) regulates alcohol, cannabis, tobacco, and vapor products. The LCB is the primary agency for alcohol and cannabis rulemaking. The LCB is more limited in rulemaking for vapor products and tobacco product, primarily conducting enforcement on youth access and taxation for tobacco and vapor products.

## **Regulatory Framework<sup>1</sup>**

- Title 314 WAC covers LCB rules
- 42 chapters, about 500 pages of regulation
- Governs licensing, enforcement, product safety, and public health

## **Legislative Mandate**

ESSB 5950 (Chapter 376, Laws of 2024) directed the LCB to review all agency WAC provisions for potentially discriminatory language or interpretations highlighting bias.

## **Scope of LCB's Review**

- All sections of Title 314 WAC
- Alignment with RCW 49.60.010 (Washington State Law Against Discrimination)

**Key Areas of Review:** gender-inclusive language, racial and cultural sensitivity, disability accommodation, socio-economic equity, age-related regulations, and veteran protections.

**Statutory Considerations:** Some regulations are mandated by statute, particularly [RCW 69.50](#) (Uniform Controlled Substances Act), creating a complex landscape for balancing statutory requirements with equity considerations.

## **Recent Rulemaking Activities:**

- Acceptance of petition for acceptable forms of identification reform
- Filing of CR-105 for gender-inclusive language updates (WSR 24-19-026)

- Repeal of lewd conduct rule (WAC 314-11-050) via (WSR 24-13-096)
- Implementation of cannabis social equity rules (WSR 24-16-130)
- Ongoing efforts to implement plain language in rules and associated documents

**Purpose of the Report:**

- Identify instances of potentially discriminatory language or interpretation in Title 314 WAC
- Analyze these instances considering statutory requirements and recent rulemaking
- Provide recommendations for addressing identified issues
- Outline a path for ongoing improvement of the LCB's regulatory framework

**Methodology: Review of Title 314 WAC**

To satisfy the requirements of this report, LCB used the methodology below:

1. **Comprehensive Review:** LCB staff carefully reviewed every rule section of Title 314 WAC evaluating the language for indications of bias. The evaluation included of rulemaking authority, statutory constrains, and recent and ongoing rulemaking activities.
2. **Staff Involvement:** LCB staff across all divisions were invited to contribute examples of potentially discriminatory, misinterpreted, or outdated rule language. This included targeted outreach to employees of the PEAR team, many of which are also members of LCB's Diversity Council.
3. **Identification of Concerns:** Staff reported concerns about gender pronouns and potentially bias-based language in the WAC.
4. **Consideration of Recent Rulemaking:**
  - a. Review accounted for recent and ongoing rulemaking projects, including:
    - i. Permanent Rulemaking implementing HB 6105 (WSR 24-13-096)
    - ii. Expedited Rulemaking for gender-neutral terminology (WSR 24-19-026)
    - iii. Permanent Rulemaking implementing SSB 5080, Social Equity in Cannabis (WSR 24-16-130)
    - iv. Planned rulemaking for acceptable forms of identification requirement updates

5. **Analysis Framework:** Used Washington State Law Against Discrimination (Chapter 49.60 RCW) as a guiding framework. The focus was on protected categories outlined in RCW 49.60.010.
6. **Plain Language Initiative:** Considered ongoing LCB efforts to implement plain language in rules, associated documents, and agency communications.
7. **Documentation of Findings:**
  - a. Documented sections with potentially discriminatory language and those without concerns
  - b. Noted specific examples of problematic language for further consideration

## Findings

The review of Title 314 WAC revealed several areas of concern<sup>ii</sup> regarding potentially discriminatory language or interpretation. We also identified proactive efforts to address these issues:

- **Gender-Specific Language:** Multiple instances of gender-specific language was identified across Title 314 WAC. This is currently being addressed through WSR 24-19-026, filed on September 9, 2024.
- **Prohibited Conduct rules:** WSR 24-13-096 (effective July 19, 2024) repealed WAC 314-11-050 and removed related references. This helps to address concerns about potentially bias-based interpretations of conduct rules.
- **Identification Requirements:** Concerns were identified in [WAC 314-11-025](#) and [WAC 314-55-150](#) related to the policy associated with acceptable forms of identification. The LCB is planning rulemaking to update proof-of-age identification requirements. However, [RCW 70.345.120](#) will continue to have the current acceptable forms of identification, which will create a gap between vapor product laws and alcohol and cannabis rules.
- **Social Equity in Cannabis - Licensing:** WSR 24-16-130 implements cannabis social equity rules as required by E2SSB 5080. Proposed rules are intended to address barriers to entry and in the cannabis industry. This includes applicant qualifications and a focuses on reducing regulatory burdens in the application process to provide greater accessibility for potential social equity applicants.
- **Ongoing Areas of Consideration:**
  - **Disability-Related Language:** Some sections still use outdated terminology

- **Language Accessibility:** Ongoing efforts to simplify regulatory language
- **Religious Accommodations:** Lack of explicit language in some sections
- **Age-Related and Family Status Considerations:** Some regulations may benefit from more inclusive language
- **Plain Language and Accessibility Efforts:** The LCB is committed to using plain language in rules and associated documents with the goal of increasing accessibility, transparency, and public participation.
- **Sections with No Identified Concerns:** Twenty chapters of Title 314 WAC were found to have no examples of potentially discriminatory or bias-based language.

While some areas of concern exist in Title 314 WAC, the LCB has been proactively addressing many issues through recent and ongoing rulemaking activities.

## Recommendations

1. **Continue and Expand Current Rulemaking Efforts**
  - a. Implement gender-inclusive language updates (WSR 24-19-026)
  - b. Finalize cannabis social equity rules (WSR 24-16-130)
  - c. Expedite acceptable forms of identification update rulemaking
2. **Enhance Plain Language Initiatives**
  - a. Expand use to all associated documents
  - b. Develop process for reviewing and simplifying existing regulations
  - c. Provide staff training on plain language principles
3. **Address Remaining Language Concerns**
  - a. Update disability-related terminology
  - b. Clarify terms to reduce subjectivity and risk of potential bias in the application of laws and rules
4. **Improve Regulatory Information Accessibility**
  - a. Develop multilingual resources

- b. Create accessible formats for individuals with disabilities
- 5. **Enhance Stakeholder Engagement**
  - a. Further enhance the structured process for getting diverse community input
  - b. Establish regular forums for feedback on rule clarity and accessibility
- 6. **Conduct Regular Equity Assessments**
  - a. Establish periodic review process for Title 314 WAC
  - b. Develop metrics to measure effectiveness of accessibility initiatives
  - c. Conduct post-rule implementation evaluations
- 7. **Address Specific Regulatory Gaps**
  - a. Review and revise regulations on religious accommodations and family structures
- 8. **Enhance Socio-Economic Equity Measures**
  - a. Review licensing and fee structures across all regulated industries
  - b. Consider broader equity measures beyond the cannabis industry
- 9. **Improve Transparency in Discretionary Decision-Making**
  - a. Develop clear guidelines for exercising discretion in regulation and oversight
- 10. **Collaborate with Other State Agencies**
  - a. Participate in cross-agency efforts related to rule development for consistent and equitable rule language
- 11. **Advocate for Necessary Statutory Changes**
  - a. Identify areas where statutory constraints limit addressing equity concerns
  - b. Develop proposals for potential legislative updates

## **Conclusion**

- **Proactive Rulemaking Initiatives:** The LCB has engaged in rulemaking activities (WSR 24-19-026, WSR 24-13-096, WSR 24-16-130), reflecting responsiveness to community and stakeholder feedback, evolving societal norms, and creating inclusivity in rule language.



- **Commitment to Accessibility:** Implementation of plain language principles in rules and associated documents represents a significant step towards making regulations more accessible to all.
- **Ongoing Challenges:** Areas requiring continued attention include outdated disability-related terminology and potential barriers to equity due to gaps within the different statutory framework for alcohol, cannabis, tobacco, and vapor products.
- **Balancing Regulatory Responsibilities:** Recent and planned activities demonstrate that regulatory mandates and equity promotion are not mutually exclusive.
- **Stakeholder Engagement and Transparency:** The LCB is making strides in outreach efforts including working towards more consistent and coordinated outreach that uses plain language and successful engagement models.
- **Leadership in Regulatory Equity:** As many other regulatory agencies review WA state laws and rules, the LCB has an opportunity to set standards that could serve as a model for similar agencies across the state and nation.
- **Continuous Improvement:** Ongoing efforts reflect an understanding that equity work is a continuous process of improvement and adaptation.

This review highlights some of LCB's progress towards creating a more equitable and inclusive regulatory framework, including identifying areas for continued improvement. The agency's proactive approach to rulemaking, commitment to accessibility, and willingness to address complex equity issues position it well to continue enhancing the fairness and effectiveness of its regulations.

The recommendations above provide a roadmap for building on existing efforts, ensuring that Title 314 WAC continues to evolve to meet the needs of Washington's diverse population. By maintaining its focus on equity, inclusivity, and accessibility LCB can ensure its regulations serve licensed businesses and all Washington residents fairly and effectively.

**Table 1: Structure of Title 314 WAC**

<b>Liquor and Control Board Rules – Title 314 WAC</b>	<b># of Sections</b>
Chapter 314-01 Definitions.	1
Chapter 314-02 Requirements for retail liquor licensees.	56
Chapter 314-03 Allowed activities.	14
Chapter 314-05 Special occasion licenses.	4
Chapter 314-07 How to apply for and maintain a liquor license.	19
Chapter 314-09 Contested liquor license applications and renewals.	3
Chapter 314-10 Sale and distribution of tobacco products.	8
Chapter 314-11 General requirements for licensees.	21
Chapter 314-12 General—Applicable to all licensees.	18
Chapter 314-13 Retail licensees purchasing beer, wine, and spirits.	4
Chapter 314-16 Retail licensees.	6
Chapter 314-17 Mandatory alcohol server training.	22
Chapter 314-18 Banquet permits.	10
Chapter 314-19 Beer and wine tax reporting and payment requirements.	7
Chapter 314-20 Beer—Brewers, holders, importers, etc.	23
Chapter 314-21 Controlled purchase programs.	3
Chapter 314-23 Spirits distributors, spirits certificate of approval licenses, and spirits importers.	16
Chapter 314-24 Domestic wineries and domestic wine distributors.	34
Chapter 314-25 Ships chandler's license.	5
Chapter 314-27 Interstate commercial common passenger carriers.	1
Chapter 314-28 Distillers.	18
Chapter 314-29 Violations and penalties.	13
Chapter 314-30 Manufacturers.	1
Chapter 314-31 Compliance checks.	2
Chapter 314-32 Rectifiers.	3
Chapter 314-33 Cigarette and tobacco products license process.	5
Chapter 314-34 Cigarette and tobacco products violations.	7
Chapter 314-35 Vapor products.	20

Chapter 314-36 Importers, public storage warehouses and importation of liquor.	7
Chapter 314-38 Permits.	11
Chapter 314-40 Clubs.	10
Chapter 314-42 Liquor control board operations.	16
Chapter 314-44 Licensed agents.	2
Chapter 314-45 Serving and donating of liquor by suppliers at trade conventions of licensees.	1
Chapter 314-52 Advertising.	15
Chapter 314-55 Cannabis licenses, application process, requirements, and reporting.	86
Chapter 314-60 Public records.	9
Chapter 314-62 Liquor law pamphlets and annual reports.	2
Chapter 314-64 Liquor samples.	4
Chapter 314-68 Importation of alcoholic beverages for personal or household use.	5
Chapter 314-70 Disposition of liquor stock following discontinuance of business and/or lawful seizure of liquor by a governmental agency.	2
Chapter 314-72 Agency guidelines—State environmental policy.	2

ii Table 2: Title 314 WAC Language Concerns

Title 314 WAC Language Concerns	Rule Sections	Potentially Discriminatory Language or Interpretation that May Highlight Personal Bias
Disability-related language	<a href="#">WAC 314-02-042</a>	WAC 314-02-042: "Membership or admission will not be denied to any person because of race, creed, color, national origin, sex or the presence of any sensory, mental or physical handicap."
Cultural sensitivity and discretion	<a href="#">WAC 314-03-050</a>	WAC 314-03-050: Regarding spirits, beer, and wine restaurants allowing minors on premises after 11:00pm, and limitations on patron participation.
Licensing discretion	<a href="#">WAC 314-07-040</a>	WAC 314-07-040(1) is criminal history evaluation for liquor license applicants. This language differs from the language and criteria for cannabis license applicants ( <a href="#">WAC 314-55-040</a> ), which was previously modified to reduce barriers to entry.
Licensing discretion	<a href="#">WAC 314-07-040</a>	WAC 314-07-040(3): "The board will not normally issue a liquor license to any person who has demonstrated a pattern of disregard for laws and rules." Bias may be a risk without specific definitions.
Veteran status	<a href="#">WAC 314-07-060</a>	WAC 314-07-060: Mentions considering an applicant's status as an honorably discharged veteran but doesn't explicitly prohibit discrimination based on veteran status.
Discretion in license issuance	<a href="#">WAC 314-07-065</a>	WAC 314-07-065(10): "The board determines that the issuance of the liquor license will not be in the best interest of the welfare, health, or safety of the people of the state." Bias may be a risk without specific definitions.

Religious accommodations	<a href="#">WAC 314-11-015</a>	WAC 314-11-015: Outlines general conduct requirements for licensed premises but does not address potential conflicts with religious practices or accommodations.
Gender-specific language	<a href="#">WAC 314-11-020</a> , and 20 other chapters involving 41 sections, identified in <a href="#">WSR 24-19-026</a>	WAC 314-11-020: "The person must be able to see the patron to check his/her identification..."
Identification requirements	<a href="#">WAC 314-11-025</a>	Concerns were identified regarding the limited range of acceptable identifications, particularly not including some federally issued identifications.
Age-related considerations	<a href="#">WAC 314-11-025</a>	WAC 314-11-025: The specifications for acceptable identification may create challenges for older adults who may not have current photo identification, particularly when licensed businesses establish policies to check identification of everyone purchasing alcohol.
Discretion	<a href="#">WAC 314-17-065</a>	WAC 314-17-065(3): "The board... may also consider criminal history, administrative violations, patterns of misconduct, and other applicable occurrences or circumstances when deciding to approve, deny, suspend or revoke a trainer's certification."
Cultural sensitivity	<a href="#">WAC 314-29-020</a>	WAC 314-29-020: References "disorderly conduct" without clear, objective definitions. This could lead to inconsistent application of regulations based on cultural biases.
Language accessibility	<a href="#">WAC 314-55-050</a>	WAC 314-55-050: "The board will conduct a threshold review of each application to ensure the applicant has met basic requirements..." This and similar sections use complex terminology that may be difficult for some individuals to understand.

Identification requirements	<a href="#">WAC 314-55-150</a>	Concerns were identified regarding the limited range of acceptable identifications
Socio-economic considerations	<a href="#">WAC 314-55-310</a>	WAC 314-55-310: Sets cannabis transportation licensing fees which are different than the standard fee set in statute for other license types. Fee differences could potentially impact perceptions of bias.
Chapter summary	<ul style="list-style-type: none"> <li>• 21 chapters involved gender-specific language</li> <li>• 7 chapters involved potential bias-based language other than gender-specific language</li> </ul>	The review found no examples of potentially discriminatory or bias-based language in 20 chapters of Title 314 WAC, including chapters related to definitions, special occasion licenses, tax reporting, and various operational aspects of LCB-regulated industries.