

**Joint Select Committee on Beer and Wine Regulation  
Summary of Stakeholder Recommendations**

	COALITION <sup>i</sup>	COSTCO	SPECIALITY WINE	FAMILY WINERIES OF WASHINGTON STATE	PREVENTION COMMUNITY <sup>ii</sup>	LIQUOR CONTROL BOARD
<b>1. GENERAL</b>						
				<p><b>Craft winery proposal:</b> Allow craft wineries (250,000 gallons or less) to do all things necessary and convenient for the manufacture, distribution, and sale of craft wine subject to antitrust law and the commercial law of sales. (Addresses craft winery license privileges and applicability of selected liquor laws, including enforcement and taxes.)</p> <p><b>Beer and wine proposal:</b> Provide that, unless expressly forbidden, operations ancillary to the conduct of a licensed business are permitted if they conform to antitrust law and the commercial law of sales. (Addresses intent, rule-making, advertising, ethics, winery license authority, wine warehouse licenses, grocery and specialty store sampling, tied house, labels, pricing, and central warehousing.)<sup>iii</sup></p>		

**Prepared for:** Joint Select Committee on Beer and Wine Regulation  
Work Session on November 14, 2008

**Prepared by:** Joan Elgee, House Office of Program Research  
Mac Nicholson, Senate Committee Services  
Jill Reinmuth, House Office of Program Research

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<b>2. PRICING</b>						
a. Post and hold.	Eliminate price posting requirement to reflect <u>Costco v. Hoen</u> decision.			Eliminate post and hold. Part of broader proposals (see GENERAL).	Retain price posting.	Amend statute to reflect <u>Costco</u> decision.
b. Minimum mark-up.	Eliminate minimum mark-up; retain prohibition on sales below cost.	Eliminate mandatory 10% mark-up for producers and distributors.		Eliminate minimum mark-up. Part of broader proposals (see GENERAL).	Retain minimum mark-up.	Retain minimum mark-up.
c. Quantity discounts.	No recommendation.	Eliminate prohibition of quantity discounts.		Eliminate ban on quantity discounts. Part of broader proposals (see GENERAL).	Retain ban on quantity discounts.	Retain ban on quantity discounts.
d. Other.				Eliminate prohibition on sale of beer/wine below cost by grocery stores. Part of beer/wine broader proposal (see GENERAL).	Strictly limit conditions for providing free alcohol.	
<b>3. TIED HOUSE</b>						
a. Financial interest/ownership.	Allow ownership in multiple tiers. Delegate to the LCB the authority to disallow specific ownership interests and create statutory guidance for when ownership would not be allowed. Provide a mechanism for LCB review.			In general, revise to prohibit exclusion of a competitor's product by: 1) holding a retail license or a financial interest in a retailer; or 2) ownership of property on which a retail business is conducted. Part of beer/wine broader proposal (see GENERAL).		Allow full and partial interest or ownership.

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b. Moneys' worth.						
i. General.				In general, revise to prohibit exclusion of a competitor's product by advancing moneys' worth. Part of beer/wine broader proposal (see GENERAL).		Retain current regulations that generally prohibit money's worth activities with specific narrow exceptions.
ii. Advertising.	Generally prohibit provision of items of value, but allow a manufacturer, importer, or distributor to provide certain branded promotional items to a retailer. Give LCB authority to determine what items may be considered branded promotional items, in addition to specifically designated ones.				Strictly regulate money's worth items that appeal to children and youth, are given to children and youth, and/or dominate areas where children and youth are present. Limit giveaways and advertisements to environments where only persons of legal age are present. (See rulemaking recommendations.)	No recommendation.
iii. Credit - general.		Relax the prohibition against extension of credit by distributors to allow (but not require) distributors to extend credit terms of up to thirty days.		Provide that nothing shall prevent the extension of ordinary commercial credit. Part of broader beer/wine proposal (see GENERAL).		
iv. Credit - electronic fund transfers.	Preserve the current process whereby EFT transactions are initiated by the distributor at or within one day after delivery, but provide that the transaction must be completed within five days from the point of delivery.			Provide that nothing shall prevent the extension of ordinary commercial credit. Part of broader beer/wine proposal (see GENERAL).		Allow retailers to process EFT transactions for alcohol as they would process other EFT transactions, provided that payment is made promptly (within 5 business days).

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<b>4. THREE-TIER ISSUES</b>						
a. Retailer to retailer product transfers.	Conceptual agreement, but still working out details.			Allow sales to other licensees and transfers. Part of broader beer/wine proposal (see GENERAL).		Allow limited licensee-to-licensee transfer of product among licensees under common ownership.
b. Central warehousing.	No recommendation.	Eliminate prohibition against warehousing by retailers.		Eliminate prohibition on warehousing. Part of broader beer/wine proposal (see GENERAL).		Allow retail entities who own a warehouse in Washington to store their product at that central warehouse.
<b>5. OTHER ISSUES</b>						
a. Sales (including on-line) by out-of-state retailers.	No recommendation.	Bring uniformity to internet shipments by allowing out-of-state retailers the same privilege as in-state retailers.	Create permit system for out-of-state retailer shipping.		Strictly control shipping of alcohol products directly to consumers with a special licensing requirement and detailed procedures.	Create a license or permit to allow an out-of-state beer or wine retailer to sell on-line to consumers
i. General.				Limit Board's authority to rules necessary to prevent advertising aimed at underage persons or promoting unlawful conduct and revise provision on Board's authority to limit speech under beer/wine proposal (see GENERAL).		

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ii. College campuses.					Amend RCW 66.28.160 to strike (2) - (4) and insert "Advertising may not be directed or appeal primarily to minors by placing advertising in any school, college or university magazine, newspaper, program, television program, radio program or other media or sponsoring any school, college or university."	
iii. Sponsorship at civic events.					Prohibit members of the alcoholic beverage industry from sponsoring civic events, and erecting alcohol beverage sponsorship signs at civic events.	
iv. Product placement and access.					Require retail licensees to separate alcohol from other products. Limit access to alcohol to persons of legal age.	

## 6. BUDGET RECOMMENDATIONS

### Prevention Community:

- a. Give the Liquor Control Board the financial capacity to ensure the regulations are followed.

### Liquor Control Board:

- b. Provide resources to assist the state in determining and interpreting impacts from any regulatory changes.

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## 7. RULEMAKING RECOMMENDATIONS

### Prevention Community:

Amend WAC 314-52-015 (advertising; general) as follows:

- a. Add the following: "Subliminal or similar techniques as used in this part, refers to any device or technique that is used to convey, or attempts to convey, a message to a person by means of images or sounds of a very brief nature that cannot be perceived at a normal level of awareness."
- b. Add language similar to the following: "No advertisement shall include anything which might appeal to minors by implying that the consumption of alcoholic beverages is fashionable or the accepted course of behavior."
- c. Prohibit using images of any athlete, known or otherwise.
- d. Prohibit associating alcohol with social achievement.

Amend WAC 314-52-070 (advertising; outdoor advertising) as follows:

- e. Add a specific number of feet to the rule prohibiting alcohol advertising in locations where children are likely to be present.
- f. Limit the number of outdoor and indoor alcohol advertisements by quantity and square footage.

Amend WAC 314-52-040 (advertising; contests, competitive events, premiums and coupons) as follows:

- g. Restrict distribution of promotional materials to commercial or civic events where only persons of legal age are present.

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<sup>i</sup> Members are: Washington Food Industry, Costco Wholesale, Washington Wine Institute, Washington Beer & Wine Wholesalers Association, Northwest Grocery Association, Washington State Hotel & Lodging Association, Washington Association of Neighborhood Stores, Washington Brewer's Guild, Hood River Distillers, Washington Restaurant Association, Wine.com, Wine Institute.

<sup>ii</sup> Substance Abuse Prevention Community and Concerned Citizens.

<sup>iii</sup> To the extent the recommendations submitted by Family Wineries of Washington State (FWWS) address issues submitted by other stakeholders, the FWWS recommendation is noted.

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