

BAN ON CREDIT WITH RESPECT TO ELECTRONIC FUND TRANSFERS

Law and Rules

The tied-house law provides that no manufacturer, importer, distributor, or authorized representative (MDI) shall "advance moneys or moneys' worth" to a licensed person. The law also prohibits any licensed person from receiving moneys' worth. RCW 66.28.010.

A Liquor Control Board (board) rule requires retailers to pay "cash" for beer and wine prior to or at the time of delivery. Checks and credit/debit cards are considered cash under specified conditions. In addition, the rule provides that an electronic funds transfer (EFT) is considered cash payment under the conditions listed below. (EFT is a system of transferring money from one bank account directly to another without any paper money changing hands.) The conditions are:

- The EFT agreement is voluntary.
- Before any EFT transaction, the retailer must enter a written agreement with the manufacturer, distributor, or importer (MDI) specifying the terms and conditions for EFT as payment for alcoholic and nonalcoholic beverages.
- A sale must be initiated by an irrevocable invoice or sale order before or at the time of delivery.
- Both parties must bear their respective banking costs or other costs associated with EFT service.
- Both parties must maintain records of transactions and have the records readily available for review by the board.
- The EFT must be initiated by the MDI no later than the first business day following delivery. WAC 314-13-015.

Another rule provides that if an EFT (or other transaction) is reported NSF, it is considered an extension of credit. The retailer must pay the full amount on the first business day and if this payment is not made, the MDI must report the NSF transaction to the board. Additional procedures are specified. WAC 314-13-020.

Other rules specifically require beer MDIs to sell or deliver only for cash and prohibit MDIs from loaning money to retailers. WAC 314-20-090; WAC 314-12-140(3).

Brief History

1935 Law passes adding "moneys' worth" to the tied-house law.

1973 Attorney General issues opinion holding that tied-house law prohibits manufacturers and distributors from extending 30 days credit to retailers.

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- 1988 Law passes creating tied-house exception to allow extension of 30 days credit for nonliquor food products.
- 2001 Board adopts EFT rule.
- 2008 In *Costo v. Hoen*, 9th Circuit Court of Appeals rejects challenge to prohibition on credit sales of beer and wine, holding the prohibition does not violate federal antitrust law.

Federal law

Federal law allows 30 day credit terms.

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