

MANDATORY MARK-UP

Law and Rules

State law requires beer and wine manufacturers to mark-up the price of their product to a distributor by at least 10% above the cost of production. Distributors, in turn, are required to mark-up the price of their product to retailers by at least 10% above the cost of acquisition. The LCB is empowered to review the percentage of the mark-up, however, the mark-up today remains at 10%, the percentage set in statute.

Brief History

- 1985 RCW 66.28.180, the current day “mark-up” statute, enacted. The original statute did not contain mark-up provisions, the statute only prohibited modification of prices without prior notification to and approval of the LCB.
- 1995 Existing mark-up rules and regulations codified in RCW 66.28.180. The stated intent of the statute was to “promote the public’s interest in fostering the orderly and responsible distribution of malt beverages and wine towards effective control of consumption; to promote the fair and efficient three-tier system of distribution of such beverages; and to confirm existing board rules as the clear expression of state policy to regulate the manner of selling and pricing of wine and malt beverages...”
- 2006 Three-Tier System Review Task Force recommends elimination of minimum mark-up provisions.
- 2008 In *Costco v. Hoen*, 9th Circuit Court of Appeals affirmed the mark-up provisions.

Federal Law/Laws of Other States

Oregon has no minimum mark-up requirement, however, wholesalers and retailers are required to sell at cost or higher.

Twelve states have some form of minimum mark-up requirements.

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