

Joint Select Committee on Beer and Wine Regulation
Industry Coalition Recommendations

October 31, 2008

Dear Members of the Joint Select Committee on Beer and Wine:

At the beginning of your committee process, the undersigned organizations indicated that we were working together as industry representatives to come to agreement on potential changes to Washington's beer and wine laws. Specifically, we were examining those restrictions that may no longer be necessary in today's business environment yet where change would not negatively impact public health and safety.

In our original letter we outlined several issue areas under discussion – all of which have been discussed in committee. This letter indicates the specific areas where we have reached conceptual agreement and conclusion and also indicates issues where we will not be putting forth language agreed to by our coalition. Where we do have agreement, we are drafting language that will be submitted.

PRICING ISSUES

- **Minimum Mark Up** (RCW 66.28.101/RCW 66.28.180 (2) (d)) – the industry coalition has agreed to support striking the minimum mark up language while retaining language that prohibits selling product below costs.
- **Ban on Credit Terms** (RCW 66.28.010/WAC 314.13.015/WAC 314.20.090/WAC 314.12.140) – the industry coalition supports modifying the statute governing electronic fund transfers. The revisions would preserve the current process whereby EFT transactions are initiated by the distributor at or within one day after delivery and would provide that the transaction must be completed within five days from the point of delivery rather than on the same day to accommodate individual store internal processes. Such an EFT would require up front agreement between the retailer and distributor.
- **Post and Hold** (RCW 66.28.180) – the industry coalition supports amending the current statute to eliminate the price posting requirement, so as to reflect the court decision in *Costco v. Hoen*.

OWNERSHIP ISSUES

- **Allowing a business to have a financial interest in multiple tiers of the three tiered system (RCW 66.28.010)** -- the industry coalition supports allowing ownership in multiple tiers and changing the statute to specifically allow this to occur. However, we recognize that it is important to preserve a viable three-tier distribution system. The language currently under discussion by our group would delegate to the Liquor Control Board the authority to disallow specific ownership interests and would create the statutory guidance under which ownership in multiple tiers would not be allowed. We also are

crafting language that would develop a mechanism for taking an ownership case for review before the Liquor Control Board as a voluntary measure that the Board can then review based on statutory guidelines.

MONEY'S WORTH

Items of Value (RCW 66.28.010/WAC 314.12.140) – The industry coalition will propose statutory language that generally prohibits provision of items of value but allows a manufacturer, importer or distributor to provide certain branded promotional items, such as shirts, caps, visors, mugs, corkscrews and other similar specifically designated items to a retailer. The language will also provide authority to LCB to allow items to be included that are not specifically designated but which are similar to those items listed. The statute would specifically prohibit the giving of such items to consumers.

ISSUES STILL BEING DISCUSSED:

SHIPPING

- **Moving Product from Store to Store** (RCW 66.24.185(4)) – the industry coalition has conceptual agreement in this arena but is still working out some details before we can say the agreement is complete and draft language is ready.

ISSUES THAT WILL NOT BE PUT FORWARD BY THE INDUSTRY COALITION:

After much discussion, the following issues DO NOT have agreement among the coalition members and therefore will not be coming forward as a coalition proposal. However, some coalition members may still put forth language in these areas for legislative discussion.

- Removing the ban on quantity discounts
- Changes to central warehousing statutes
- On line retail sales

Once again, for the areas where we do have agreement, we are working on drafting more specific language and hope to have that soon.

Sincerely,

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