

**Joint Select Committee on Beer and Wine Regulation - Summary of Stakeholder Recommendations**  
*(Updated 12/12/2008 - new material is in **bold italics**)*

	COALITION <sup>i</sup>	COSTCO	SPECIALITY WINE/WINE.COM <sup>ii</sup>	FAMILY WINERIES OF WASHINGTON STATE	PREVENTION COMMUNITY <sup>iii</sup>	LIQUOR CONTROL BOARD	ACTION/NOTES
<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>iv</sup></p>			

**Prepared for:** Joint Select Committee on Beer and Wine Regulation  
 Work Session on December 17, 2008

**Prepared by:** Joan Elgee, House Office of Program Research  
 Mac Nicholson, Senate Committee Services  
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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. <i>Permit quantity discounts for wine. Discounts may not be offered in a discriminatory fashion.</i>		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.		

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<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. <b>Work with Board.</b>			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.	
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.	

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ii. Advertising.	<p>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.</p> <p><i>Provide that a manufacturer, importer, or distributor may provide to retailers branded promotional items, including, but not limited to: trays, lighters, blotters, post cards, pencils, coasters, menu cards, meal checks, napkins, clocks, shirts, caps, visors, mugs, glasses, bottle or can openers, corkscrews, matches, and printed recipes. Items must be used exclusively by the retailer or employees in a manner consistent with its license. Items must bear imprinted advertising matter. Items may be provided only to retail licensees and their employees and may not be provided by or through retail licensees or their employees to retail customers. Upon application, the Board must approve additional items unless it identifies substantial reasons for concluding an item does not meet the requirements or is of a value significantly greater than the value of items already qualified.</i></p>				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.	

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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).			

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iv. Credit - electronic fund transfers.	<p>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.</p> <p><i>Permit the use of checks, credit/debit cards, prepaid accounts, electronic funds transfers, and other similar methods as approved by the Board, as cash payments. Electronic fund transfers must be: (i) voluntary, (ii) done pursuant to prior written agreement of the parties that includes a provision that the purchase be initiated by an irrevocable invoice or sale order before the time of delivery, (iii) initiated by the retailer, manufacturer, importer or distributor no later than the first business day following delivery, (iv) completed no later than 5 business days following delivery, and (v) otherwise be in compliance with rules promulgated by the Board.<sup>v</sup></i></p>			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.	<p>Conceptual agreement, but still working out details.</p> <p><i>Provide that wine may be transferred from one retail licensee to another retail licensee so long as both licensees are under common ownership. A licensed site may transfer up to a total of 20 cases of wine per calendar year.</i></p>			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.	

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<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.	<p>Create permit system for out-of-state retailer shipping.</p> <p><i>Wine.com: Allow out-of-state online retailers to obtain a wine shipper's permit. The out-of-state online retailer would be limited to shipping not more than 18 liters per month to a Washington resident. Holders of the wine shipper's permit would be subject to Board regulation and enforcement.</i></p>		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.

## 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> *Wine.com has been added to the Specialty Wine column for ease of formatting.*

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

<sup>iv</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.

<sup>v</sup> *The Coalition states "The language on EFTs does not yet have complete agreement from all members of the Industry Coalition. The Washington Beer & Wine Wholesalers remain concerned about the five day time period and are continuing discussions. Should we not get to complete agreement on the five day time period, we are prepared to offer alternatives."*

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