

# Joint Select Committee on Beer and Wine Regulation

## Prevention Community Recommendations

11/14/2008

October 30, 2008

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

We would like to thank you again for this opportunity to share with you our views regarding beer and wine regulations. The hearings prior to this date have been valuable in helping us to refine our recommendations, and we are focusing specifically on those we believe will have the most impact on public safety and underage drinking. As stated previously, a vibrant Washington economy is important to us, but not at the expense of the health and safety of the people of our communities, especially youth. Youth access, marketing to youth, and the overall control of alcohol remain our key issues.

The attached document provides specifics in these areas:

1) *Pricing.*

Studies have shown that higher prices result in lower consumption, and underage drinkers are especially susceptible to price. The use of *minimum mark-ups* and the ban on *quantity discounts* are two key elements that must be maintained. The retention of *price posting* is necessary to ensure these regulations are followed.

2) *Money's Worth*

When *money's worth* items appeal to children and youth, are given to children and youth, and/or dominate areas (such as restaurants) where children and youth are present, then they are an issue. These items should be considered advertising or marketing items, and they should be governed by stricter advertising and marketing regulations. The negative impact of alcohol advertising on youth is supported by research.

3) *Internet Sales / Shipping of Alcohol Products*

Any shipping of alcohol products directly to consumers needs to be strictly controlled with a special licensing requirement and detailed procedures.

4) *Capacity*

The Liquor Control Board must be given the financial capacity to ensure the regulations are followed.

We live and work in this state, and many of us have raised or are raising our children here. We care deeply about the health and welfare of our communities, especially the children. We thank you for your careful consideration of our views.

Sincerely,

*Stakeholders from the Substance Abuse Prevention Community and Concerned Citizens*

**Prevention Perspective**  
**Report to the Joint Select Committee on Beer and Wine Regulations**  
**October, 2008**

**I. Pricing**

Pricing is important because of its relationship to overconsumption and underage drinking. According to research, an increase in price correlates to a reduction in alcohol use. Youth, in particular, are sensitive to price. From a prevention perspective, it is important to maintain systems that support higher prices.

Issue	Current	Prevention Perspective
<b>Pricing</b>	<b>Price Posting</b> - Suppliers and distributors must file price postings with the LCB, showing the prices at which product will be sold to distributors and retailers	Price posting is needed to track adherence to other pricing regulations. Without price posting, the LCB would need to depend upon complaints or spot checks, both of which would allow for greater inconsistency of enforcement.
	<b>Mandatory Mark-Up</b> – Manufacturers and distributors are obligated to mark up the price of their products by a minimum of 10%.	While the industry argues that they must mark up product more than 10%, removing this regulation would allow them to sell certain products for less. It is a safety net to keep that from happening.
	<b>Quantity Discounts</b> – Prohibited.	The stated intent of this ban included the control of consumption and the regulation of selling and pricing. The regulation of pricing is critical in addressing the prevention issues stated above.
	<b>Pricing and gifts of beer and wine</b> – Liquor may not be advertised or sold by retailers at less than acquisition cost. (Exception: A free drink	The prohibition against selling alcohol below cost still results in sales of cheap alcohol. Higher prices result in decreased

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may be offered under special circumstances, i.e. a customer's birthday or to compensate for unsatisfactory products or services.)

consumption. Conditions for providing free alcohol must be strictly limited. Providing free alcohol at social events, including trade conventions, encourages overconsumption.

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## II. Money's Worth

Many of the items associated with money's worth are used as marketing and advertising tools. Our issue is not whether these items are provided for free to retailers but rather to what extent children are exposed to them. If the industry is indeed in favor of reducing underage drinking, there is no reason to expose children and youth to these types of advertising. Therefore, we believe strongly that regardless of whether these regulations allow or do not allow for the giving of money's worth items, it is the use of these items that needs to be regulated. Children and youth are exposed to more alcohol advertising than any other type of advertising, and studies show that this exposure does have the effect of increasing underage use. (Documentation of these studies has been provided in previous testimony.) Giveaways and advertisements should be limited to environments where everyone is 21.

Advertising regulations can be achieved either through legislation or through administrative codes developed by the Washington State Liquor Control Board. In some of the instances listed below, we believe that the current laws allow unnecessary marketing to children and youth. We also believe that many of the regulations that would reduce youth exposure can be accomplished through administrative codes.

Suggestions for advertising restrictions are provided in the attached addendum.

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Issue	Current	Prevention Perspective
<b>Money's Worth – Advertising</b>	<b>Point of Sale Items</b> – Items that have no value to the retailer except as brand advertisement are allowed and remain the property of the MDI. These include display cards, table tents, matches, calendars, etc.  Giant inflatables are allowed.	The location of these items is of concern to the prevention community. The use of these items in areas where those under 21 are allowed increases the saturation of children and youth to alcohol advertising.  These are often used in family activity settings such as community festivals. This increases exposure to children and youth.

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	<p>Animal mascots and costumed individuals are allowed.</p> <p>Novelty Items – MDI’s may not give novelty item to retailers. These include lighters, pencils, coasters, napkins, wearing apparel, mugs, glasses, and similar items on which the logo, liquor brand and name, or brand name of a manufacturer has been imprinted.</p>	<p>Animal mascots and costumed individuals appeal directly to children and youth.</p> <p>Novelty items are direct marketing tools. The issue for prevention is that, if allowed, use of these items should be restricted via strict advertising and marketing rule in order to decrease the saturation of children and youth.</p>
<b>Money’s Worth – Services</b>	<p><b>Display and stocking services</b> – MDI may provide display and stocking services, price case goods, and perform other “normal business services.” MDI may provide sales analysis of beer and wine products for the purpose of proposing a schematic display.</p>	<p>The size, content, and location of displays need to be governed by advertising rules. (See Advertising/Marketing Regulations and Recommendations attachment.)</p>

**III. Other**

Due to the proliferation of on-line sales for every type of product, it is unrealistic to believe that the on-line sales of wine, whether from a manufacturer or a retailer, can be banned. Therefore, it is important that these sales are strictly regulated. Licensing requirements will assist the Liquor Control Board in ensuring that these sales are conducted in such a way as to greatly reduce the opportunities for underage youth to purchase and receive alcohol.

<b>Issue</b>	<b>Current</b>	<b>Prevention Perspective</b>
<b>Other</b>	<p>Out of state sales by wine manufacturers – Allowed.</p> <p>On-line and out-of-state retailer wine sales – Out-of-state retailers are not allowed to ship wine directly to Washington residents.</p>	<p>In both of these areas, the important component is to establish regulations that would eliminate or severely diminish the likelihood of underage persons purchasing or receiving the product. Special licensing procedures could be established. Regulations could specify the type of packaging and labeling, the requirements for delivery, and the fines for failing to comply with the</p>

regulations.

## **ADDENDUM**

### **Advertising/Marketing Regulations and Recommendations**

#### **Introduction**

Prevention advocates have the following concerns related to alcohol advertising and marketing:

- Advertising that appeals to and is directed at underage children and youth.
- Advertising that portrays use of alcohol as a rite of passage and/or a way to achieve popularity and success.
- Placement of advertising or promotional materials that disproportionately exposes children and youth, uses a disproportionate amount of space in a particular location, or is located at venues where large numbers of children and youth are present.
- The use of items, such as giveaways and inflatables, that appeal to youth and carry brand advertising.

Marketing practices have increasingly shifted from direct advertising to other promotional activities such as sponsorships, product tie-ins and placements, contests, sweepstakes, and other promotions. These practices have the goal of embedding the brand into the lives of the consumers, thereby increasing their loyalty to a particular product or products. These practices must be regulated in order to limit exposure to children and youth.

The following items refer to specific Washington Administrative Codes and Revised Codes of Washington that specifically refer to alcohol advertising and marketing. Following these are suggested additions to the current regulations.

#### **WAC 314-52-015**

Current law does address subliminal or similar techniques. To make the WAC stronger we suggest Federal Alcohol Administration Act language be included as follows, “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.”

Currently the law does prohibit advertising that targets youth; however, the language needs to be strengthened. We suggest using language similar to Alabama’s; “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.”

The law states that images that associate alcohol with athletic achievement are prohibited. However, WA law only prohibits “known” athletes. We suggest that “known” be removed to include any images of an athlete, known or otherwise. Also we recommend that associating alcohol with *social* achievement be added with the same restriction to the law.

### **WAC 314-52-070**

Currently outdoor alcohol advertising is prohibited in locations where children are likely to be present such as near schools and playgrounds. However, this law is vague as to “proximity” to these areas; we suggest that a specific number of feet be added. Additionally, we would like to limit the number of both outdoor and indoor alcohol advertisements by quantity and square footage. The state of Virginia has done something similar limiting the number, size and content of signs used for outdoor advertising as well as signs posted indoors but able to be viewed from outside.

### **WAC 314-52-040**

Though WA state law allows liquor advertisers to offer prizes, we would like to add a requirement that restricts the distribution of promotional materials to commercial or civic events where only those 21 years and older are present.

### **RCW 66.28.160**

Currently law does prohibit promotional activities on college campuses; however, we would like to replace subsections 2, 3 and 4 with the wording “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.”

### **Additional Recommendations**

- 1) No current law prohibits sponsorship of civic events. We suggest prohibiting sponsorship of civic events by following the example of Marin County, California, 6.09.040: “Prohibition of alcohol beverage sponsorship and sponsorship signs of alcoholic beverages at the Marin County Fair. (a) No member of the alcoholic beverage industry may sponsor the Marin County Fair, erect or cause to be erected any type of alcohol beverage sponsorship signs at the Marin County Fair.”
- 2) We recommend that retail licensees separate alcohol from other products and limit access to those people of legal age, similar to how tobacco is displayed and sold.