

POST AND HOLD

Law and Rules

State liquor laws and Liquor Control Board (LCB) regulations require beer and wine suppliers and distributors to file a price posting with the LCB, showing the prices at which beer and wine shall be sold to distributors or retailers. Suppliers and distributors must adhere to posted prices for at least 30 days. This is known as the “post and hold” requirement. Posted prices, once effective, are public. The post and hold requirement is a mechanism the LCB uses to track products sold in the state and determine whether suppliers and distributors are complying with other state liquor laws, including the ban on quantity discounts and the minimum mark-up requirements.

In 2008 the post and hold requirement was struck down as part of the *Costco v. Hoen* litigation. Consequently, the LCB changed the “post” requirement and eliminated the “hold” requirement. Under the new LCB regulations, suppliers and distributors are still required to file prices, however, the prices are no longer public, and price changes can be made at any time with the price to be in effect immediately.

Brief History

- 1935 Price posting requirements implemented, shortly after state’s distribution and control system was established.
- 1985 RCW 66.28.180, the current day “post” statute, enacted. Original statute only prohibits modification of prices without prior notification to and approval of the LCB.
- 1995 Existing price posting 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...”
- 2004 Posted beer and wine prices are not subject to disclosure until their effective date.
- 2006 Three-Tier System Review Task Force recommends elimination of price posting provisions.
- 2008 In *Costco v. Hoen*, 9th Circuit Court of Appeals strikes down post and hold requirement.

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Work Session on September 9, 2008

Prepared By: Mac Nicholson, Senate Committee Services

Federal Law/Laws of Other States

Oregon: Wholesalers must maintain price lists at business premises, and these lists are available for inspection. The price list becomes effective on the date indicated on the list. Once a wholesaler decreases a price, the price cannot be increased for 14 days.

California has a price posting system for beer but not wine. Manufacturers and wholesalers must maintain price list with California LCB.

Twelve states require wholesalers to post prices to retailers.

Five of the twelve states require wholesalers to post price monthly.

Nine of the twelve states allow price changes at various times in the month preceding the month changes are to become effective.

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