



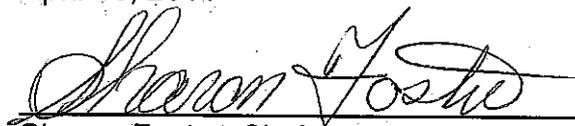
Washington State  
Liquor Control Board

Liquor Control Board Policy #BP-02-2011

**Subject:** Sports/Entertainment Facility Pre-Negotiated Penalty Track

**Effective Date:** April 13, 2011

**Approved:**

  
Sharon Foster, Chairman

  
Ruthann Kurose, Board Member

  
Chris Marr, Board Member

**Background:**

There are currently a number of licenses within the state, specifically Sports/Entertainment facilities, presenting a unique challenge in regard to control and penalty assessment in the event of a violation. These unique challenges primarily involve business operations that do not occur on a daily or even weekly basis.

Representatives of this type of license have raised concerns about consistency, fairness, and transparency for penalty assessments based on a previous negotiation involving second and third violation for sales of alcohol to a minor.

In 2007, the Washington State Liquor Control Board (WSLCB) began exploring option for a potential settlement agreement with the licensee of QWEST Field. An issue paper was drafted and presented establishing an option for negotiating violations in "Atypical Negotiations". These potential settlement agreements were deemed "Atypical" due to affording the Sports/Entertainment facility licensees an option to negotiate a complete monetary penalty in lieu of any suspension.

Stakeholders were invited to meetings for input on the approach, but only QWEST field attended and provided feedback. Based on the lack of stakeholder interest and only one licensee involved in settlement negotiations, the presented stipulated penalty structure was not officially placed into policy or rule.

Input was sought and received from the licensee of QWEST prior to violation settlement negotiations. The initial proposal of assessing a penalty based on occupancy appeared a fair approach both sides agreed upon. The approach of assessing a base fine plus \$1 per attendee for a second violation, and \$2 per attendee for a third violation was used during settlement negotiations in 2008.

Post negotiations, the licensee of QWEST believed the structure used during negotiations resulted in a higher than anticipated penalty. The WSLCB was asked to revisit the "Atypical Negotiation" approach and establish uniform penalties for Sports and Entertainment licenses. A penalty structure has been presented by an industry member that provides a base fine with a maximum cap.

The proposal presented by the representative of the Seattle Seahawks and QWEST field was discussed at length with input from the Director's Office, the Enforcement Division, the Attorney General's Office, and a Board member of the WSLCB. It was determined the recommended course of action would be to present a policy for consideration and not create a penalty guide in rule for a specific class of license. A model from another state was identified, presented to the Seahawks representative, and agree upon by all involved in developing an alternative to the standard penalty guide in WAC 314-29.

At the September 1, 2010, Board meeting, Justin Nordhorn, Deputy Chief of Enforcement, presented an issue paper to the board on a pre-negotiated penalty track for Sports/Entertainment facility licensees. The recommendation from staff was for the board to develop a Board Policy creating an optional penalty track for Sports/Entertainment facility licensees. The board members voted to approve the recommendation from staff.

**Policy Statement:**

The WSLCB must approach the issue of assessing penalties in a fair and transparent manner. Penalties are established based on fair assessments that facilitate voluntary compliance. Penalty increases represent corrective action for licensees that demonstrate repeat compliance failure. Penalties must be significant enough to provide a deterrent for future violations and withstand public scrutiny for fairness.

This Board Policy creates an optional penalty track for Sports Entertainment Facility licenses. This optional penalty assessment will:

- Create an alternate penalty track for those establishments receiving a first time violation for sales of alcohol to a minor during a compliance check failure.
  - Allows a Sports Entertainment facility an opportunity to be assessed based on a compliance rate for multiple compliance checks conducted on the same day.

- The alternate penalty track is intended only for youth access compliance related to alcohol compliance checks.
- Licensees receiving a violation must choose the optional penalty path during the due process period of a first time violation.
- All other violations of liquor laws follow the standard penalty guide in WAC 314-29.
- Create a maximum penalty cap for each violation level.
  - Provides identifiable expectations for compliance failure.
  - Provides transparent penalties for stipulated violations.
  - This has been pre-negotiated and agreed upon with Seattle Seahawks representation.
- The Board continues to have the authority and ability to impose suspension sanctions based on aggravating circumstances.
- These penalties are intended to be final assessment levels without further negotiation during informal settlement conferences.

Below is a proposed penalty matrix for compliance check failures occurring at a licensed Sports Entertainment facility. Penalties are assessed based on the number of compliance check failures during one day. There are three different penalty tracks based on the average number of points of sale. A point of sale will be defined as each different concession stand, not each individual cash register.

License Class	Compliance Threshold	1st Violation	2nd Violation	3rd Violation	4th Violation
Sports and Entertainment Facility	Events: 1 to 20 points of sale (1 incident/sale to minor to be a violation/compliance failure)	\$1000 x I*	\$10,000 x I*	\$25,000 x I*	Cancel
Sports and Entertainment Facility	Events: 21 to 45 points of sale (2 incident/sale to minor to be a violation/compliance failure)	\$1000 x I*	\$10,000 x I*	\$25,000 x I*	Cancel
Sports and Entertainment Facility	Events: 45 or more points of sale (3 incident/sale to minor to be a violation/compliance failure)	\$1000 x I*	\$10,000 x I*	\$25,000 x I*	Cancel
Absent any aggravating circumstances, the standard penalty for violations constituting compliance failure shall not exceed the following:		\$4,000	\$40,000	\$80,000	Cancel

\* "I" signifies incidents of sales to underage person during an alcohol compliance check

