

NEW SECTION

WAC 314-23-060 What are "volume discounts"? Volume discounts are discounts that are based solely on the volume of the spirits and/or wine that is purchased by a retailer from a distributor that are allowed. However, the limitations on interactions between the levels of licenses remain, including the prohibition on undue influence and sales below cost.

NEW SECTION

WAC 314-23-065 What are "bona fide business practices"? Bona fide business practices are business practices that do not violate local government, state or federal laws.

NEW SECTION

WAC 314-23-070 What is "marketplace"? Marketplace is limited to businesses in geographic recognized market areas such as town, city, county or other recognized geographic area in which distribution services are provided. Does not include various business types such as on-premises licensed retailers versus off-premises licensed retailers.

NEW SECTION

WAC 314-23-075 What constitutes "undue influence"? Per RCW 66.28.285 "undue influence" means one retailer or industry member directly or indirectly influencing the purchasing, marketing, or sales decisions of another retailer or industry member by any agreement written or unwritten or any other business practices or arrangements such as, but not limited to, the following:

(1) Any form of coercion between industry members and retailers or between retailers and industry members through acts or threats of physical or economic harm, including threat of loss of supply or threat of curtailment of purchase;

(2) A retailer on an involuntary basis purchasing less than it would have of another industry member's product;

(3) Purchases made by a retailer or industry member as a prerequisite for purchase of other items;

(4) A retailer purchasing a specific or minimum quantity or type of a product or products from an industry member including requiring a percentage of their spirits back-bar, well-drinks, wine by the glass or any combination of sales items in order to participate in a discount plan;

(5) An industry member requiring a retailer to take and dispose of a certain product type or quota of the industry member's products;

(6) A retailer having a continuing obligation to purchase or otherwise promote or display an industry member's product;

(7) An industry member having a continuing obligation to sell a product to a retailer;

(8) A retailer having a commitment not to terminate its relationship with an industry member with respect to purchase of the industry member's products or an industry member having a commitment not to terminate its relationship with a retailer with respect to the sale of a particular product or products;

(9) An industry member being involved in the day-to-day operations of a retailer or a retailer being involved in the day-to-day operations of an industry member in a manner that violates the provisions of this section;

(10) Discriminatory pricing practices as prohibited by law or other practices that are discriminatory in that the product is not offered to all retailers in the local market on the same terms.

NEW SECTION

WAC 314-23-080 Are licensed distributors or other licensed suppliers of spirits and wine allowed to provide volume discounts to on-premises or off-premises retail licensees? Yes, distributors or other licensed suppliers are allowed to provide volume discounts to licensed on-premises and off-premises retailers. The discounts must be based solely on the volume of the spirits and/or wine that is purchased by a retailer from a distributor. However, the limitations on interactions between the levels of licenses remain, including the prohibition on undue influence and sales below cost.

NEW SECTION

WAC 314-23-085 What type of discounts are not allowed? The following types of discounts are not allowed. Please note that this list is representative and not inclusive of all practices that are not allowed:

(1) **Volume discounts that violate local, state, or federal laws.**

(2) **Volume discounts based on percentage of back-bar etc., is not allowed:** This practice includes a distributor providing a percentage discount, only if the licensee dedicates a percentage of their spirits back-bar, well-drinks, and wine by the glass, or any combination of sales items of that distributor's products, in order to receive a price discount.

(3) **Different discount pricing for on-premises and off-premises licensees ("channeling") is not allowed:** This practice involves a distributor providing different volume discounts to on-premises licensees than they offer to off-premises licensees in the same "market area."

(4) **Discounts on purchases beyond the day of purchase period are not allowed:** This practice involves whether to use the current daily time frame for determining the level of volume discount as opposed to an extended time period such as a weekly or monthly billing cycle to determine volume discount rates.

(5) **Discounts on a combined order that is delivered to licensed sites are not allowed:** This practice includes limiting volume discounts for combined orders to the "central warehouse" or a location to which the order is delivered. As a result the delivery of product to multiple sites cannot be used in determining the volume discount for a combined order.