



## Notice of Permanent Rule for WAC 314-23-085 What type of discounts are not allowed?

**This explanatory statement concerns the Washington State Liquor Control Board's adoption of the WAC 314-23-085 What type of discounts are not allowed.**

The Administrative Procedure Act (RCW 34.05.325(6)) requires agencies to complete a concise explanatory statement before filing adopted rules with the Office of the Code Reviser. This statement must be provided to anyone who gave comment about the proposed rulemaking.

Once persons who gave comment during this rulemaking have had a chance to receive this document, the Liquor Control Board will file the amended rules with the Office of the Code Reviser. These rule changes will become effective 31 days after filing (approximately October 22, 2016).

The Liquor Control Board appreciates your involvement in this rule making process. If you have any questions, please contact Karen McCall, Rules Coordinator, at (360) 664-1631 or e-mail at [rules@lcb.wa.gov](mailto:rules@lcb.wa.gov).

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### What are the agency's reasons for adopting this rule?

On September 9, 2015, the board adopted new rules around fair trade practices. WAC 314-23-085 in particular addresses what type of discounts are not allowed between a distributor and retailer. An exception was written into the rule that allows a distributor to combine orders for multiple locations when determining a volume discount and deliver the product to multiple liquor licensed locations owned and operated by the same liquor licensed entity.

The exception is strongly opposed by the distributors because it would essentially require them to completely change the way they do business.

The board notified stakeholders after the rule was adopted that the board would not be enforcing this rule until the board could re-evaluate the circumstances surrounding the rule and the effect on our stakeholders.



## **Summary of all public comments received on this rule proposal.**

Four written comments were received on this rulemaking. One stakeholder commented at the public hearing held September 7, 2016.

Katie Jacoy – Wine Institute: Supports the revised rule.

Josh McDonald – Washington Wine Institute: Supports the revised rule. (Submitted written comment and commented at the public hearing.)

John Guadnola – Association of Washington Spirits & Wine Distributors: Supports the revised rule.

Julia Gorton – Washington Restaurant Association: The Washington Restaurant Association opposes the revision to the rule and believes that such negotiations for price differentials for bona fide business reasons are permitted by law.

LCB response: The law does permit volume discounts based on combined orders by one or more licensees to a central warehouse or a single location to which the order is delivered. The law does not allow volume discounts on a combined order delivered to more than one location.

### **WAC changes.**

See attached.