



Washington State Liquor and Cannabis Board

To: David Postman, Board Chair
Ollie Garrett, Board Member
Russ Hauge, Board Member

From: Kathy Hoffman, Policy and Rules Manager

Date: October 13, 2021

Copy: Rick Garza, Agency Director
Toni Hood, Deputy Director
Justin Nordhorn, Policy and External Affairs Director
Becky Smith, Licensing and Regulation Director
Chandra Brady, Director of Enforcement and Education

Subject: Request for approval to rescind Board Interim Policy (BIP) 08-2011 concerning the definition of “wine of its own production” as referenced in RCW 66.24.170 for a specific circumstance.

On August 17, 2011, the Board approved an interim policy that created a definition of “wine of its own production” for specific circumstances as it relates to the privileges granted a Washington domestic winery under RCW 66.24.170.

This interim policy was issued in response to a licensed Washington winery operator who also operated a licensed Oregon winery. Both wineries operated within the same TTB-authorized Walla Walla, Washington appellation, but the wine production of the two wineries occurred in Oregon. The licensee indicated an inability to sell the products produced in Oregon at the Washington winery location, and although authorized to operate a second location in Washington, the location was not able to retail or allow tasting of its Oregon-produced wine in Washington, even though the wine was produced under the same ownership and within the same appellation.

As a result of these and other regulatory requirements, the owner had three separate business entities with separate reporting requirements to multiple state agencies, along with associated administrative burden. The interim policy was designed to ease some of this burden.

The interim policy statement provided that as long as certain conditions were satisfied, a winery holding a valid license in both Washington and Oregon could market and distribute wine produced in Oregon using their license in Washington as the premise for transactions. These included LCB approval to market and retail Oregon products in Washington retail facilities, confirmation of a valid Oregon winery license, and confirmation of tax payment consistent with statutory requirements.

Liquor Control Board Interim Policy #08-2011

Subject: Defining "wine of its own production" as referenced in RCW 66.24.170 for a specific circumstance

Effective Date: August 17, 2011

Ending Date: Upon adoption of rule(s) to implement this policy.

Approved:



Sharon Foster, Chairman



Ruthann Kurose, Board Member



Chris Marr, Board Member

Purpose:

The purpose of Liquor Control Board Interim Policy #08-2011 is to define "*wine of its own production*" for a specific circumstance as it relates to the privileges granted a Washington domestic winery under RCW 66.24.170.

Background:

A Washington licensed domestic winery expressed concerns to LCB management that our regulations placed large burdens on his business. This winery operator, located in Walla Walla, also owns and operates an Oregon licensed winery. Both wineries operate within the same TTB-authorized Walla Walla Valley appellation. The vast majority of the wine produced by these two wineries occurs in Oregon.

In this licensee's experience, he cannot market or sell the products he produces in Oregon at his Washington winery location. Further, while he is authorized to operate a "second location" in Washington, that location cannot retail or allow tasting of the wine produced in Oregon even though the wine is manufactured under the same ownership within the same appellation. The reason behind this restriction is that Washington law grants privileges to domestic wineries but those privileges are applied only to wine of their own production, meaning wine *produced (fermented)* in Washington. In order to market and sell his Oregon-

produced wine, this licensee must be licensed as a retailer, namely a "beer and wine specialty shop". This new license adds another obstacle, because he owns a manufacturing entity (winery), ownership of a retail entity requires him to organize this retail license under a different entity than that of his winery license (RCW 66.28.290).

As a result of these obstacles this winery owner has three separate business entities, each with reporting requirements to multiple state agencies and the related administrative burden to his business.

Policy Statement:

A domestic winery holding a valid license in both Washington and Oregon may market and distribute wine produced in Oregon utilizing their license in Washington as the premise for said transactions if the following conditions are met:

- The licensee must request approval of the LCB to market and retail their Oregon product at their Washington premises. Approval will be granted based on documentation that demonstrates compliance with interim policy conditions.
- The licensee must demonstrate a valid Oregon winery license and that the underlying ownership (same people) of the Oregon license is identical to that of the Washington license.
- Both the Washington and Oregon wineries must manufacture wine within the same TTB authorized appellation.
- Oregon wine to be marketed and/or sold in Washington must have the appropriate taxes paid (RCW 66.24.210).

WACs to be amended:

Because this is a "special circumstance", it is recommended that this be addressed in a separate WAC section

Attachments:

RCW 66.24.170
66.24.210