



## CR 101 Memorandum

### Regarding WAC 314-28-070 “Monthly reporting and payment requirements for a distiller and craft distiller.”

Date: February 17, 2021

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### Background

The Court of Appeals decision in *Blue Spirits Distilling, LLC v. WSLCB*,<sup>1</sup> issued on December 22, 2020, held that the Washington State Liquor and Cannabis Board (WSLCB) rules requiring distillers to pay spirits retailer licensing fees when they acted as spirits retailers were invalidated by the decision in *Washington Restaurant Association v. WSLCB*,<sup>2</sup> issued on August 8, 2017.

### Reasons Why Rules May Be Needed

Revisions to rules including, but not limited to, WAC 314-28-070 “Monthly reporting and payment requirements for a distiller and craft distiller,” WAC 314-28-080 “What if a distillery or craft distillery licensee fails to report or pay, or reports or pays late?” and other rules if necessary, may be needed to take into account the Court of Appeals decision in *Blue Spirits*.

### Process

The rule making process begins by announcing the WSLCB’s intent to consider changes to existing rules, adding new rule sections, or both by filing a CR 101 form with the Office of the Code Reviser. This allows staff, stakeholders, industry partners, and all members of the authorizing environment to begin discussing proposed rule changes. At the CR 101 stage of the rulemaking process, no proposed language is offered. Any interested party may comment on the subject of this possible rulemaking during the designated comment period. Notice will be sent to all who have indicated that they want to receive notice of rule activity pertaining to this preproposal inquiry. The notice will identify the public comment period and where comments can be sent.

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<sup>1</sup> *Blue Spirits Distilling, LLC v. WSLCB*, No. 53341-3-II, slip op. (Wash. Ct. App. Dec. 22, 2020).

<sup>2</sup> *Washington Restaurant Association v. WSLCB*, 200 Wn. App. 119, 401 P.3d 428 (2017).