



Notice of Permanent Rules Spirits Distributor License Fees

This explanatory statement concerns the Washington State Liquor and Cannabis Board's (WSLCB) adoption of rules. The adopted rules amend:

WAC 314-23-001 What does a spirits distributor license allow?

WAC 314-23-005 What are the fees for a spirits distributor license?

WAC 314-23-021 What are the monthly reporting and payment requirements for a spirits distributor license?

WAC 314-23-022 What if a distributor licensee fails to report or pay, or reports or pays late?

WAC 314-23-030 What does a spirits certificate of approval license allow?

WAC 314-23-041 What are the monthly reporting requirements for a spirits certificate of approval licensee?

WAC 314-23-042 What if a spirits certificate of approval licensee fails to report or reports late?

Amendments add the requirement under RCW 66.24.055 that spirits retail licensees selling for resale pay a ten percent distributor license fee in the first twenty-seven months of licensure, and a five percent distributor license fee in month twenty-eight and thereafter when no other distributor license fee has been paid. Amendments also remove the distributor fee requirement where applicable, update sales, reporting, and payment requirements, remove outdated language, and make additional technical and clarifying changes.

WAC 314-23-025 Collection of shortfall of spirits distributor license fees from spirits distributor license holders. This section was repealed since it expired on March 31, 2013

The effective date of the adopted rules is January 1, 2020.

The Administrative Procedure Act (RCW 34.05.325(6)) requires agencies to prepare 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.

The WSLCB appreciates stakeholder involvement in the rulemaking process. For questions about the adopted rules, please contact Janette Benham, Policy and Rules Coordinator, at (360) 664-1760 or e-mail at rules@lcb.wa.gov.

Background and reasons for adopting these rules

Rulemaking was initiated as a result a Court of Appeals Decision, Washington Restaurant Association, et.al., v. WSLCB, 200 Wn.App. 119, 401 P.3d 428 (2017).



Summary of all public comments received on this rule proposal

CR 101 – filed March 7, 2018
CR 102 – filed August 7, 2019
Public Hearing – September 18, 2019

No one testified at the September 18, 2019 public hearing. Two written comments were received and are summarized below.

- 1. Comment received from Catherine Holm on behalf of the Washington Food Industry Association** – Expressed support for the proposed rules as written. The proposed rules address concerns that were expressed during the rule drafting process. Overall, the rules are clear, uniform, and will be beneficial to all licensees who choose to distribute or resell spirits.

WSLCB response: Thank you for your comments and participating in the rulemaking process.

- 2. Anne Dorshimer on behalf of Blue Spirits Distilling, LLC** – Written comment received stating that the Board must revise WAC 314-28-070 to remove the seventeen percent fee. Requested specific changes be made to WAC 314-28-070 to remove any reference to distillers and craft distillers regarding payments, and remove any reference to the requirement that distillers pay seventeen percent of their gross spirits revenue to the board on sales to customers for off-premise consumption.

WSLCB response: Thank you for your comments and participating in the rulemaking process. The rules were not changed to include your requests. Although we understand that you have the case currently under appeal, on September 13, 2018 a Commissioner of the Court of Appeals Division II, in denying Blue Spirits Distillery's motion for discretionary review, held, in part, that under RCW 66.24.140(2)(a) and RCW 66.24.630(4), the WSLCB has the authority to impose the seventeen percent retail fee for sales to customers for off-premises consumption.

WAC Changes

Amendments are attached