



## Notice of Permanent Rules for Reporting Requirements for Spirits Licensees

This explanatory statement concerns the **Washington State Liquor Control Board's adoption of amendments to:**

- **WAC 314-02-109 What are the quarterly reporting and payment requirements for a spirits retailer license?**
- **WAC 314-23-022 What if a distributor licensee fails to report or pay, or reports or pays late?**
- **WAC 314-28-080 What if a distillery or craft distillery licensee fails to report or pay, or reports or pays late?**

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 rule making.

Once persons who gave comment during this rule making 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 April 20, 2013).

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@liq.wa.gov](mailto:rules@liq.wa.gov).

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

Initiative II83 directed spirits retail licensees to pay to the board 17% of their total spirits revenues on a quarterly basis. I-1183 also directed spirits distributors to pay to the board 10% of their total spirits sales for the first two years and 5% each year thereafter. Distillers and craft distillers acting as a distributor of their own spirits products are required to pay the same license fees as the spirits distributors. The board adopted these rules in June, 2012. Language needs to be added to these rules to allow the board to suspend or revoke the license of a licensee that fails to report and/or pay these fees.

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

One comment was received at the public hearings held on February 27, 2013. No comment was received at the public hearing on March 13, 2013. One written comment was received on this rulemaking.

### Comment received at the public hearing:

#### **Jas Sangha – Washington State Liquor Store Association**

**Comment:** Our group is concerned about license suspension or revocation for failure to pay fees. We would like an option to waive penalties or fees due or possibly a payment plan to pay fees due. The 17% fee is difficult to pay.

**LCB Response:** There is nothing in RCW 66.24.630 that allows the board to provide licensees a payment plan to pay the 17% fees due on spirits sales.

#### **Holly Chisa – Northwest Grocery Association**

**Comment:** Our members want to ensure that a license will not be suspended for technical errors or delays in the filing process, especially for retailers with multiple sites.

**LCB Response:** If a report is not filed by the date required, the board sends a late letter notifying the licensee of the late report. If the licensee does not respond to the late report notification that would be sufficient grounds for the board to suspend the license. Technical errors alone would not be grounds for suspension.

## WAC Changes

AMENDATORY SECTION (Amending WSR 12-12-065, filed 6/5/12, effective 7/6/12)

**WAC 314-02-109 What are the quarterly reporting and payment requirements for a spirits retailer license?** (1) A **spirits retailer** must submit quarterly reports and payments to the board.

The required reports must be:

(a) On a form furnished by the board;

(b) Filed every quarter, including quarters with no activity or payment due;

(c) Submitted, with payment due, to the board on or before the twenty-fifth day following the tax quarter (e.g., Quarter 1 (Jan., Feb., Mar.) report is due April 25th). When the twenty-fifth day of the month falls on a Saturday, Sunday, or a legal holiday, the filing must be postmarked by the U.S. Postal Service no later than the next postal business day; and

(d) Filed separately for each liquor license held.

(2) **What if a spirits retailer licensee fails to report or pay, or reports or pays late?** (~~If~~) Failure of a spirits retailer licensee (~~does not~~) to submit its quarterly reports and payment to the board as required in subsection (1) of this section (~~, the licensee is subject to penalties~~) will be sufficient grounds for the board to suspend or revoke the liquor license.

A penalty of two percent per month will be assessed on any payments postmarked after the twenty-fifth day quarterly report is due. When the twenty-fifth day of the month falls on a Saturday, Sunday, or a legal holiday, the filing must be postmarked by the U.S. Postal Service no later than the next postal business day.

[Statutory Authority: RCW 66.08.030, 66.24.055, 66.24.160, 66.24.630, and 66.24.640. 12-12-065, § 314-02-109, filed 6/5/12, effective 7/6/12.]

AMENDATORY SECTION (Amending WSR 12-12-065, filed 6/5/12, effective 7/6/12)

**WAC 314-23-022 What if a distributor licensee fails to report or pay, or reports or pays late?** (1) (~~(If)~~) Failure of a spirits distributor licensee (~~(does not)~~) to submit its monthly reports and payment to the board as required in WAC 314-23-021(1) (~~(, the licensee is subject to penalties)~~) will be sufficient grounds for the board to suspend or revoke the liquor license.

(2) A penalty of two percent per month will be assessed on any payments postmarked after the twentieth day of the month following the month of sale. When the twentieth day of the month falls on a Saturday, Sunday, or a legal holiday, the filing must be postmarked by the U.S. Postal Service no later than the next postal business day.

[Statutory Authority: RCW 66.08.030, 66.24.055, 66.24.160, 66.24.630, and 66.24.640. 12-12-065, § 314-23-022, filed 6/5/12, effective 7/6/12.]

AMENDATORY SECTION (Amending WSR 12-12-065, filed 6/5/12, effective 7/6/12)

**WAC 314-28-080 What if a distillery or craft distillery licensee fails to report or pay, or reports or pays late?**  
(~~If~~) Failure of a distillery or craft distiller (~~does not~~) to submit its monthly reports and payment to the board as required in WAC 314-28-070(1) (~~(, the licensee is subject to penalties)~~) will be sufficient grounds for the board to suspend or revoke the liquor license.

Penalties. A penalty of two percent per month will be assessed on any payments postmarked after the twentieth day of the month following the month of sale. When the twentieth day of the month falls on a Saturday, Sunday, or a legal holiday, the filing must be postmarked by the U.S. Postal Service no later than the next postal business day.

[Statutory Authority: RCW 66.08.030, 66.24.055, 66.24.160, 66.24.630, and 66.24.640. 12-12-065, § 314-28-080, filed 6/5/12, effective 7/6/12. Statutory Authority: RCW 66.08.030, 66.24.145. 09-02-011, § 314-28-080, filed 12/29/08, effective 1/29/09.]