



**Washington State  
Liquor Control Board**

---

February 10, 2010

To: Sharon Foster, Board Chairman  
Ruthann Kurose, Board Member

From: Karen McCall, Senior Policy/Legislative Analyst

Subject: Rescind LCB Interim Policy #07-2009 Beer and Wine Regulation

This interim policy was a result of EHB 2040 passed in the 2009 legislative session. Rules were adopted by the Board on December 16, 2009 to implement Interim Policy #07-2009.

Move to rescind LCB Interim Policy #07-2009.

\_\_\_\_\_  
Approve

\_\_\_\_\_  
Not Approve

\_\_\_\_\_  
Sharon Foster, Board Chairman

\_\_\_\_\_  
Approve

\_\_\_\_\_  
Not Approve

\_\_\_\_\_  
Ruthann Kurose, Board Member





Washington State  
**Liquor Control Board**

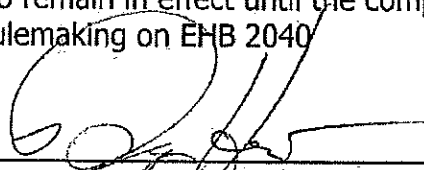
---

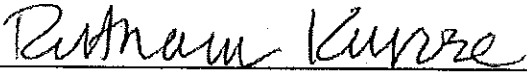
**Liquor Control Board Interim Policy #07 – 2009**

**Subject:** Beer and Wine Regulation  
Implementation of EHB 2040

**Effective Date:** July 26, 2009

**Ending Date:** To remain in effect until the completion of  
rulemaking on EHB 2040

**Approved:**   
\_\_\_\_\_  
Roger Hoen, Board Member

  
\_\_\_\_\_  
Ruthann Kurose, Board Member

---

**Purpose:**

The purpose of Liquor Control Board Interim Policy #07-2009 is to provide clarification to the changes in the tied house laws to include; financial interest and ownership between the tiers, money's worth in advertising, price post and hold, and elimination of the ten percent minimum mark-up.

**Background:**

In 2008 the Legislature established a Joint Select Committee on Beer and Wine Regulation (Select Committee) to review laws relating to the manufacture, distribution, and sale of beer and wine. The Select Committee met during the 2008 interim and produced a final report with recommendations. EHB 2040 is the result of those recommendations.

**Financial Interest and Ownership**

EHB 2040 permits financial interest between liquor manufacturers, distributors, and retailers under certain conditions. It is lawful for an industry member to have a direct or indirect financial interest in another industry member or a retailer unless the interest has resulted in or is more likely than not to result in:

- undue influence over the retailer or industry member; or
- an adverse impact on public health and safety.

A complaint process is established:

- Any person may file a complaint or request for determination with the Board asserting undue influence or an adverse impact on public health or safety;
- The Board may investigate and issue an AVN or notice of intent to deny the license, or both; and
- The Board may require that a transaction be undone.

### **Money's Worth - Advertising**

Industry members may not advance to a retailer, and a retailer may not receive from an industry member, money's worth under any business practice or arrangement.

A new exception allows branded promotional items of nominal value, singly or in the aggregate. Items that may be provided include:

- Trays, lighters, blotters, postcards, coasters, menu cards, meal checks, napkins, clocks, mugs, glasses, hats, visors, and similar items.

The items must be used exclusively by the retailer or the retailer's employees in a manner consistent with the liquor license:

- Items must bear imprinted matter of the industry member only;
- Items may not be provided to retail customers; and
- Items may not be targeted to or appeal principally to youth.

A complaint process is established for branded promotional items similar to the complaint process for financial interest and ownership:

- Any person may file a complaint with the Board asserting undue influence or an adverse impact on public health or safety, or that the provision of the items is otherwise inconsistent with the requirements for promotional items; and
- The Board may investigate and issue an AVN.

### **Price Post and Hold**

The requirement for beer and wine suppliers and distributors to file prices with the Board and hold the price for 30 days is deleted. Suppliers and distributors must maintain price lists at their licensed locations.

### **Minimum Mark-up**

The requirement that suppliers mark-up prices to distributors or retailers and that distributors mark-up their prices to retailers by 10% of production/acquisition cost is removed. No price may be below acquisition cost.

**Policy Statement:**

Until rulemaking is completed to implement EHB 2040, financial interest and/or ownership will be allowed under the following conditions:

- An industry member in whose name a license or certificate of approval (COA) has been issued pursuant to Title 66 may wholly own or hold a financial interest in a retail liquor license under a separate legal entity. **Example:** Hops, LLC holds a brewery liquor license. Hops, LLC has two members:
  1. Ale Corp – Mike Night, President and 100% stockholder
  2. Suds, Inc. – Linda Day, Pres; Keith Day, VP & 100% stockholderHops, LLC wants to obtain a retail spirits, beer, and wine restaurant liquor license. Hops, LLC would need to create a new business entity. (Ale Corp or Suds, Inc. could apply for a retail license. Mike Night as a sole proprietor or Linda Day as a sole proprietor could also apply for a retail license.
- A retailer in whose name a license has been issued pursuant to Title 66 may wholly own or hold a financial interest in a non-retail liquor license under a separate legal entity. **Example:** Kathy King has a beer/wine restaurant liquor license. The business entity is a sole proprietor. Kathy wants to start a winery. Kathy would need to create a new business entity (LLC or corporation) to file for a winery.
- A supplier in whose name a license or COA has been issued pursuant to Title 66 may wholly own or hold a financial interest in a distributor or importer under a separate legal entity. **Example:** Tom Smith has a COA liquor license. The business entity is a sole proprietor. Tom wants to apply for a distributor liquor license. Tom would need to create a new business entity (LLC or corporation) to apply for a distributor license.
- A distributor or importer in whose name a license has been issued pursuant to Title 66 may wholly own or hold a financial interest in a retailer under a separate legal entity. **Example:** AG, Inc. has a distributor liquor license. Don Smith is a corporate officer of AG, Inc. They want to open a beer/wine specialty shop. AG, Inc. would need to create a new business entity (AG, LLC) to apply for the beer/wine specialty shop liquor license. Don Smith, as a sole proprietor, could also apply for a beer/wine specialty shop.

Industry members and retailers shall keep and maintain records on their premises for a three year period that includes records of all industry member financial ownership or interests in a retailer and of all retailer financial ownership interests in an industry member.

Novelty branded promotional advertising items which are of nominal value, singly or in the aggregate, may be provided to retailers by industry members. Singly or in the aggregate is per retail licensed location. The industry member can only provide their own branded promotional advertising items to the retail licensee.

Branded promotional items:

- May only be given to the retailer or the retailer's employees.
- May not be provided by or through retailers or their employees to retail customers.

Industry members and retailers shall keep and maintain records on their premises for a three year period that includes all items, services, and money's worth provided to retailers and purchased by a retailer at fair market value

Price post and hold is repealed but the prohibition on quantity discounts remains. Beer and wine suppliers and distributors are required to maintain a price list at their liquor licensed premises. The price list must contain:

- The wholesale prices at which any and all brands of beer and/or wine sold by the supplier or distributor shall be sold to retailers within the state.

The ten percent minimum markup is removed. Beer and wine may not be sold below acquisition cost. Uniform pricing between industry members and retailers also remains.

Manufacturers and distributors must notify all of their customers of any reductions in the price of products listed in their price list.