

WSR 21-05-069
PREPROPOSAL STATEMENT OF INQUIRY
LIQUOR AND CANNABIS
BOARD

[Filed February 17, 2021, 10:20 a.m.]

Subject of Possible Rule Making: WAC 314-28-070 Monthly reporting and payment requirements for a distiller and craft distiller, 314-28-080 What if a distillery or craft distillery licensee fails to report or pay, or reports or pays late? The Washington state liquor and cannabis board (WSLCB) is considering revising WAC 314-28-070, 314-28-080, and other rules if necessary, consistent with the court of appeals decision in *Blue Spirits Distilling, LLC v. WSLCB*, No. 53341-3-II, slip op. (Wash. Ct. App. Dec. 22, 2020).

Statutes Authorizing the Agency to Adopt Rules on this Subject: RCW 66.08.030.

Reasons Why Rules on this Subject may be Needed and What They Might Accomplish: The court of appeals decision in *Blue Spirits Distilling, LLC v. WSLCB*, issued on December 22, 2020, held that the 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*, issued on August 8, 2017. *Washington Restaurant Association v. WSLCB*, 200 Wn. App. 119, 401 P.3d 428 (2017). Revisions to rules including, but not limited to, WAC 314-28-070 and 314-28-080 may be needed to take into account the court of appeals decision in *Blue Spirits*.

Process for Developing New Rule: Collaborative rule making.

Interested parties can participate in the decision to adopt the new rule and formulation of the proposed rule before publication by contacting Audrey Vasek, Policy and Rules Coordinator, P.O. Box 43080, Olympia, WA 98504, phone 360-664-1758, fax 360-704-5027, email rules@lcb.wa.gov, website lcb.wa.gov.

Additional comments: Interested parties may participate in the WSLCB collaborative rule-making process.

February 17, 2021
Jane Rushford
Chair