



PREPROPOSAL STATEMENT OF INQUIRY

CR-101 (October 2017) (Implements RCW 34.05.310)

Do NOT use for expedited rule making

CODE REVISER USE ONLY

OFFICE OF THE CODE REVISER
STATE OF WASHINGTON
FILED

DATE: February 17, 2021

TIME: 10:20 AM

WSR 21-05-069

Agency: Washington State Liquor and Cannabis Board

Subject of possible rule making: 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?" 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*.

Identify other federal and state agencies that regulate this subject and the process coordinating the rule with these agencies: None.

Process for developing new rule (check all that apply):

- Negotiated rule making
- Pilot rule making
- Agency study
- Other (describe) 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:

Name: Audrey Vasek, Policy and Rules Coordinator
 Address: PO Box 43080, Olympia, WA 98504
 Phone: 360-664-1758
 Fax: 360-704-5027
 TTY:
 Email: rules@lcb.wa.gov
 Web site: lcb.wa.gov
 Other:

(If necessary)

Name:
 Address:
 Phone:
 Fax:
 TTY:
 Email:
 Web site:
 Other:

Additional comments: Interested parties may participate in the WSLCB collaborative rulemaking process.

Date: February 17, 2021

Name: Jane Rushford

Title: Chair

Signature: