

SSB 6477 - S AMD 121

By Senators Kohl-Welles, King, Conway

ADOPTED 02/14/2012

1 Strike everything after the enacting clause and insert the
2 following:

3 "Sec. 1. RCW 66.12.240 and 2009 c 361 s 1 are each amended to read
4 as follows:

5 (1) Nothing in this title applies to or prevents a day spa, wedding
6 boutique, or art gallery from offering or supplying without charge wine
7 or beer by the individual glass to a customer for consumption on the
8 premises. However, the customer must be at least twenty-one years of
9 age and may only be offered one glass of wine or beer, and wine or beer
10 served or consumed shall be purchased from a Washington state licensed
11 retailer or a Washington state liquor store or agency at full retail
12 price. A day spa, wedding boutique, or art gallery offering wine or
13 beer without charge may not advertise the service of complimentary wine
14 or beer and may not sell wine or beer in any manner. If the wine or
15 beer is offered by a day spa that provides massages, the wine or beer
16 may not be offered to the customers until the massage is completed.
17 Any employee involved in the service of wine or beer must complete a
18 board-approved limited alcohol server training program.

19 (2) For the purposes of this section:

20 (a) "Art gallery" means a room or building devoted to the
21 exhibition and/or sale of the works of art.

22 (b) "Wedding boutique" means a business primarily engaged in the
23 sale of wedding merchandise.

24 NEW SECTION. **Sec. 2.** A new section is added to chapter 66.20 RCW
25 to read as follows:

26 (1) There shall be a permit known as a day spa permit to allow the
27 holder to offer or supply without charge wine or beer by the individual
28 glass to a customer for consumption on the premises. The customer must
29 be at least twenty-one years of age and may only be offered one glass

1 of wine or beer, and wine or beer served or consumed shall be purchased
2 from a Washington state licensed retailer. A day spa offering wine or
3 beer without charge may not advertise the service of complimentary wine
4 or beer and may not sell wine or beer in any manner. If the wine or
5 beer is offered by a day spa that provides massages, the wine or beer
6 may not be offered to the customers until the massage is completed.

7 (2) For the purposes of this section, "day spa" means a business
8 that offers at least three of the following beauty services:
9 Shampooing, cutting, styling, or dyeing hair, manicures, pedicures,
10 facials, massages, and the use of body toning equipment.

11 (3) The annual fee for this permit is one hundred twenty-five
12 dollars.

13 NEW SECTION. **Sec. 3.** A new section is added to chapter 66.24 RCW
14 to read as follows:

15 (1) There shall be a license to be designated as a senior center
16 license. This shall be a license issued to a nonprofit organization
17 whose primary service is providing recreational and social activities
18 for seniors on the licensed premises. This license shall permit the
19 licensee to sell spirits by the individual glass, including mixed
20 drinks and cocktails mixed on the premises only, beer and wine, at
21 retail for consumption on the premises.

22 (2) To qualify for this license, the applicant entity must:

23 (a) Be a nonprofit organization under chapter 24.03 RCW;

24 (b) Be open at times and durations established by the board; and

25 (c) Provide limited food service as defined by the board.

26 (3) All alcohol servers must have a valid mandatory alcohol server
27 training permit.

28 (4) The board shall adopt rules to implement this section.

29 (5) The annual fee for this license shall be seven hundred twenty
30 dollars.

31 **Sec. 4.** RCW 66.20.300 and 2011 c 325 s 5 are each amended to read
32 as follows:

33 Unless the context clearly requires otherwise, the definitions in
34 this section apply throughout RCW 66.20.310 through 66.20.350.

35 (1) "Alcohol" has the same meaning as "liquor" in RCW 66.04.010.

1 (2) "Alcohol server" means any person who as part of his or her
2 employment participates in the sale or service of alcoholic beverages
3 for on-premise consumption at a retail licensed premise as a regular
4 requirement of his or her employment, and includes those persons
5 eighteen years of age or older permitted by the liquor laws of this
6 state to serve alcoholic beverages with meals.

7 (3) "Board" means the Washington state liquor control board.

8 (4) "Training entity" means any liquor licensee associations,
9 independent contractors, private persons, and private or public
10 schools, that have been certified by the board.

11 (5) "Retail licensed premises" means any:

12 (a) Premises licensed to sell alcohol by the glass or by the drink,
13 or in original containers primarily for consumption on the premises as
14 authorized by RCW 66.24.320, 66.24.330, 66.24.350, 66.24.400,
15 66.24.425, 66.24.450, 66.24.570, (~~and~~) 66.24.610, and section 3 of
16 this act;

17 (b) Distillery licensed pursuant to RCW 66.24.140 that is
18 authorized to serve samples of its own production;

19 (c) Facility established by a domestic winery for serving and
20 selling wine pursuant to RCW 66.24.170(4); and

21 (d) Grocery store licensed under RCW 66.24.360, but only with
22 respect to employees whose duties include serving during tasting
23 activities under RCW 66.24.363.

24 **Sec. 5.** RCW 66.20.310 and 2011 c 325 s 4 are each amended to read
25 as follows:

26 (1)(a) There shall be an alcohol server permit, known as a class 12
27 permit, for a manager or bartender selling or mixing alcohol, spirits,
28 wines, or beer for consumption at an on-premises licensed facility.

29 (b) There shall be an alcohol server permit, known as a class 13
30 permit, for a person who only serves alcohol, spirits, wines, or beer
31 for consumption at an on-premises licensed facility.

32 (c) As provided by rule by the board, a class 13 permit holder may
33 be allowed to act as a bartender without holding a class 12 permit.

34 (2)(a) Effective January 1, 1997, except as provided in (d) of this
35 subsection, every alcohol server employed, under contract or otherwise,
36 at a retail licensed premise shall be issued a class 12 or class 13
37 permit.

1 (b) Every class 12 and class 13 permit issued shall be issued in
2 the name of the applicant and no other person may use the permit of
3 another permit holder. The holder shall present the permit upon
4 request to inspection by a representative of the board or a peace
5 officer. The class 12 or class 13 permit shall be valid for employment
6 at any retail licensed premises described in (a) of this subsection.

7 (c) Except as provided in (d) of this subsection, no licensee
8 holding a license as authorized by RCW 66.24.320, 66.24.330, 66.24.350,
9 66.24.400, 66.24.425, 66.24.450, 66.24.570, 66.24.600, ~~((and))~~
10 66.24.610, and section 3 of this act may employ or accept the services
11 of any person without the person first having a valid class 12 or class
12 13 permit.

13 (d) Within sixty days of initial employment, every person whose
14 duties include the compounding, sale, service, or handling of liquor
15 shall have a class 12 or class 13 permit.

16 (e) No person may perform duties that include the sale or service
17 of alcoholic beverages on a retail licensed premises without possessing
18 a valid alcohol server permit.

19 (3) A permit issued by a training entity under this section is
20 valid for employment at any retail licensed premises described in
21 subsection (2)(a) of this section for a period of five years unless
22 suspended by the board.

23 (4) The board may suspend or revoke an existing permit if any of
24 the following occur:

25 (a) The applicant or permittee has been convicted of violating any
26 of the state or local intoxicating liquor laws of this state or has
27 been convicted at any time of a felony; or

28 (b) The permittee has performed or permitted any act that
29 constitutes a violation of this title or of any rule of the board.

30 (5) The suspension or revocation of a permit under this section
31 does not relieve a licensee from responsibility for any act of the
32 employee or agent while employed upon the retail licensed premises.
33 The board may, as appropriate, revoke or suspend either the permit of
34 the employee who committed the violation or the license of the licensee
35 upon whose premises the violation occurred, or both the permit and the
36 license.

37 (6)(a) After January 1, 1997, it is a violation of this title for
38 any retail licensee or agent of a retail licensee as described in

1 subsection (2)(a) of this section to employ in the sale or service of
2 alcoholic beverages, any person who does not have a valid alcohol
3 server permit or whose permit has been revoked, suspended, or denied.

4 (b) It is a violation of this title for a person whose alcohol
5 server permit has been denied, suspended, or revoked to accept
6 employment in the sale or service of alcoholic beverages.

7 (7) Grocery stores licensed under RCW 66.24.360, the primary
8 commercial activity of which is the sale of grocery products and for
9 which the sale and service of beer and wine for on-premises consumption
10 with food is incidental to the primary business, and employees of such
11 establishments, are exempt from RCW 66.20.300 through 66.20.350, except
12 for employees whose duties include serving during tasting activities
13 under RCW 66.24.363.

14 **Sec. 6.** RCW 66.24.440 and 2011 c 325 s 3 are each amended to read
15 as follows:

16 Each spirits, beer, and wine restaurant, spirits, beer, and wine
17 private club, hotel, spirits, beer, and wine nightclub, sports
18 entertainment facility (~~(licensee, and)~~), VIP airport lounge, and
19 senior center licensee shall be entitled to purchase any spirituous
20 liquor items salable under such license from the board at a discount of
21 not less than fifteen percent from the retail price fixed by the board,
22 together with all taxes.

23 **Sec. 7.** RCW 66.28.310 and 2011 c 119 s 101 and 2011 c 66 s 3 are
24 each reenacted and amended to read as follows:

25 (1)(a) Nothing in RCW 66.28.305 prohibits an industry member from
26 providing retailers branded promotional items which are of nominal
27 value, singly or in the aggregate. Such items include but are not
28 limited to: Trays, lighters, blotters, postcards, pencils, coasters,
29 menu cards, meal checks, napkins, clocks, mugs, glasses, bottles or can
30 openers, corkscrews, matches, printed recipes, shirts, hats, visors,
31 and other similar items. Branded promotional items:

32 (i) Must be used exclusively by the retailer or its employees in a
33 manner consistent with its license;

34 (ii) Must bear imprinted advertising matter of the industry member
35 only, except imprinted advertising matter of the industry member can

1 include the logo of a professional sports team which the industry
2 member is licensed to use;

3 (iii) May be provided by industry members only to retailers and
4 their employees and may not be provided by or through retailers or
5 their employees to retail customers; and

6 (iv) May not be targeted to or appeal principally to youth.

7 (b) An industry member is not obligated to provide any such branded
8 promotional items, and a retailer may not require an industry member to
9 provide such branded promotional items as a condition for selling any
10 alcohol to the retailer.

11 (c) Any industry member or retailer or any other person asserting
12 that the provision of branded promotional items as allowed in (a) of
13 this subsection has resulted or is more likely than not to result in
14 undue influence or an adverse impact on public health and safety, or is
15 otherwise inconsistent with the criteria in (a) of this subsection may
16 file a complaint with the board. Upon receipt of a complaint the board
17 may conduct such investigation as it deems appropriate in the
18 circumstances. If the investigation reveals the provision of branded
19 promotional items has resulted in or is more likely than not to result
20 in undue influence or has resulted or is more likely than not to result
21 in an adverse impact on public health and safety or is otherwise
22 inconsistent with (a) of this subsection the board may issue an
23 administrative violation notice to the industry member, to the
24 retailer, or both. The recipient of the administrative violation
25 notice may request a hearing under chapter 34.05 RCW.

26 (2) Nothing in RCW 66.28.305 prohibits:

27 (a) An industry member from providing to a special occasion
28 licensee and a special occasion licensee from receiving services for:

29 (i) Installation of draft beer dispensing equipment or advertising;

30 (ii) Advertising, pouring, or dispensing of beer or wine at a beer
31 or wine tasting exhibition or judging event; or

32 (iii) Pouring or dispensing of spirits by a licensed domestic
33 distiller or the accredited representative of a distiller,
34 manufacturer, importer, or distributor of spirituous liquor licensed
35 under RCW 66.24.310; or

36 (b) Special occasion licensees from paying for beer or wine
37 immediately following the end of the special occasion event; or

1 (c) Wineries or breweries that are participating in a special
2 occasion event from paying reasonable booth fees to the special
3 occasion licensee.

4 (3) Nothing in RCW 66.28.305 prohibits industry members from
5 performing, and retailers from accepting the service of building,
6 rotating, and restocking displays and stockroom inventories; rotating
7 and rearranging can and bottle displays of their own products;
8 providing point of sale material and brand signs; pricing case goods of
9 their own brands; and performing such similar business services
10 consistent with board rules, or personal services as described in
11 subsection (5) of this section.

12 (4) Nothing in RCW 66.28.305 prohibits:

13 (a) Industry members from listing on their internet web sites
14 information related to retailers who sell or promote their products,
15 including direct links to the retailers' internet web sites; and

16 (b) Retailers from listing on their internet web sites information
17 related to industry members whose products those retailers sell or
18 promote, including direct links to the industry members' web sites; or

19 (c) Industry members and retailers from producing, jointly or
20 together with regional, state, or local industry associations,
21 brochures and materials promoting tourism in Washington state which
22 contain information regarding retail licensees, industry members, and
23 their products.

24 (5) Nothing in RCW 66.28.305 prohibits the performance of personal
25 services offered from time to time by a domestic winery or certificate
26 of approval holder to retailers when the personal services are (a)
27 conducted at a licensed premises, and (b) intended to inform, educate,
28 or enhance customers' knowledge or experience of the manufacturer's
29 products. The performance of personal services may include
30 participation and pouring, bottle signing events, and other similar
31 informational or educational activities at the premises of a retailer
32 holding a spirits, beer, and wine restaurant license, a wine and/or
33 beer restaurant license, a specialty wine shop license, a special
34 occasion license, a grocery store license with a tasting endorsement,
35 or a private club license. A domestic winery or certificate of
36 approval holder is not obligated to perform any such personal services,
37 and a retail licensee may not require a domestic winery or certificate
38 of approval holder to conduct any personal service as a condition for

1 selling any alcohol to the retail licensee, or as a condition for
2 including any product of the domestic winery or certificate of approval
3 holder in any tasting conducted by the licensee. Except as provided in
4 RCW 66.28.150, the cost of sampling may not be borne, directly or
5 indirectly, by any domestic winery or certificate of approval holder or
6 any distributor. Nothing in this section prohibits wineries,
7 breweries, microbreweries, certificate of approval holders, and retail
8 licensees from identifying the producers on private labels authorized
9 under RCW 66.24.400, 66.24.425, ((and)) 66.24.450, 66.24.360, and
10 66.24.371.

11 (6) Nothing in RCW 66.28.305 prohibits an industry member from
12 entering into an arrangement with any holder of a sports entertainment
13 facility license or an affiliated business for brand advertising at the
14 licensed facility or promoting events held at the sports entertainment
15 facility as authorized under RCW 66.24.570.

16 (7) Nothing in RCW 66.28.305 prohibits the performance of personal
17 services offered from time to time by a domestic brewery, microbrewery,
18 or beer certificate of approval holder to grocery store licensees with
19 a tasting endorsement when the personal services are (a) conducted at
20 a licensed premises in conjunction with a tasting event, and (b)
21 intended to inform, educate, or enhance customers' knowledge or
22 experience of the manufacturer's products. The performance of personal
23 services may include participation and pouring, bottle signing events,
24 and other similar informational or educational activities. A domestic
25 brewery, microbrewery, or beer certificate of approval holder is not
26 obligated to perform any such personal services, and a grocery store
27 licensee may not require the performance of any personal service as a
28 condition for including any product in any tasting conducted by the
29 licensee.

30 (8) Nothing in RCW 66.28.305 prohibits an arrangement between a
31 domestic winery and a restaurant licensed under RCW 66.24.320 or
32 66.24.400 to waive a corkage fee.

33 (9) Nothing in this section prohibits professional sports teams who
34 hold a retail liquor license or their agents from accepting bona fide
35 liquor advertising from manufacturers, importers, distributors, or
36 their agents for use in the sporting arena. Professional sports teams
37 who hold a retail liquor license or their agents may license the

1 manufacturer, importer, distributor, or their agents to use the name
2 and trademarks of the professional sports team in their advertising and
3 promotions, under the following conditions:

4 (a) Such advertising must be paid for by said manufacturer,
5 importer, distributor, or their agent at the published advertising rate
6 or at a reasonable fair market value.

7 (b) Such advertising may carry with it no express or implied offer
8 on the part of the manufacturer, importer, distributor, or their agent,
9 or promise on the part of the retail licensee whose operation is
10 directly or indirectly part of the sporting arena, to stock or list any
11 particular brand of liquor to the total or partial exclusion of any
12 other brand.

13 NEW SECTION. **Sec. 8.** A new section is added to chapter 66.16 RCW
14 to read as follows:

15 (1) The liquor control board must allow spirits sampling in former
16 contract liquor stores for the purpose of promoting spirits products.
17 Stores may apply for an endorsement to offer spirits tastings under
18 this section.

19 (a) No store may hold more than one spirits sampling per week.

20 (b) The locations shall be approved by the board. Before the board
21 determines which stores will be eligible to participate, it shall give:

22 (i) Due consideration to the location of the store with respect to
23 the proximity of places of worship, schools, and public institutions;

24 (ii) Due consideration to motor vehicle accident data in the
25 proximity of the store; and

26 (iii) Written notice by certified mail of the proposed spirits
27 sampling to places of worship, schools, and public institutions within
28 five hundred feet of the store proposed to offer spirits sampling.

29 (c) Sampling must be conducted under the following conditions:

30 (i) Sampling may take place only in an area of a store in which
31 access to persons under twenty-one years of age is prohibited;

32 (ii) Samples may be provided free of charge;

33 (iii) Only persons twenty-one years of age or over may sample
34 spirits;

35 (iv) Each sample must be one-quarter ounce or less, with no more
36 than one ounce of samples provided per person per day;

1 (v) Tasting activities are subject to RCW 66.28.305 and 66.28.040
2 and the cost of sampling may not be borne, directly or indirectly, by
3 any liquor manufacturer, importer, or distributor;

4 (vi) Any person involved in the serving of such samples must have
5 completed a mandatory alcohol server training program;

6 (vii) No person who is apparently intoxicated may sample spirits;

7 (viii) The product provided for sampling must be available for sale
8 at the store where the sampling occurs at the time of the sampling; and

9 (ix) Customers must remain on the store premise while consuming
10 samples.

11 (d) The liquor control board may prohibit sampling at a location
12 that is within the boundaries of an alcohol impact area recognized by
13 resolution of the board if the board finds that the sampling activities
14 at the location are having an adverse effect on the reduction of
15 chronic public inebriation in the area.

16 (e) A store may advertise a tasting event only within the store, on
17 a store web site, in-store newsletters and flyers, and via e-mail and
18 mail to customers who have requested notice of events. Advertising
19 under this subsection may not be targeted to or appeal principally to
20 youth.

21 (f) All other criteria must be determined by the board.

22 (2) The liquor control board may adopt rules to implement this
23 section.

24 (3) For the purposes of this section, "store" means a former
25 contract liquor store premises as of May 31, 2012.

26 (4)(a) If a store is found to have committed a public safety
27 violation in conjunction with tasting activities, the board may suspend
28 the licensee's tasting endorsement and not reissue the endorsement for
29 up to two years from the date of the violation. If mitigating
30 circumstances exist, the board may offer a monetary penalty in lieu of
31 suspension during a settlement conference.

32 (b) RCW 66.08.150 applies to the suspension or revocation of an
33 endorsement.

34 **Sec. 9.** RCW 66.24.363 and 2010 c 141 s 1 are each amended to read
35 as follows:

36 (1) A grocery store licensed under RCW 66.24.360 may apply for an
37 endorsement to offer beer and wine tasting under this section.

1 (2) To be issued an endorsement, a licensee must meet the following
2 criteria:

3 (a) The licensee has retail sales of grocery products for off-
4 premises consumption that are more than fifty percent of the licensee's
5 gross sales or the licensee is a membership organization that requires
6 members to be at least eighteen years of age;

7 (b) The licensee operates a fully enclosed retail area encompassing
8 at least nine thousand square feet, except that the board may issue an
9 endorsement to a licensee with a retail area encompassing less than
10 nine thousand square feet if the board determines that no licensee in
11 the community the licensee serves meets the square footage requirement
12 and the licensee meets operational requirements established by the
13 board by rule; and

14 (c) The licensee has not had more than one public safety violation
15 within the past two years.

16 (3) A tasting must be conducted under the following conditions:

17 (a) Each sample must be two ounces or less, up to a total of four
18 ounces, per customer during any one visit to the premises;

19 (b) No more than one sample of the same product offering of beer or
20 wine may be provided to a customer during any one visit to the
21 premises;

22 (c) The licensee must have food available for the tasting
23 participants;

24 (d) Customers must remain in the service area while consuming
25 samples; and

26 (e) The service area and facilities must be located within the
27 licensee's fully enclosed retail area and must be of a size and design
28 such that the licensee can observe and control persons in the area to
29 ensure that persons under twenty-one years of age and apparently
30 intoxicated persons cannot possess or consume alcohol.

31 (4) Employees of licensees whose duties include serving during
32 tasting activities under this section must hold a class 12 alcohol
33 server permit.

34 (5) Tasting activities under this section are subject to RCW
35 66.28.305 and 66.28.040 and the cost of sampling may not be borne,
36 directly or indirectly, by any liquor manufacturer, importer, or
37 distributor.

1 (6) A licensee may advertise a tasting event only within the store,
2 on a store web site, in store newsletters and flyers, and via e-mail
3 and mail to customers who have requested notice of events. Advertising
4 under this subsection may not be targeted to or appeal principally to
5 youth.

6 (7)(a) If a licensee is found to have committed a public safety
7 violation in conjunction with tasting activities, the board may suspend
8 the licensee's tasting endorsement and not reissue the endorsement for
9 up to two years from the date of the violation. If mitigating
10 circumstances exist, the board may offer a monetary penalty in lieu of
11 suspension during a settlement conference.

12 (b) The board may revoke an endorsement granted to a licensee that
13 is located within the boundaries of an alcohol impact area recognized
14 by resolution of the board if the board finds that the tasting
15 activities by the licensee are having an adverse effect on the
16 reduction of chronic public inebriation in the area.

17 (c) RCW 66.08.150 applies to the suspension or revocation of an
18 endorsement.

19 (8) The board may establish additional requirements under this
20 section to assure that persons under twenty-one years of age and
21 apparently intoxicated persons cannot possess or consume alcohol.

22 (9) Upon request the board may adjust the gross sales percentage in
23 subsection (2)(a) of this section at the discretion of the board.

24 (10) The annual fee for the endorsement is two hundred dollars.
25 The board shall review the fee annually and may increase the fee by
26 rule to a level sufficient to defray the cost of administration and
27 enforcement of the endorsement, except that the board may not increase
28 the fee by more than ten percent annually.

29 ~~((+10+))~~ (11) The board must adopt rules to implement this
30 section."

SSB 6477 - S AMD

By Senators Kohl-Welles, King, Conway

ADOPTED 02/14/2012

1 On page 1, line 1 of the title, after "Relating to" strike the
2 remainder of the title and insert "liquor licensing, sales, and
3 tasting; amending RCW 66.12.240, 66.20.300, 66.20.310, 66.24.440, and
4 66.24.363; reenacting and amending RCW 66.28.310; adding a new section
5 to chapter 66.20 RCW; adding a new section to chapter 66.24 RCW; and
6 adding a new section to chapter 66.16 RCW."

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