
SENATE BILL 5709

State of Washington

62nd Legislature

2011 Regular Session

By Senators Kline, King, Hobbs, Fain, Honeyford, and Kohl-Welles

Read first time 02/08/11. Referred to Committee on Labor, Commerce & Consumer Protection.

1 AN ACT Relating to allowing a microbrewery and domestic brewery to
2 sell beer of another domestic brewery for on and off-premises
3 consumption from its premises; amending RCW 66.24.240; and reenacting
4 and amending RCW 66.24.244.

5 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

6 **Sec. 1.** RCW 66.24.244 and 2008 c 248 s 2 and 2008 c 41 s 9 are
7 each reenacted and amended to read as follows:

8 (1) There shall be a license for microbreweries; fee to be one
9 hundred dollars for production of less than sixty thousand barrels of
10 malt liquor, including strong beer, per year.

11 (2) Any microbrewery licensed under this section may also act as a
12 distributor and/or retailer for beer and strong beer of its own
13 production. Strong beer may not be sold at a farmers market or under
14 any endorsement which may authorize microbreweries to sell beer at
15 farmers markets. Any microbrewery operating as a distributor and/or
16 retailer under this subsection shall comply with the applicable laws
17 and rules relating to distributors and/or retailers, except that a
18 microbrewery operating as a distributor may maintain a warehouse off
19 the premises of the microbrewery for the distribution of beer provided

1 that (a) the warehouse has been approved by the board under RCW
2 66.24.010 and (b) the number of warehouses off the premises of the
3 microbrewery does not exceed one. A microbrewery holding a spirits,
4 beer, and wine restaurant license may sell beer of its own production
5 for off-premises consumption from its restaurant premises in kegs or in
6 a sanitary container brought to the premises by the purchaser or
7 furnished by the licensee and filled at the tap by the licensee at the
8 time of sale.

9 (3) Any microbrewery licensed under this section may also sell beer
10 of another domestic breweries' production for on and off-premises
11 consumption from its premises as long as the other breweries' brands do
12 not exceed twenty-five percent of the microbrewery's on-tap offering of
13 their own brands.

14 (4) The board may issue up to two retail licenses allowing a
15 microbrewery to operate an on or off-premise tavern, beer and/or wine
16 restaurant, or spirits, beer, and wine restaurant.

17 ~~((+4))~~ (5) A microbrewery that holds a tavern license, spirits,
18 beer, and wine restaurant license, or a beer and/or wine restaurant
19 license shall hold the same privileges and endorsements as permitted
20 under RCW 66.24.320, 66.24.330, and 66.24.420.

21 ~~((+5))~~ (6)(a) A microbrewery licensed under this section may apply
22 to the board for an endorsement to sell bottled beer of its own
23 production at retail for off-premises consumption at a qualifying
24 farmers market. The annual fee for this endorsement is seventy-five
25 dollars.

26 (b) For each month during which a microbrewery will sell beer at a
27 qualifying farmers market, the microbrewery must provide the board or
28 its designee a list of the dates, times, and locations at which bottled
29 beer may be offered for sale. This list must be received by the board
30 before the microbrewery may offer beer for sale at a qualifying farmers
31 market.

32 (c) The beer sold at qualifying farmers markets must be produced in
33 Washington.

34 (d) Each approved location in a qualifying farmers market is deemed
35 to be part of the microbrewery license for the purpose of this title.
36 The approved locations under an endorsement granted under this
37 subsection ~~((+5))~~ (6) do not constitute the tasting or sampling
38 privilege of a microbrewery. The microbrewery may not store beer at a

1 farmers market beyond the hours that the microbrewery offers bottled
2 beer for sale. The microbrewery may not act as a distributor from a
3 farmers market location.

4 (e) Before a microbrewery may sell bottled beer at a qualifying
5 farmers market, the farmers market must apply to the board for
6 authorization for any microbrewery with an endorsement approved under
7 this subsection (~~((+5+))~~) (6) to sell bottled beer at retail at the
8 farmers market. This application shall include, at a minimum: (i) A
9 map of the farmers market showing all booths, stalls, or other
10 designated locations at which an approved microbrewery may sell bottled
11 beer; and (ii) the name and contact information for the on-site market
12 managers who may be contacted by the board or its designee to verify
13 the locations at which bottled beer may be sold. Before authorizing a
14 qualifying farmers market to allow an approved microbrewery to sell
15 bottled beer at retail at its farmers market location, the board shall
16 notify the persons or entities of the application for authorization
17 pursuant to RCW 66.24.010 (8) and (9). An authorization granted under
18 this subsection (~~((+5+))~~) (6)(e) may be withdrawn by the board for any
19 violation of this title or any rules adopted under this title.

20 (f) The board may adopt rules establishing the application and
21 approval process under this section and any additional rules necessary
22 to implement this section.

23 (g) For the purposes of this subsection (~~((+5+))~~) (6):

24 (i) "Qualifying farmers market" means an entity that sponsors a
25 regular assembly of vendors at a defined location for the purpose of
26 promoting the sale of agricultural products grown or produced in this
27 state directly to the consumer under conditions that meet the following
28 minimum requirements:

29 (A) There are at least five participating vendors who are farmers
30 selling their own agricultural products;

31 (B) The total combined gross annual sales of vendors who are
32 farmers exceeds the total combined gross annual sales of vendors who
33 are processors or resellers;

34 (C) The total combined gross annual sales of vendors who are
35 farmers, processors, or resellers exceeds the total combined gross
36 annual sales of vendors who are not farmers, processors, or resellers;

37 (D) The sale of imported items and secondhand items by any vendor
38 is prohibited; and

1 (E) No vendor is a franchisee.

2 (ii) "Farmer" means a natural person who sells, with or without
3 processing, agricultural products that he or she raises on land he or
4 she owns or leases in this state or in another state's county that
5 borders this state.

6 (iii) "Processor" means a natural person who sells processed food
7 that he or she has personally prepared on land he or she owns or leases
8 in this state or in another state's county that borders this state.

9 (iv) "Reseller" means a natural person who buys agricultural
10 products from a farmer and resells the products directly to the
11 consumer.

12 ~~((+6+))~~ (7) Any microbrewery licensed under this section may
13 contract-produce beer for another microbrewer. This contract-
14 production is not a sale for the purposes of RCW 66.28.170 and
15 66.28.180.

16 **Sec. 2.** RCW 66.24.240 and 2008 c 41 s 7 are each amended to read
17 as follows:

18 (1) There shall be a license for domestic breweries; fee to be two
19 thousand dollars for production of sixty thousand barrels or more of
20 malt liquor per year.

21 (2) Any domestic brewery, except for a brand owner of malt
22 beverages under RCW 66.04.010~~((+6+))~~ (7), licensed under this section
23 may also act as a distributor and/or retailer for beer of its own
24 production. Any domestic brewery operating as a distributor and/or
25 retailer under this subsection shall comply with the applicable laws
26 and rules relating to distributors and/or retailers. A domestic
27 brewery holding a spirits, beer, and wine restaurant license may sell
28 beer of its own production for off-premises consumption from its
29 restaurant premises in kegs or in a sanitary container brought to the
30 premises by the purchaser or furnished by the licensee and filled at
31 the tap by the licensee at the time of sale.

32 (3) Any domestic brewery licensed under this section may also sell
33 beer of another domestic breweries' production for on and off-premises
34 consumption from its premises as long as the other breweries' brands do
35 not exceed twenty-five percent of the domestic brewery's on-tap
36 offering of their own brands.

1 (4) A domestic brewery may hold up to two retail licenses to
2 operate an on or off-premise tavern, beer and/or wine restaurant, or
3 spirits, beer, and wine restaurant. This retail license is separate
4 from the brewery license. A brewery that holds a tavern license, a
5 spirits, beer, and wine restaurant license, or a beer and/or wine
6 restaurant license shall hold the same privileges and endorsements as
7 permitted under RCW 66.24.320, 66.24.330, and 66.24.420.

8 ~~((+4))~~ (5) Any domestic brewery licensed under this section may
9 contract-produce beer for a brand owner of malt beverages defined under
10 RCW 66.04.010~~((+6))~~ (7), and this contract-production is not a sale
11 for the purposes of RCW 66.28.170 and 66.28.180.

12 ~~((+5))~~ (6)(a) A domestic brewery licensed under this section and
13 qualified for a reduced rate of taxation pursuant to RCW
14 66.24.290(3)(b) may apply to the board for an endorsement to sell
15 bottled beer of its own production at retail for off-premises
16 consumption at a qualifying farmers market. The annual fee for this
17 endorsement is seventy-five dollars.

18 (b) For each month during which a domestic brewery will sell beer
19 at a qualifying farmers market, the domestic brewery must provide the
20 board or its designee a list of the dates, times, and locations at
21 which bottled beer may be offered for sale. This list must be received
22 by the board before the domestic brewery may offer beer for sale at a
23 qualifying farmers market.

24 (c) The beer sold at qualifying farmers markets must be produced in
25 Washington.

26 (d) Each approved location in a qualifying farmers market is deemed
27 to be part of the domestic brewery license for the purpose of this
28 title. The approved locations under an endorsement granted under this
29 subsection do not include the tasting or sampling privilege of a
30 domestic brewery. The domestic brewery may not store beer at a farmers
31 market beyond the hours that the domestic brewery offers bottled beer
32 for sale. The domestic brewery may not act as a distributor from a
33 farmers market location.

34 (e) Before a domestic brewery may sell bottled beer at a qualifying
35 farmers market, the farmers market must apply to the board for
36 authorization for any domestic brewery with an endorsement approved
37 under this subsection to sell bottled beer at retail at the farmers
38 market. This application shall include, at a minimum: (i) A map of

1 the farmers market showing all booths, stalls, or other designated
2 locations at which an approved domestic brewery may sell bottled beer;
3 and (ii) the name and contact information for the on-site market
4 managers who may be contacted by the board or its designee to verify
5 the locations at which bottled beer may be sold. Before authorizing a
6 qualifying farmers market to allow an approved domestic brewery to sell
7 bottled beer at retail at its farmers market location, the board shall
8 notify the persons or entities of such application for authorization
9 pursuant to RCW 66.24.010 (8) and (9). An authorization granted under
10 this subsection (~~((+5+))~~) (6)(e) may be withdrawn by the board for any
11 violation of this title or any rules adopted under this title.

12 (f) The board may adopt rules establishing the application and
13 approval process under this section and such additional rules as may be
14 necessary to implement this section.

15 (g) For the purposes of this subsection:

16 (i) "Qualifying farmers market" means an entity that sponsors a
17 regular assembly of vendors at a defined location for the purpose of
18 promoting the sale of agricultural products grown or produced in this
19 state directly to the consumer under conditions that meet the following
20 minimum requirements:

21 (A) There are at least five participating vendors who are farmers
22 selling their own agricultural products;

23 (B) The total combined gross annual sales of vendors who are
24 farmers exceeds the total combined gross annual sales of vendors who
25 are processors or resellers;

26 (C) The total combined gross annual sales of vendors who are
27 farmers, processors, or resellers exceeds the total combined gross
28 annual sales of vendors who are not farmers, processors, or resellers;

29 (D) The sale of imported items and secondhand items by any vendor
30 is prohibited; and

31 (E) No vendor is a franchisee.

32 (ii) "Farmer" means a natural person who sells, with or without
33 processing, agricultural products that he or she raises on land he or
34 she owns or leases in this state or in another state's county that
35 borders this state.

36 (iii) "Processor" means a natural person who sells processed food
37 that he or she has personally prepared on land he or she owns or leases
38 in this state or in another state's county that borders this state.

1 (iv) "Reseller" means a natural person who buys agricultural
2 products from a farmer and resells the products directly to the
3 consumer.

--- END ---