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**SUBSTITUTE HOUSE BILL 1578**

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**State of Washington**

**55th Legislature**

**1997 Regular Session**

**By** House Committee on Commerce & Labor (originally sponsored by Representatives H. Sommers, McMorris, Lisk, Scott, Cole, Clements, Gombosky, Honeyford, Schoesler, Ballasiotes, Cody, Conway, Carlson, Kenney, Ogden, Chopp, Hatfield, Sheahan, Sterk, Wood, Romero, Tokuda, Blalock, Dickerson, O'Brien, Sheldon, Cooper and Gardner)

Read first time 03/05/97.

1 AN ACT Relating to the regulation of liquor sales in designated  
2 restricted liquor zones; amending RCW 66.04.010, 66.24.360, and  
3 66.24.370; adding new sections to chapter 66.24 RCW; and creating a new  
4 section.

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

6 NEW SECTION. **Sec. 1.** The legislature finds that certain areas of  
7 the state have continuous problems with certain individuals who abuse  
8 liquor. These individuals create undesirable impacts on communities by  
9 placing increased demands upon emergency service, medical care  
10 resources, health and sanitation facilities, public and private  
11 institutions providing treatment and detoxification services, and  
12 public areas such as parks and sidewalks. These problems place burdens  
13 upon the budgets and human resources of the areas and impact the  
14 business community adversely. The legislature seeks to provide  
15 additional management tools to state and local governmental agencies  
16 confronted by these problems and involved in seeking solutions.

17 NEW SECTION. **Sec. 2.** A new section is added to chapter 66.24 RCW  
18 to read as follows:

1       The board may designate by rule restricted liquor zones. When  
2 making a designation, the board must find that the zone suffers serious  
3 impacts from liquor sales. Impact may include, but is not limited to,  
4 increased law enforcement problems, increased demand for medical care,  
5 impairment of the use and enjoyment of public spaces and private  
6 property, and impacts on alcohol treatment services.

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

9       (1) The board may adopt rules that restrict the off-premises sales  
10 of beer or wine within areas that have been designated by the board to  
11 be restricted liquor zones pursuant to section 2 of this act. Such  
12 restrictions may include, but are not limited to: (a) Restrictions on  
13 hours of sale of beer or wine for off-premises consumption; (b)  
14 prohibitions of sale of fortified wine or products designated as  
15 restricted by the board; and (c) restrictions on container sizes of  
16 beer and wine sold for off-premises consumption.

17       (2) The board may issue or renew an E, F, Fr, or E-Fr license  
18 subject to such conditions as will minimize the negative impact of the  
19 establishment, if the licensee is located within a restricted liquor  
20 zone or if the board finds, pursuant to RCW 66.24.360 and/or 66.24.370,  
21 that the issuance or renewal of an unrestricted license would be  
22 contrary to the public interest. Such conditions may include, but are  
23 not limited to, restrictions on hours of sale of beer or wine for off-  
24 premises consumption, prohibitions of sale of fortified wine and  
25 products designated as restricted by the board, and restrictions on  
26 container sizes of beer and wine sold for off-premises consumption. In  
27 determining which conditions are necessary, the board shall give  
28 substantial weight to the recommendations of the municipality or  
29 county.

30       **Sec. 4.** RCW 66.04.010 and 1991 c 192 s 1 are each amended to read  
31 as follows:

32       In this title, unless the context otherwise requires:

33       (1) "Alcohol" is that substance known as ethyl alcohol, hydrated  
34 oxide of ethyl, or spirit of wine, which is commonly produced by the  
35 fermentation or distillation of grain, starch, molasses, or sugar, or  
36 other substances including all dilutions and mixtures of this  
37 substance. The term "alcohol" does not include alcohol in the

1 possession of a manufacturer or distiller of alcohol fuel, as described  
2 in RCW 66.12.130, which is intended to be denatured and used as a fuel  
3 for use in motor vehicles, farm implements, and machines or implements  
4 of husbandry.

5 (2) "Beer" means any malt beverage or malt liquor as these terms  
6 are defined in this chapter.

7 (3) "Brewer" means any person engaged in the business of  
8 manufacturing beer and malt liquor.

9 (4) "Board" means the liquor control board, constituted under this  
10 title.

11 (5) "Club" means an organization of persons, incorporated or  
12 unincorporated, operated solely for fraternal, benevolent, educational,  
13 athletic or social purposes, and not for pecuniary gain.

14 (6) "Consume" includes the putting of liquor to any use, whether by  
15 drinking or otherwise.

16 (7) "Dentist" means a practitioner of dentistry duly and regularly  
17 licensed and engaged in the practice of his profession within the state  
18 pursuant to chapter 18.32 RCW.

19 (8) "Distiller" means a person engaged in the business of  
20 distilling spirits.

21 (9) "Druggist" means any person who holds a valid certificate and  
22 is a registered pharmacist and is duly and regularly engaged in  
23 carrying on the business of pharmaceutical chemistry pursuant to  
24 chapter 18.64 RCW.

25 (10) "Drug store" means a place whose principal business is, the  
26 sale of drugs, medicines and pharmaceutical preparations and maintains  
27 a regular prescription department and employs a registered pharmacist  
28 during all hours the drug store is open.

29 (11) "Employee" means any person employed by the board, including  
30 a vendor, as hereinafter in this section defined.

31 (12) "Fund" means 'liquor revolving fund.'

32 (13) "Hotel" means every building or other structure kept, used,  
33 maintained, advertised or held out to the public to be a place where  
34 food is served and sleeping accommodations are offered for pay to  
35 transient guests, in which twenty or more rooms are used for the  
36 sleeping accommodation of such transient guests and having one or more  
37 dining rooms where meals are served to such transient guests, such  
38 sleeping accommodations and dining rooms being conducted in the same  
39 building and buildings, in connection therewith, and such structure or

1 structures being provided, in the judgment of the board, with adequate  
2 and sanitary kitchen and dining room equipment and capacity, for  
3 preparing, cooking and serving suitable food for its guests: PROVIDED  
4 FURTHER, That in cities and towns of less than five thousand  
5 population, the board shall have authority to waive the provisions  
6 requiring twenty or more rooms.

7 (14) "Imprisonment" means confinement in the county jail.

8 (15) "Liquor" includes the four varieties of liquor herein defined  
9 (alcohol, spirits, wine and beer), and all fermented, spirituous,  
10 vinous, or malt liquor, or combinations thereof, and mixed liquor, a  
11 part of which is fermented, spirituous, vinous or malt liquor, or  
12 otherwise intoxicating; and every liquid or solid or semisolid or other  
13 substance, patented or not, containing alcohol, spirits, wine or beer,  
14 and all drinks or drinkable liquids and all preparations or mixtures  
15 capable of human consumption, and any liquid, semisolid, solid, or  
16 other substance, which contains more than one percent of alcohol by  
17 weight shall be conclusively deemed to be intoxicating. Liquor does  
18 not include confections or food products that contain one percent or  
19 less of alcohol by weight.

20 (16) "Manufacturer" means a person engaged in the preparation of  
21 liquor for sale, in any form whatsoever.

22 (17) "Malt beverage" or "malt liquor" means any beverage such as  
23 beer, ale, lager beer, stout, and porter obtained by the alcoholic  
24 fermentation of an infusion or decoction of pure hops, or pure extract  
25 of hops and pure barley malt or other wholesome grain or cereal in pure  
26 water containing not more than eight percent of alcohol by weight, and  
27 not less than one-half of one percent of alcohol by volume. For the  
28 purposes of this title, any such beverage containing more than eight  
29 percent of alcohol by weight shall be referred to as "strong beer."

30 (18) "Package" means any container or receptacle used for holding  
31 liquor.

32 (19) "Permit" means a permit for the purchase of liquor under this  
33 title.

34 (20) "Person" means an individual, sole proprietorship,  
35 copartnership, association, or corporation.

36 (21) "Physician" means a medical practitioner duly and regularly  
37 licensed and engaged in the practice of his profession within the state  
38 pursuant to chapter 18.71 RCW.

1 (22) "Prescription" means a memorandum signed by a physician and  
2 given by him to a patient for the obtaining of liquor pursuant to this  
3 title for medicinal purposes.

4 (23) "Public place" includes streets and alleys of incorporated  
5 cities and towns; state or county or township highways or roads;  
6 buildings and grounds used for school purposes; public dance halls and  
7 grounds adjacent thereto; those parts of establishments where beer may  
8 be sold under this title, soft drink establishments, public buildings,  
9 public meeting halls, lobbies, halls and dining rooms of hotels,  
10 restaurants, theatres, stores, garages and filling stations which are  
11 open to and are generally used by the public and to which the public is  
12 permitted to have unrestricted access; railroad trains, stages, and  
13 other public conveyances of all kinds and character, and the depots and  
14 waiting rooms used in conjunction therewith which are open to  
15 unrestricted use and access by the public; publicly owned bathing  
16 beaches, parks, and/or playgrounds; and all other places of like or  
17 similar nature to which the general public has unrestricted right of  
18 access, and which are generally used by the public.

19 (24) "Regulations" means regulations made by the board under the  
20 powers conferred by this title.

21 (25) "Restaurant" means any establishment provided with special  
22 space and accommodations where, in consideration of payment, food,  
23 without lodgings, is habitually furnished to the public, not including  
24 drug stores and soda fountains.

25 (26) "Sale" and "sell" include exchange, barter, and traffic; and  
26 also include the selling or supplying or distributing, by any means  
27 whatsoever, of liquor, or of any liquid known or described as beer or  
28 by any name whatever commonly used to describe malt or brewed liquor or  
29 of wine, by any person to any person; and also include a sale or  
30 selling within the state to a foreign consignee or his agent in the  
31 state. "Sale" and "sell" shall not include the giving, at no charge,  
32 of a reasonable amount of liquor by a person not licensed by the board  
33 to a person not licensed by the board, for personal use only. "Sale"  
34 and "sell" also does not include a raffle authorized under RCW  
35 9.46.0315: PROVIDED, That the nonprofit organization conducting the  
36 raffle has obtained the appropriate permit from the board.

37 (27) "Soda fountain" means a place especially equipped with  
38 apparatus for the purpose of dispensing soft drinks, whether mixed or  
39 otherwise.

1 (28) "Spirits" means any beverage which contains alcohol obtained  
2 by distillation, including wines exceeding twenty-four percent of  
3 alcohol by volume.

4 (29) "Store" means a state liquor store established under this  
5 title.

6 (30) "Tavern" means any establishment with special space and  
7 accommodation for sale by the glass and for consumption on the  
8 premises, of beer, as herein defined.

9 (31) "Vendor" means a person employed by the board as a store  
10 manager under this title.

11 (32) "Winery" means a business conducted by any person for the  
12 manufacture of wine for sale, other than a domestic winery.

13 (33) "Domestic winery" means a place where wines are manufactured  
14 or produced within the state of Washington.

15 (34) "Wine" means any alcoholic beverage obtained by fermentation  
16 of fruits (grapes, berries, apples, et cetera) or other agricultural  
17 product containing sugar, to which any saccharine substances may have  
18 been added before, during or after fermentation, and containing not  
19 more than twenty-four percent of alcohol by volume, including sweet  
20 wines fortified with wine spirits, such as port, sherry, muscatel and  
21 angelica, not exceeding twenty-four percent of alcohol by volume and  
22 not less than one-half of one percent of alcohol by volume. For  
23 purposes of this title, any beverage containing no more than fourteen  
24 percent of alcohol by volume when bottled or packaged by the  
25 manufacturer shall be referred to as "table wine," and any beverage  
26 containing alcohol in an amount more than fourteen percent by volume  
27 when bottled or packaged by the manufacturer shall be referred to as  
28 "fortified wine." The board may identify, by rule, specific wine  
29 products having an alcohol content of less than fourteen percent, that  
30 are the beverages of choice for chronic public inebriates, to be  
31 considered "fortified wines" for purposes of restricting sales for off-  
32 premises consumption by certain licensees. This identification does  
33 not change the taxable status of the product, but may be used to  
34 control distribution of the product. However, "fortified wine" shall  
35 not include: (a) Wines that are both sealed or capped by cork closure  
36 and aged two years or more; and (b) wines that contain more than  
37 fourteen percent alcohol by volume solely as a result of the natural  
38 fermentation process and that have not been produced with the addition  
39 of wine spirits, brandy, or alcohol.

1 This subsection shall not be interpreted to require that any wine  
2 be labeled with the designation "table wine" or "fortified wine."

3 (35) "Beer wholesaler" means a person who buys beer from a brewer  
4 or brewery located either within or beyond the boundaries of the state  
5 for the purpose of selling the same pursuant to this title, or who  
6 represents such brewer or brewery as agent.

7 (36) "Wine wholesaler" means a person who buys wine from a vintner  
8 or winery located either within or beyond the boundaries of the state  
9 for the purpose of selling the same not in violation of this title, or  
10 who represents such vintner or winery as agent.

11 **Sec. 5.** RCW 66.24.360 and 1993 c 21 s 1 are each amended to read  
12 as follows:

13 (1) There shall be a beer retailer's license to be designated as a  
14 class E license to sell beer at retail in bottles and original  
15 packages, not to be consumed upon the premises where sold, at any store  
16 other than the state liquor stores. Licensees holding only an E  
17 license may also sell malt liquor in kegs or other containers capable  
18 of holding less than five and one-half gallons of liquid. The annual  
19 fee for the license is seventy-five dollars for each store: PROVIDED,  
20 That a holder of a class A or a class B license shall be entitled to  
21 the privileges permitted in this section by paying an annual fee of  
22 twenty-five dollars for each store. Licensees under this section whose  
23 business is primarily the sale of beer and/or wine at retail may  
24 provide, free or for a charge, single-serving samples of two ounces or  
25 less to customers for the purpose of sales promotion. Sampling  
26 activities of licensees under this section shall be subject to RCW  
27 66.28.010 and 66.28.040 and the cost of sampling under this section may  
28 not be borne, directly or indirectly, by any manufacturer, importer, or  
29 wholesaler of liquor.

30 For the purpose of this section, "beer" includes, in addition to  
31 the usual and customary meaning, bottle conditioned beer which has been  
32 fermented partially or completely in the container in which it is sold  
33 to the retail customer and which may contain residual active yeast.  
34 The bottles and original packages in which such bottle conditioned beer  
35 may be sold under this section shall not exceed one hundred seventy  
36 ounces in capacity.

37 (2) The board shall issue a restricted class E license, imposing a  
38 restriction on the size of beer containers that may be sold and on the

1 hours of alcohol sales, if the board finds upon issuance or renewal of  
2 the license that the unrestricted sale of beer for off-premises  
3 consumption would be against the public interest. In determining the  
4 public interest, the board shall consider at least the following  
5 factors:

6 (a) Law enforcement problems in the vicinity of the applicant's  
7 establishment that may arise from the unrestricted sale of beer;

8 (b) Increased demand for medical care;

9 (c) Whether the unrestricted sale of beer for off-premises  
10 consumption would be detrimental to or inconsistent with an alcohol  
11 treatment or detoxification program in the area;

12 (d) Whether the full use and enjoyment of public spaces and private  
13 property in the vicinity of the applicant's establishment are impaired  
14 by excessive consumption of large containers of beer and related  
15 intoxicated behavior; and

16 (e) The likelihood that large containers of beer sold by the  
17 applicant's establishment will be consumed in public or by persons who  
18 are intoxicated.

19 If the board receives no evidence or objection that the  
20 unrestricted sale of beer would be against the public interest, it  
21 shall issue or renew the license without restriction, as applicable.

22 **Sec. 6.** RCW 66.24.370 and 1992 c 42 s 1 are each amended to read  
23 as follows:

24 (1) There shall be a wine retailer's license to be designated as  
25 class F license to sell, subject to subsection (2) of this section,  
26 table and fortified wine in bottles and original packages, not to be  
27 consumed on the premises where sold, at any store other than the state  
28 liquor stores: PROVIDED, Such licensee shall pay to the state liquor  
29 stores for wines purchased from such stores the current retail price;  
30 fee seventy-five dollars per annum: PROVIDED, FURTHER, That a holder  
31 of a class A or class B license shall be entitled to the privileges  
32 permitted in this section by paying an annual fee of twenty-five  
33 dollars for each store.

34 (2) The board shall issue a restricted class F license,  
35 ~~((authorizing the licensee to sell only table wine))~~ prohibiting the  
36 sale of fortified wine, if the board finds upon issuance or renewal of  
37 the license that the sale of fortified wine would be against the public



1 interest. In determining the public interest, the board shall consider  
2 at least the following factors:

3 ~~(a) ((The likelihood that the applicant will sell fortified wine to  
4 persons who are intoxicated;~~

5 ~~(b))~~ Law enforcement problems in the vicinity of the applicant's  
6 establishment that may arise from persons purchasing fortified wine  
7 ~~((at the establishment)); ((and~~

8 ~~(c))~~ (b) Increased demand for medical care;

9 (c) Whether the sale of fortified wine would be detrimental to or  
10 inconsistent with ~~((a government operated or funded))~~ an alcohol  
11 treatment or detoxification program in the area;

12 (d) Whether full use and enjoyment of the public spaces and private  
13 property in the vicinity of the applicant's establishment are impaired  
14 by excessive consumption of fortified wine and related intoxicated  
15 behavior; and

16 (e) The likelihood that fortified wine sold by the applicant's  
17 establishment will be consumed in public or by persons who are  
18 intoxicated.

19 If the board receives no evidence or objection that the sale of  
20 fortified wine would be against the public interest, it shall issue or  
21 renew the license without restriction, as applicable. ~~((The burden of  
22 establishing that the sale of fortified wine by the licensee would be  
23 against the public interest is on those persons objecting.))~~

24 (3) Licensees under this section whose business is primarily the  
25 sale of wine at retail may provide, free or for a charge, single-  
26 serving samples of two ounces or less to customers for the purpose of  
27 sales promotion.

28 NEW SECTION. **Sec. 7.** If any provision of this act or its  
29 application to any person or circumstance is held invalid, the  
30 remainder of the act or the application of the provision to other  
31 persons or circumstances is not affected.

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