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ENGROSSED SUBSTITUTE SENATE BILL 6648

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State of Washington

55th Legislature

1998 Regular Session

By Senate Committee on Commerce & Labor (originally sponsored by Senators Schow, Newhouse, Horn and Heavey)

Read first time 02/06/98.

1 AN ACT Relating to permitting the licensing of retail alcoholic  
2 beverage businesses in which no manufacturer, importer, or wholesaler  
3 has a direct or indirect interest; amending RCW 66.28.010; and  
4 providing an effective date.

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

6 **Sec. 1.** RCW 66.28.010 and 1997 c 321 s 46 are each amended to read  
7 as follows:

8 (1)(a) No manufacturer, importer, or distributor, or person  
9 financially interested, directly or indirectly, in such business;  
10 whether resident or nonresident, shall have any financial interest,  
11 direct or indirect, in any licensed retail business, unless the retail  
12 business is owned by a corporation in which a manufacturer or importer  
13 has no direct stock ownership and there are no interlocking officers  
14 and directors, the retail license is held by a corporation that is not  
15 owned directly or indirectly by a manufacturer or importer, the sales  
16 of liquor are incidental to the primary activity of operating the  
17 property as a hotel, alcoholic beverages produced by the manufacturer  
18 or importer or their subsidiaries are not sold at the licensed  
19 premises, and the board reviews the ownership and proposed method of

1 operation of all involved entities and determines that there will not  
2 be an unacceptable level of control or undue influence over the  
3 operation or the retail licensee; nor shall any manufacturer, importer,  
4 or distributor own any of the property upon which such licensed persons  
5 conduct their business; nor shall any such licensed person, under any  
6 arrangement whatsoever, conduct his or her business upon property in  
7 which any manufacturer, importer, or distributor has any interest  
8 unless title to that property is owned by a corporation in which a  
9 manufacturer has no direct stock ownership and there are no  
10 interlocking officers or directors, the retail license is held by ((an  
11 independent concessionaire which)) a corporation that is not owned  
12 directly or indirectly by the manufacturer ((or property owner)), the  
13 sales of liquor are incidental to the primary activity of operating the  
14 property either as a hotel or as an amphitheater offering live musical  
15 and similar live entertainment activities to the public, alcoholic  
16 beverages produced by the manufacturer or any of its subsidiaries are  
17 not sold at the licensed premises, and the board reviews the ownership  
18 and proposed method of operation of all involved entities and  
19 determines that there will not be an unacceptable level of control or  
20 undue influence over the operation of the retail licensee. Except as  
21 provided in subsection (3) of this section, no manufacturer, importer,  
22 or distributor shall advance moneys or moneys' worth to a licensed  
23 person under an arrangement, nor shall such licensed person receive,  
24 under an arrangement, an advance of moneys or moneys' worth. "Person"  
25 as used in this section only shall not include those state or federally  
26 chartered banks, state or federally chartered savings and loan  
27 associations, state or federally chartered mutual savings banks, or  
28 institutional investors which are not controlled directly or indirectly  
29 by a manufacturer, importer, or distributor as long as the bank,  
30 savings and loan association, or institutional investor does not  
31 influence or attempt to influence the purchasing practices of the  
32 retailer with respect to alcoholic beverages. No manufacturer,  
33 importer, or distributor shall be eligible to receive or hold a retail  
34 license under this title, nor shall such manufacturer, importer, or  
35 distributor sell at retail any liquor as herein defined. A corporation  
36 granted an exemption under this subsection may use debt instruments  
37 issued in connection with financing construction or operations of its  
38 facilities.

1 (b) Nothing in this section shall prohibit a licensed domestic  
2 brewery or microbrewery from being licensed as a retailer pursuant to  
3 chapter 66.24 RCW for the purpose of selling beer or wine at retail on  
4 the brewery premises and nothing in this section shall prohibit a  
5 domestic winery from being licensed as a retailer pursuant to chapter  
6 66.24 RCW for the purpose of selling beer or wine at retail on the  
7 winery premises. Such beer and wine so sold at retail shall be subject  
8 to the taxes imposed by RCW 66.24.290 and 66.24.210 and to reporting  
9 and bonding requirements as prescribed by regulations adopted by the  
10 board pursuant to chapter 34.05 RCW, and beer and wine that is not  
11 produced by the brewery or winery shall be purchased from a licensed  
12 beer or wine distributor.

13 (c) Nothing in this section shall prohibit a licensed domestic  
14 brewery, microbrewery, domestic winery, or a lessee of a licensed  
15 domestic brewer, microbrewery, or domestic winery, from being licensed  
16 as a full service restaurant pursuant to chapter 66.24 RCW for the  
17 purpose of selling liquor at a full service restaurant premises on the  
18 property on which the primary manufacturing facility of the licensed  
19 domestic brewer, microbrewery, or domestic winery is located or on  
20 contiguous property owned by the licensed domestic brewer,  
21 microbrewery, or domestic winery as prescribed by rules adopted by the  
22 board pursuant to chapter 34.05 RCW.

23 (2) Financial interest, direct or indirect, as used in this  
24 section, shall include any interest, whether by stock ownership,  
25 mortgage, lien, or through interlocking directors, or otherwise.  
26 Pursuant to rules promulgated by the board in accordance with chapter  
27 34.05 RCW manufacturers, distributors, and importers may perform, and  
28 retailers may accept the service of building, rotating and restocking  
29 case displays and stock room inventories; rotating and rearranging can  
30 and bottle displays of their own products; provide point of sale  
31 material and brand signs; price case goods of their own brands; and  
32 perform such similar normal business services as the board may by  
33 regulation prescribe.

34 (3)(a) This section does not prohibit a manufacturer, importer, or  
35 distributor from providing services to a special occasion licensee for:  
36 (i) Installation of draft beer dispensing equipment or advertising,  
37 (ii) advertising, pouring, or dispensing of beer or wine at a beer or  
38 wine tasting exhibition or judging event, or (iii) a special occasion  
39 licensee from receiving any such services as may be provided by a

1 manufacturer, importer, or distributor. Nothing in this section shall  
2 prohibit a retail licensee, or any person financially interested,  
3 directly or indirectly, in such a retail licensee from having a  
4 financial interest, direct or indirect, in a business which provides,  
5 for a compensation commensurate in value to the services provided,  
6 bottling, canning or other services to a manufacturer, so long as the  
7 retail licensee or person interested therein has no direct financial  
8 interest in or control of said manufacturer.

9 (b) A person holding contractual rights to payment from selling a  
10 liquor distributor's business and transferring the license shall not be  
11 deemed to have a financial interest under this section if the person  
12 (i) lacks any ownership in or control of the distributor, (ii) is not  
13 employed by the distributor, and (iii) does not influence or attempt to  
14 influence liquor purchases by retail liquor licensees from the  
15 distributor.

16 (c) The board shall adopt such rules as are deemed necessary to  
17 carry out the purposes and provisions of subsection (3)(a) of this  
18 section in accordance with the administrative procedure act, chapter  
19 34.05 RCW.

20 (4) A license issued under RCW 66.24.395 does not constitute a  
21 retail license for the purposes of this section.

22 (5) A public house license issued under RCW 66.24.580 does not  
23 violate the provisions of this section as to a retailer having an  
24 interest directly or indirectly in a liquor-licensed manufacturer.

25 NEW SECTION. **Sec. 2.** This act takes effect July 1, 1998.

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