
HOUSE BILL 1898

State of Washington 56th Legislature 1999 Regular Session

By Representatives Clements, B. Chandler, McMorris and Dunn

Read first time 02/10/1999. Referred to Committee on Commerce & Labor.

1 AN ACT Relating to a manufacturer's financial interest in a retail
2 business that sells alcoholic beverages; and reenacting and amending
3 RCW 66.28.010.

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

5 **Sec. 1.** RCW 66.28.010 and 1998 c 127 s 1 and 1998 c 126 s 11 are
6 each reenacted and amended to read as follows:

7 (1)(a) Except as provided in subsection (6) of this section, no
8 manufacturer, importer, or distributor, or person financially
9 interested, directly or indirectly, in such business; whether resident
10 or nonresident, shall have any financial interest, direct or indirect,
11 in any licensed retail business, unless the retail business is owned by
12 a corporation in which a manufacturer or importer has no direct stock
13 ownership and there are no interlocking officers and directors, the
14 retail license is held by a corporation that is not owned directly or
15 indirectly by a manufacturer or importer, the sales of liquor are
16 incidental to the primary activity of operating the property as a
17 hotel, alcoholic beverages produced by the manufacturer or importer or
18 their subsidiaries are not sold at the licensed premises, and the board
19 reviews the ownership and proposed method of operation of all involved

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

38 (b) Nothing in this section shall prohibit a licensed domestic
39 brewery or microbrewery from being licensed as a retailer pursuant to

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

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

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

32 (3)(a) This section does not prohibit a manufacturer, importer, or
33 distributor from providing services to a special occasion licensee for:
34 (i) Installation of draft beer dispensing equipment or advertising,
35 (ii) advertising, pouring, or dispensing of beer or wine at a beer or
36 wine tasting exhibition or judging event, or (iii) a special occasion
37 licensee from receiving any such services as may be provided by a
38 manufacturer, importer, or distributor. Nothing in this section shall
39 prohibit a retail licensee, or any person financially interested,

1 directly or indirectly, in such a retail licensee from having a
2 financial interest, direct or indirect, in a business which provides,
3 for a compensation commensurate in value to the services provided,
4 bottling, canning or other services to a manufacturer, so long as the
5 retail licensee or person interested therein has no direct financial
6 interest in or control of said manufacturer.

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

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

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

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

23 (6) This section does not prohibit a manufacturer from securing and
24 holding any financial interest, directly or indirectly, by stock
25 ownership or through interlocking directors, in any licensed retail
26 business or the property upon which the licensed retail business is
27 conducted, provided all of the following conditions are met:

28 (a) Either the manufacturer or one of its parent companies is
29 listed on a national securities exchange;

30 (b) All purchases of alcoholic beverages by the licensed retail
31 business are made from wholesalers in this state;

32 (c) If the licensed retail business sells brands of alcoholic
33 beverages that are produced or distributed by the manufacturer that
34 holds the interest, then: (i) The licensed retail business must also
35 sell other competing brands of alcoholic beverages produced by other
36 manufacturers; (ii) no preference may be given to the products of the
37 manufacturer; and (iii) there is no exclusion, in whole or in part, of
38 products sold or offered for sale by other manufacturers, wholesalers,

1 or importers of alcoholic beverages that constitutes a substantial
2 impairment of commerce; and

3 (d) The primary purpose of the licensed retail business is a
4 purpose other than to sell alcoholic beverages, and the sale of other
5 goods and services exceeds fifty percent of the total gross receipts of
6 the licensed retail business at each of its premises.

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