
SENATE BILL 5209

State of Washington

56th Legislature

1999 Regular Session

By Senators T. Sheldon, Winsley, Bauer, Haugen, Hale, Gardner and Benton

Read first time 01/15/1999. Referred to Committee on Commerce, Trade, Housing & Financial Institutions.

1 AN ACT Relating to low alcohol spirits coolers; amending RCW
2 66.04.010; reenacting and amending RCW 66.24.290; adding a new section
3 to chapter 66.08 RCW; adding a new section to chapter 19.126 RCW;
4 providing an effective date; and declaring an emergency.

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

6 **Sec. 1.** RCW 66.04.010 and 1997 c 321 s 37 are each amended to read
7 as follows:

8 In this title, unless the context otherwise requires:

9 (1) "Alcohol" is that substance known as ethyl alcohol, hydrated
10 oxide of ethyl, or spirit of wine, which is commonly produced by the
11 fermentation or distillation of grain, starch, molasses, or sugar, or
12 other substances including all dilutions and mixtures of this
13 substance. The term "alcohol" does not include alcohol in the
14 possession of a manufacturer or distiller of alcohol fuel, as described
15 in RCW 66.12.130, which is intended to be denatured and used as a fuel
16 for use in motor vehicles, farm implements, and machines or implements
17 of husbandry.

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

1 (3) "Beer distributor" means a person who buys beer from a brewer
2 or brewery located either within or beyond the boundaries of the state,
3 beer importers, or foreign produced beer from a source outside the
4 state of Washington, for the purpose of selling the same pursuant to
5 this title, or who represents such brewer or brewery as agent.

6 (4) "Beer importer" means a person or business within Washington
7 who purchases beer from a United States brewery holding a certificate
8 of approval (B5) or foreign produced beer from a source outside the
9 state of Washington for the purpose of selling the same pursuant to
10 this title.

11 (5) "Brewer" means any person engaged in the business of
12 manufacturing beer and malt liquor.

13 (6) "Board" means the liquor control board, constituted under this
14 title.

15 (7) "Club" means an organization of persons, incorporated or
16 unincorporated, operated solely for fraternal, benevolent, educational,
17 athletic or social purposes, and not for pecuniary gain.

18 (8) "Consume" includes the putting of liquor to any use, whether by
19 drinking or otherwise.

20 (9) "Dentist" means a practitioner of dentistry duly and regularly
21 licensed and engaged in the practice of his profession within the state
22 pursuant to chapter 18.32 RCW.

23 (10) "Distiller" means a person engaged in the business of
24 distilling spirits.

25 (11) "Domestic winery" means a place where wines are manufactured
26 or produced within the state of Washington.

27 (12) "Druggist" means any person who holds a valid certificate and
28 is a registered pharmacist and is duly and regularly engaged in
29 carrying on the business of pharmaceutical chemistry pursuant to
30 chapter 18.64 RCW.

31 (13) "Drug store" means a place whose principal business is, the
32 sale of drugs, medicines and pharmaceutical preparations and maintains
33 a regular prescription department and employs a registered pharmacist
34 during all hours the drug store is open.

35 (14) "Employee" means any person employed by the board, including
36 a vendor, as hereinafter in this section defined.

37 (15) "Fund" means 'liquor revolving fund.'

38 (16) "Hotel" means every building or other structure kept, used,
39 maintained, advertised or held out to the public to be a place where

1 food is served and sleeping accommodations are offered for pay to
2 transient guests, in which twenty or more rooms are used for the
3 sleeping accommodation of such transient guests and having one or more
4 dining rooms where meals are served to such transient guests, such
5 sleeping accommodations and dining rooms being conducted in the same
6 building and buildings, in connection therewith, and such structure or
7 structures being provided, in the judgment of the board, with adequate
8 and sanitary kitchen and dining room equipment and capacity, for
9 preparing, cooking and serving suitable food for its guests: PROVIDED
10 FURTHER, That in cities and towns of less than five thousand
11 population, the board shall have authority to waive the provisions
12 requiring twenty or more rooms.

13 (17) "Importer" means a person who buys distilled spirits from a
14 distillery outside the state of Washington and imports such spirituous
15 liquor into the state for sale to the board or for export.

16 (18) "Imprisonment" means confinement in the county jail.

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

29 (20) "Low alcohol spirits cooler" means a drink containing one-half
30 of one percent or more of alcohol by volume, but not more than seven
31 percent alcohol by volume, and consisting of spirits mixed with
32 nonalcoholic beverages or flavoring or coloring materials; it may also
33 contain water, fruit juices, fruit adjuncts, sugar, carbon dioxide,
34 preservatives, or other similar products manufactured by fermenting
35 fruit or fruit juices.

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

38 ((+21+)) (22) "Malt beverage" or "malt liquor" means any beverage
39 such as beer, ale, lager beer, stout, and porter obtained by the

1 alcoholic fermentation of an infusion or decoction of pure hops, or
2 pure extract of hops and pure barley malt or other wholesome grain or
3 cereal in pure water containing not more than eight percent of alcohol
4 by weight, and not less than one-half of one percent of alcohol by
5 volume. For the purposes of this title, any such beverage containing
6 more than eight percent of alcohol by weight shall be referred to as
7 "strong beer."

8 ~~((+22+))~~ (23) "Package" means any container or receptacle used for
9 holding liquor.

10 ~~((+23+))~~ (24) "Permit" means a permit for the purchase of liquor
11 under this title.

12 ~~((+24+))~~ (25) "Person" means an individual, copartnership,
13 association, or corporation.

14 ~~((+25+))~~ (26) "Physician" means a medical practitioner duly and
15 regularly licensed and engaged in the practice of his profession within
16 the state pursuant to chapter 18.71 RCW.

17 ~~((+26+))~~ (27) "Prescription" means a memorandum signed by a
18 physician and given by him to a patient for the obtaining of liquor
19 pursuant to this title for medicinal purposes.

20 ~~((+27+))~~ (28) "Public place" includes streets and alleys of
21 incorporated cities and towns; state or county or township highways or
22 roads; buildings and grounds used for school purposes; public dance
23 halls and grounds adjacent thereto; those parts of establishments where
24 beer may be sold under this title, soft drink establishments, public
25 buildings, public meeting halls, lobbies, halls and dining rooms of
26 hotels, restaurants, theatres, stores, garages and filling stations
27 which are open to and are generally used by the public and to which the
28 public is permitted to have unrestricted access; railroad trains,
29 stages, and other public conveyances of all kinds and character, and
30 the depots and waiting rooms used in conjunction therewith which are
31 open to unrestricted use and access by the public; publicly owned
32 bathing beaches, parks, and/or playgrounds; and all other places of
33 like or similar nature to which the general public has unrestricted
34 right of access, and which are generally used by the public.

35 ~~((+28+))~~ (29) "Regulations" means regulations made by the board
36 under the powers conferred by this title.

37 ~~((+29+))~~ (30) "Restaurant" means any establishment provided with
38 special space and accommodations where, in consideration of payment,

1 food, without lodgings, is habitually furnished to the public, not
2 including drug stores and soda fountains.

3 ~~((+30+))~~ (31) "Sale" and "sell" include exchange, barter, and
4 traffic; and also include the selling or supplying or distributing, by
5 any means whatsoever, of liquor, or of any liquid known or described as
6 beer or by any name whatever commonly used to describe malt or brewed
7 liquor or of wine, by any person to any person; and also include a sale
8 or selling within the state to a foreign consignee or his agent in the
9 state. "Sale" and "sell" shall not include the giving, at no charge,
10 of a reasonable amount of liquor by a person not licensed by the board
11 to a person not licensed by the board, for personal use only. "Sale"
12 and "sell" also does not include a raffle authorized under RCW
13 9.46.0315: PROVIDED, That the nonprofit organization conducting the
14 raffle has obtained the appropriate permit from the board.

15 ~~((+31+))~~ (32) "Soda fountain" means a place especially equipped
16 with apparatus for the purpose of dispensing soft drinks, whether mixed
17 or otherwise.

18 ~~((+32+))~~ (33) "Spirits" means any beverage which contains alcohol
19 obtained by distillation, including wines exceeding twenty-four percent
20 of alcohol by volume.

21 ~~((+33+))~~ (34) "Store" means a state liquor store established under
22 this title.

23 ~~((+34+))~~ (35) "Tavern" means any establishment with special space
24 and accommodation for sale by the glass and for consumption on the
25 premises, of beer, as herein defined.

26 ~~((+35+))~~ (36) "Vendor" means a person employed by the board as a
27 store manager under this title.

28 ~~((+36+))~~ (37) "Winery" means a business conducted by any person for
29 the manufacture of wine for sale, other than a domestic winery.

30 ~~((+37+))~~ (38) "Wine" means any alcoholic beverage obtained by
31 fermentation of fruits (grapes, berries, apples, et cetera) or other
32 agricultural product containing sugar, to which any saccharine
33 substances may have been added before, during or after fermentation,
34 and containing not more than twenty-four percent of alcohol by volume,
35 including sweet wines fortified with wine spirits, such as port,
36 sherry, muscatel and angelica, not exceeding twenty-four percent of
37 alcohol by volume and not less than one-half of one percent of alcohol
38 by volume. For purposes of this title, any beverage containing no more
39 than fourteen percent of alcohol by volume when bottled or packaged by

1 the manufacturer shall be referred to as "table wine," and any beverage
2 containing alcohol in an amount more than fourteen percent by volume
3 when bottled or packaged by the manufacturer shall be referred to as
4 "fortified wine." However, "fortified wine" shall not include: (a)
5 Wines that are both sealed or capped by cork closure and aged two years
6 or more; and (b) wines that contain more than fourteen percent alcohol
7 by volume solely as a result of the natural fermentation process and
8 that have not been produced with the addition of wine spirits, brandy,
9 or alcohol.

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

12 (~~(38)~~) (39) "Wine distributor" means a person who buys wine from
13 a vintner or winery located either within or beyond the boundaries of
14 the state for the purpose of selling the same not in violation of this
15 title, or who represents such vintner or winery as agent.

16 (~~(39)~~) (40) "Wine importer" means a person or business within
17 Washington who purchases wine from a United States winery holding a
18 certificate of approval (W7) or foreign produced wine from a source
19 outside the state of Washington for the purpose of selling the same
20 pursuant to this title.

21 **Sec. 2.** RCW 66.24.290 and 1997 c 451 s 1 and 1997 c 321 s 16 are
22 each reenacted and amended to read as follows:

23 (1) Any microbrewer or domestic brewery or beer distributor
24 licensed under this title may sell and deliver beer to holders of
25 authorized licenses direct, but to no other person, other than the
26 board; and every such brewery or beer distributor shall report all
27 sales to the board monthly, pursuant to the regulations, and shall pay
28 to the board as an added tax for the privilege of manufacturing and
29 selling the beer within the state a tax of one dollar and thirty cents
30 per barrel of thirty-one gallons on sales to licensees within the state
31 and on sales to licensees within the state of bottled and canned beer
32 shall pay a tax computed in gallons at the rate of one dollar and
33 thirty cents per barrel of thirty-one gallons. Any brewery or beer
34 distributor whose applicable tax payment is not postmarked by the
35 twentieth day following the month of sale will be assessed a penalty at
36 the rate of two percent per month or fraction thereof. Beer shall be
37 sold by breweries and distributors in sealed barrels or packages. The
38 moneys collected under this subsection shall be distributed as follows:

1 (a) Three-tenths of a percent shall be distributed to border areas
2 under RCW 66.08.195; and (b) of the remaining moneys: (i) Twenty
3 percent shall be distributed to counties in the same manner as under
4 RCW 66.08.200; and (ii) eighty percent shall be distributed to
5 incorporated cities and towns in the same manner as under RCW
6 66.08.210.

7 (2) An additional tax is imposed on all beer subject to tax under
8 subsection (1) of this section. The additional tax is equal to two
9 dollars per barrel of thirty-one gallons. All revenues collected
10 during any month from this additional tax shall be deposited in the
11 violence reduction and drug enforcement account under RCW 69.50.520 by
12 the twenty-fifth day of the following month.

13 (3)(a) An additional tax is imposed on all beer subject to tax
14 under subsection (1) of this section. The additional tax is equal to
15 ninety-six cents per barrel of thirty-one gallons through June 30,
16 1995, two dollars and thirty-nine cents per barrel of thirty-one
17 gallons for the period July 1, 1995, through June 30, 1997, and four
18 dollars and seventy-eight cents per barrel of thirty-one gallons
19 thereafter.

20 (b) The additional tax imposed under this subsection does not apply
21 to the sale of the first sixty thousand barrels of beer each year by
22 breweries that are entitled to a reduced rate of tax under 26 U.S.C.
23 Sec. 5051, as existing on July 1, 1993, or such subsequent date as may
24 be provided by the board by rule consistent with the purposes of this
25 exemption.

26 (c) All revenues collected from the additional tax imposed under
27 this subsection (3) shall be deposited in the health services account
28 under RCW 43.72.900.

29 (4) An additional tax is imposed on all beer that is subject to tax
30 under subsection (1) of this section that is in the first sixty
31 thousand barrels of beer by breweries that are entitled to a reduced
32 rate of tax under 26 U.S.C. Sec. 5051, as existing on July 1, 1993, or
33 such subsequent date as may be provided by the board by rule consistent
34 with the purposes of the exemption under subsection (3)(b) of this
35 section. The additional tax is equal to one dollar and forty-eight and
36 two-tenths cents per barrel of thirty-one gallons. By the twenty-fifth
37 day of the following month, three percent of the revenues collected
38 from this additional tax shall be distributed to border areas under RCW

1 66.08.195 and the remaining moneys shall be transferred to the state
2 general fund.

3 (5) For the purpose of implementing this chapter, the liquor
4 control board shall treat low alcohol spirits coolers the same as beer.
5 In addition to taxes on beer, an additional tax is imposed on low
6 alcohol spirits coolers of forty-five cents per liter.

7 (6) The tax imposed under this section shall not apply to "strong
8 beer" as defined in this title.

9 NEW SECTION. Sec. 3. A new section is added to chapter 66.08 RCW
10 to read as follows:

11 For the purpose of implementing this title, the liquor control
12 board shall treat low alcohol spirits coolers the same as beer.

13 NEW SECTION. Sec. 4. A new section is added to chapter 19.126 RCW
14 to read as follows:

15 For the purpose of implementing this chapter, low alcohol spirits
16 coolers, as defined in RCW 66.04.010, shall be treated the same as
17 beer.

18 NEW SECTION. Sec. 5. This act is necessary for the immediate
19 preservation of the public peace, health, or safety, or support of the
20 state government and its existing public institutions, and takes effect
21 July 1, 1999.

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