

# SENATE BILL REPORT

## SB 5994

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As Passed Senate, March 16, 2003

**Title:** An act relating to removing suppliers and distributors of wine from the provisions of chapter 19.126 RCW.

**Brief Description:** Removing suppliers and distributors of wine from the provisions of chapter 19.126 RCW.

**Sponsors:** Senators Hewitt, Reardon, Honeyford, Haugen, Rossi, Hale, Mulliken and T. Sheldon.

**Brief History:**

**Committee Activity:** Commerce & Trade: 3/5/03 [DP].

Passed Senate: 3/16/03, 47-0.

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### SENATE COMMITTEE ON COMMERCE & TRADE

**Majority Report:** Do pass.

Signed by Senators Honeyford, Chair; Hewitt, Vice Chair; Franklin, Keiser and Mulliken.

**Staff:** Elizabeth Mitchell (786-7430)

**Background:** Wineries, wine distributors, and wine importers must be licensed under Title 66 RCW, and are required to follow Liquor Control Board laws and rules under this title.

Distributors and suppliers of wine are also regulated under Chapter 19.126 RCW. The term "supplier" is defined as a wine or malt beverage manufacturer or importer who enters into a distribution agreement with a distributor, and does not include licensed domestic wineries. The term "distributor" is defined as any person who imports wine or malt beverages into the state or buys wine or malt beverages within the state in order to sell the liquor to licensed retailers.

Under Chapter 19.126 RCW, distributors and suppliers must make their agreements in writing. Distributors are required to "maintain the financial and competitive capability necessary to achieve efficient and effective distribution of the supplier's products" and must notify suppliers before any changes in ownership or management. The supplier has the right to reasonable prior approval of these changes. Suppliers may not coerce any wholesale distributor to engage in illegal conduct.

Continued violation of the provisions of Chapter 19.126 RCW may result in the suspension or cancellation of a distributor or supplier's license.

On February 20, 2003, the Washington State Supreme Court concluded that exempting domestic wineries from the provisions of Chapter 19.126 RCW violated the Commerce Clause of the United States Constitution.

**Summary of Bill:** Wine distributors are eliminated from the definition of "distributor" for the purposes of Chapter 19.126 RCW.

All wine manufacturers are eliminated from the definition of "supplier" for the purposes of Chapter 19.126 RCW.

The definition of "wine manufacturer" is deleted from Chapter 19.126 RCW.

Wine importers are eliminated from the definition of "importer" for the purposes of Chapter 19.126 RCW.

**Appropriation:** None.

**Fiscal Note:** Not requested.

**Effective Date:** The bill contains an emergency clause and takes effect immediately.

**Testimony For:** The recent Supreme Court case involved out-of-state wineries. The defendants argued and the court agreed that Chapter 19.126 RCW discriminates against out-of-state wineries and violates the Commerce Clause. No one argued that the provisions in the chapter regarding beer were unconstitutional; the chapter does not discriminate between in-state and out-of-state beer suppliers. The court said it could not sever a specific portion of the chapter, since this would impermissibly broaden the statute. The plaintiff wholesalers have filed a petition for reconsideration with the court, and would like all the language about wine in the chapter to be severed. Wineries' hands are often tied by the franchise laws in Chapter 19.126 RCW.

**Testimony Against:** None.

**Testified:** Ron Main, Washington Beer & Wine Wholesalers Association (pro); Steve Burns, Washington Wine Institute (pro).