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**SUBSTITUTE SENATE BILL 5051**

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**State of Washington**

**58th Legislature**

**2003 Regular Session**

**By** Senate Committee on Commerce & Trade (originally sponsored by Senator Jacobsen)

READ FIRST TIME 02/28/03.

1 AN ACT Relating to strong beer; amending RCW 66.24.244, 66.24.250,  
2 66.24.261, 66.24.270, 66.24.290, 66.24.320, 66.24.330, 66.24.360,  
3 66.24.371, 66.24.452, and 82.08.150; creating a new section; providing  
4 an effective date; and declaring an emergency.

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

6 **Sec. 1.** RCW 66.24.244 and 1998 c 126 s 3 are each amended to read  
7 as follows:

8 (1) There shall be a license for microbreweries; fee to be one  
9 hundred dollars for production of less than sixty thousand barrels of  
10 malt liquor, including strong beer, per year.

11 (2) Any microbrewery license under this section may also act as a  
12 distributor and/or retailer for beer and strong beer of its own  
13 production. Any microbrewery operating as a distributor and/or  
14 retailer under this subsection shall comply with the applicable laws  
15 and rules relating to distributors and/or retailers.

16 (3) The board may issue an endorsement to this license allowing for  
17 on-premises consumption of beer, including strong beer, wine, or both  
18 of other manufacture if purchased from a Washington state-licensed

1 distributor. Each endorsement shall cost two hundred dollars per year,  
2 or four hundred dollars per year allowing the sale and service of both  
3 beer and wine.

4 (4) The microbrewer obtaining such endorsement must determine, at  
5 the time the endorsement is issued, whether the licensed premises will  
6 be operated either as a tavern with persons under twenty-one years of  
7 age not allowed as provided for in RCW 66.24.330, or as a beer and/or  
8 wine restaurant as described in RCW 66.24.320.

9 **Sec. 2.** RCW 66.24.250 and 1997 c 321 s 13 are each amended to read  
10 as follows:

11 There shall be a license for beer distributors to sell beer and  
12 strong beer, purchased from licensed Washington breweries, beer  
13 certificate of approval holders (B5), licensed beer importers, or  
14 suppliers of foreign beer located outside the state of Washington, to  
15 licensed beer retailers and other beer distributors and to export same  
16 from the state of Washington; fee six hundred sixty dollars per year  
17 for each distributing unit.

18 **Sec. 3.** RCW 66.24.261 and 1997 c 321 s 14 are each amended to read  
19 as follows:

20 There shall be a license for beer importers that authorizes the  
21 licensee to import beer and strong beer manufactured within the United  
22 States by certificate of approval holders (B5) into the state of  
23 Washington. The licensee may also import beer and strong beer  
24 manufactured outside the United States.

25 (1) Beer and strong beer so imported may be sold to licensed beer  
26 distributors or exported from the state.

27 (2) Every person, firm, or corporation licensed as a beer importer  
28 shall establish and maintain a principal office within the state at  
29 which shall be kept proper records of all beer and strong beer imported  
30 into the state under this license.

31 (3) No beer importer's license shall be granted to a nonresident of  
32 the state nor to a corporation whose principal place of business is  
33 outside the state until such applicant has established a principal  
34 office and agent within the state upon which service can be made.

35 (4) As a requirement for license approval, a beer importer shall  
36 enter into a written agreement with the board to furnish on or before

1 the twentieth day of each month, a report under oath, detailing the  
2 quantity of beer and strong beer sold or delivered to each licensed  
3 beer distributor. Failure to file such reports may result in the  
4 suspension or cancellation of this license.

5 (5) Beer and strong beer imported under this license must conform  
6 to the provisions of RCW 66.28.120 and have received label approval  
7 from the board. The board shall not certify beer or strong beer  
8 labeled with names which may be confused with other nonalcoholic  
9 beverages whether manufactured or produced from a domestic brewery or  
10 imported nor shall it certify beer or strong beer which fails to meet  
11 quality standards established by the board.

12 (6) The license fee shall be one hundred sixty dollars per year.

13 **Sec. 4.** RCW 66.24.270 and 1997 c 321 s 15 are each amended to read  
14 as follows:

15 (1) Every person, firm or corporation, holding a license to  
16 manufacture malt liquors or strong beer within the state of Washington,  
17 shall, on or before the twentieth day of each month, furnish to the  
18 Washington state liquor control board, on a form to be prescribed by  
19 the board, a statement showing the quantity of malt liquors and strong  
20 beer sold for resale during the preceding calendar month to each beer  
21 distributor within the state of Washington.

22 (2) A United States brewery or manufacturer of beer or strong beer,  
23 located outside the state of Washington, must hold a certificate of  
24 approval (B5) to allow sales and shipment of the certificate of  
25 approval holder's beer or strong beer to licensed Washington beer  
26 distributors or importers. The certificate of approval shall not be  
27 granted unless and until such brewer or manufacturer of beer or strong  
28 beer shall have made a written agreement with the board to furnish to  
29 the board, on or before the twentieth day of each month, a report under  
30 oath, on a form to be prescribed by the board, showing the quantity of  
31 beer and strong beer sold or delivered to each licensed beer  
32 distributor or importer during the preceding month, and shall further  
33 have agreed with the board, that such brewer or manufacturer of beer or  
34 strong beer and all general sales corporations or agencies maintained  
35 by them, and all of their trade representatives, corporations, and  
36 agencies, shall and will faithfully comply with all laws of the state  
37 of Washington pertaining to the sale of intoxicating liquors and all

1 rules and regulations of the Washington state liquor control board. A  
2 violation of the terms of this agreement will cause the board to take  
3 action to suspend or revoke such certificate.

4 (3) The fee for the certificate of approval, issued pursuant to the  
5 provisions of this title, shall be one hundred dollars per year, which  
6 sum shall accompany the application for such certificate.

7 **Sec. 5.** RCW 66.24.290 and 1999 c 281 s 14 are each amended to read  
8 as follows:

9 (1) Any microbrewer or domestic brewery or beer distributor  
10 licensed under this title may sell and deliver beer and strong beer to  
11 holders of authorized licenses direct, but to no other person, other  
12 than the board; and every such brewery or beer distributor shall report  
13 all sales to the board monthly, pursuant to the regulations, and shall  
14 pay to the board as an added tax for the privilege of manufacturing and  
15 selling the beer and strong beer within the state a tax of one dollar  
16 and thirty cents per barrel of thirty-one gallons on sales to licensees  
17 within the state and on sales to licensees within the state of bottled  
18 and canned beer, including strong beer, shall pay a tax computed in  
19 gallons at the rate of one dollar and thirty cents per barrel of  
20 thirty-one gallons. Any brewery or beer distributor whose applicable  
21 tax payment is not postmarked by the twentieth day following the month  
22 of sale will be assessed a penalty at the rate of two percent per month  
23 or fraction thereof. Beer and strong beer shall be sold by breweries  
24 and distributors in sealed barrels or packages. The moneys collected  
25 under this subsection shall be distributed as follows: (a) Three-  
26 tenths of a percent shall be distributed to border areas under RCW  
27 66.08.195; and (b) of the remaining moneys: (i) Twenty percent shall  
28 be distributed to counties in the same manner as under RCW 66.08.200;  
29 and (ii) eighty percent shall be distributed to incorporated cities and  
30 towns in the same manner as under RCW 66.08.210.

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

1 (3)(a) An additional tax is imposed on all beer and strong beer  
2 subject to tax under subsection (1) of this section. The additional  
3 tax is equal to ninety-six cents per barrel of thirty-one gallons  
4 through June 30, 1995, two dollars and thirty-nine cents per barrel of  
5 thirty-one gallons for the period July 1, 1995, through June 30, 1997,  
6 and four dollars and seventy-eight cents per barrel of thirty-one  
7 gallons thereafter.

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

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

17 (4) An additional tax is imposed on all beer and strong beer that  
18 is subject to tax under subsection (1) of this section that is in the  
19 first sixty thousand barrels of beer and strong beer by breweries that  
20 are entitled to a reduced rate of tax under 26 U.S.C. Sec. 5051, as  
21 existing on July 1, 1993, or such subsequent date as may be provided by  
22 the board by rule consistent with the purposes of the exemption under  
23 subsection (3)(b) of this section. The additional tax is equal to one  
24 dollar and forty-eight and two-tenths cents per barrel of thirty-one  
25 gallons. By the twenty-fifth day of the following month, three percent  
26 of the revenues collected from this additional tax shall be distributed  
27 to border areas under RCW 66.08.195 and the remaining moneys shall be  
28 transferred to the state general fund.

29 (5) The board may make refunds for all taxes paid on beer and  
30 strong beer exported from the state for use outside the state.

31 (6) The board may require filing with the board of a bond to be  
32 approved by it, in such amount as the board may fix, securing the  
33 payment of the tax. If any licensee fails to pay the tax when due, the  
34 board may forthwith suspend or cancel his or her license until all  
35 taxes are paid.

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

1       **Sec. 6.** RCW 66.24.320 and 1998 c 126 s 4 are each amended to read  
2 as follows:

3       There shall be a beer and/or wine restaurant license to sell beer,  
4 including strong beer, or wine, or both, at retail, for consumption on  
5 the premises. A patron of the licensee may remove from the premises,  
6 recorked or recapped in its original container, any portion of wine  
7 that was purchased for consumption with a meal.

8       (1) The annual fee shall be two hundred dollars for the beer  
9 license, two hundred dollars for the wine license, or four hundred  
10 dollars for a combination beer and wine license.

11       (2) The board may issue a caterer's endorsement to this license to  
12 allow the licensee to remove from the liquor stocks at the licensed  
13 premises, only those types of liquor that are authorized under the on-  
14 premises license privileges for sale and service at special occasion  
15 locations at a specified date and place not currently licensed by the  
16 board. The privilege of selling and serving liquor under the  
17 endorsement is limited to members and guests of a society or  
18 organization as defined in RCW 66.24.375. Cost of the endorsement is  
19 three hundred fifty dollars.

20       (a) The holder of this license with catering endorsement shall, if  
21 requested by the board, notify the board or its designee of the date,  
22 time, place, and location of any catered event. Upon request, the  
23 licensee shall provide to the board all necessary or requested  
24 information concerning the society or organization that will be holding  
25 the function at which the endorsed license will be utilized.

26       (b) If attendance at the function will be limited to members and  
27 invited guests of the sponsoring society or organization, the  
28 requirement that the society or organization be within the definition  
29 of RCW 66.24.375 is waived.

30       **Sec. 7.** RCW 66.24.330 and 1997 c 321 s 19 are each amended to read  
31 as follows:

32       There shall be a beer and wine retailer's license to be designated  
33 as a tavern license to sell beer, including strong beer, or wine, or  
34 both, at retail, for consumption on the premises. Such licenses may be  
35 issued only to a person operating a tavern that may be frequented only  
36 by persons twenty-one years of age and older.

1 The annual fee for such license shall be two hundred dollars for  
2 the beer license, two hundred dollars for the wine license, or four  
3 hundred dollars for a combination beer and wine license. Licensees who  
4 have a fee increase of more than one hundred dollars as a result of  
5 this change shall have their fees increased fifty percent of the amount  
6 the first renewal year and the remaining amount beginning with the  
7 second renewal period. New licensees obtaining a license after July 1,  
8 1998, shall pay the full amount of four hundred dollars.

9 **Sec. 8.** RCW 66.24.360 and 1997 c 321 s 22 are each amended to read  
10 as follows:

11 There shall be a beer and/or wine retailer's license to be  
12 designated as a grocery store license to sell beer, strong beer, and/or  
13 wine at retail in bottles, cans, and original containers, not to be  
14 consumed upon the premises where sold, at any store other than the  
15 state liquor stores.

16 (1) Licensees obtaining a written endorsement from the board may  
17 also sell malt liquor in kegs or other containers capable of holding  
18 less than five and one-half gallons of liquid.

19 (2) The annual fee for the grocery store license is one hundred  
20 fifty dollars for each store.

21 (3) The board shall issue a restricted grocery store license  
22 authorizing the licensee to sell beer and only table wine, if the board  
23 finds upon issuance or renewal of the license that the sale of strong  
24 beer or fortified wine would be against the public interest. In  
25 determining the public interest, the board shall consider at least the  
26 following factors:

27 (a) The likelihood that the applicant will sell strong beer or  
28 fortified wine to persons who are intoxicated;

29 (b) Law enforcement problems in the vicinity of the applicant's  
30 establishment that may arise from persons purchasing strong beer or  
31 fortified wine at the establishment; and

32 (c) Whether the sale of strong beer or fortified wine would be  
33 detrimental to or inconsistent with a government-operated or funded  
34 alcohol treatment or detoxification program in the area.

35 If the board receives no evidence or objection that the sale of  
36 strong beer or fortified wine would be against the public interest, it  
37 shall issue or renew the license without restriction, as applicable.

1 The burden of establishing that the sale of strong beer or fortified  
2 wine by the licensee would be against the public interest is on those  
3 persons objecting.

4 (4) Licensees holding a grocery store license must maintain a  
5 minimum three thousand dollar inventory of food products for human  
6 consumption, not including pop, beer, strong beer, or wine.

7 (5) Upon approval by the board, the grocery store licensee may also  
8 receive an endorsement to permit the international export of beer,  
9 strong beer, and wine.

10 (a) Any beer, strong beer, or wine sold under this endorsement must  
11 have been purchased from a licensed beer or wine distributor licensed  
12 to do business within the state of Washington.

13 (b) Any beer, strong beer, and wine sold under this endorsement  
14 must be intended for consumption outside the state of Washington and  
15 the United States and appropriate records must be maintained by the  
16 licensee.

17 (c) A holder of this special endorsement to the grocery store  
18 license shall be considered not in violation of RCW 66.28.010.

19 (d) Any beer, strong beer, or wine sold under this license must be  
20 sold at a price no less than the acquisition price paid by the holder  
21 of the license.

22 (e) The annual cost of this endorsement is five hundred dollars and  
23 is in addition to the license fees paid by the licensee for a grocery  
24 store license.

25 **Sec. 9.** RCW 66.24.371 and 1997 c 321 s 23 are each amended to read  
26 as follows:

27 (1) There shall be a beer and/or wine retailer's license to be  
28 designated as a beer and/or wine specialty shop license to sell beer,  
29 strong beer, and/or wine at retail in bottles, cans, and original  
30 containers, not to be consumed upon the premises where sold, at any  
31 store other than the state liquor stores. Licensees obtaining a  
32 written endorsement from the board may also sell malt liquor in kegs or  
33 other containers capable of holding less than five and one-half gallons  
34 of liquid. The annual fee for the beer and/or wine specialty shop  
35 license is one hundred dollars for each store.

36 (2) Licensees under this section may provide, free or for a charge,  
37 single-serving samples of two ounces or less to customers for the

1 purpose of sales promotion. Sampling activities of licensees under  
2 this section are subject to RCW 66.28.010 and 66.28.040 and the cost of  
3 sampling under this section may not be borne, directly or indirectly,  
4 by any manufacturer, importer, or distributor of liquor.

5 (3) The board shall issue a restricted beer and/or wine specialty  
6 shop license, authorizing the licensee to sell beer and only table  
7 wine, if the board finds upon issuance or renewal of the license that  
8 the sale of strong beer or fortified wine would be against the public  
9 interest. In determining the public interest, the board shall consider  
10 at least the following factors:

11 (a) The likelihood that the applicant will sell strong beer or  
12 fortified wine to persons who are intoxicated;

13 (b) Law enforcement problems in the vicinity of the applicant's  
14 establishment that may arise from persons purchasing strong beer or  
15 fortified wine at the establishment; and

16 (c) Whether the sale of strong beer or fortified wine would be  
17 detrimental to or inconsistent with a government-operated or funded  
18 alcohol treatment or detoxification program in the area.

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

25 (4) Licensees holding a beer and/or wine specialty shop license  
26 must maintain a minimum three thousand dollar wholesale inventory of  
27 beer, strong beer, and/or wine.

28 **Sec. 10.** RCW 66.24.452 and 2001 c 199 s 2 are each amended to read  
29 as follows:

30 (1) There shall be a beer and wine license to be issued to a  
31 private club for sale of beer, strong beer, and wine for on-premises  
32 consumption.

33 (2) Beer, strong beer, and wine sold by the licensee may be on tap  
34 or by open bottles or cans.

35 (3) The fee for the private club beer and wine license is one  
36 hundred eighty dollars per year.

1 (4) The board may issue an endorsement to the private club beer and  
2 wine license that allows the holder of a private club beer and wine  
3 license to sell for off-premises consumption wine vinted and bottled in  
4 the state of Washington and carrying a label exclusive to the license  
5 holder selling the wine. Spirits, strong beer, and beer may not be  
6 sold for off-premises consumption under this section. The annual fee  
7 for the endorsement under this (~~chapter~~~~[section]~~) section is one  
8 hundred twenty dollars.

9 **Sec. 11.** RCW 82.08.150 and 1998 c 126 s 16 are each amended to  
10 read as follows:

11 (1) There is levied and shall be collected a tax upon each retail  
12 sale of spirits(~~(, or strong beer)~~) in the original package at the rate  
13 of fifteen percent of the selling price. The tax imposed in this  
14 subsection shall apply to all such sales including sales by the  
15 Washington state liquor stores and agencies, but excluding sales to  
16 spirits, beer, and wine restaurant licensees.

17 (2) There is levied and shall be collected a tax upon each sale of  
18 spirits(~~(, or strong beer)~~) in the original package at the rate of ten  
19 percent of the selling price on sales by Washington state liquor stores  
20 and agencies to spirits, beer, and wine restaurant licensees.

21 (3) There is levied and shall be collected an additional tax upon  
22 each retail sale of spirits in the original package at the rate of one  
23 dollar and seventy-two cents per liter. The additional tax imposed in  
24 this subsection shall apply to all such sales including sales by  
25 Washington state liquor stores and agencies, and including sales to  
26 spirits, beer, and wine restaurant licensees.

27 (4) An additional tax is imposed equal to fourteen percent  
28 multiplied by the taxes payable under subsections (1), (2), and (3) of  
29 this section.

30 (5) An additional tax is imposed upon each retail sale of spirits  
31 in the original package at the rate of seven cents per liter. The  
32 additional tax imposed in this subsection shall apply to all such sales  
33 including sales by Washington state liquor stores and agencies, and  
34 including sales to spirits, beer, and wine restaurant licensees. All  
35 revenues collected during any month from this additional tax shall be  
36 deposited in the violence reduction and drug enforcement account under  
37 RCW 69.50.520 by the twenty-fifth day of the following month.

1 (6)(a) An additional tax is imposed upon retail sale of spirits in  
2 the original package at the rate of one and seven-tenths percent of the  
3 selling price through June 30, 1995, two and six-tenths percent of the  
4 selling price for the period July 1, 1995, through June 30, 1997, and  
5 three and four-tenths of the selling price thereafter. This additional  
6 tax applies to all such sales including sales by Washington state  
7 liquor stores and agencies, but excluding sales to spirits, beer, and  
8 wine restaurant licensees.

9 (b) An additional tax is imposed upon retail sale of spirits in the  
10 original package at the rate of one and one-tenth percent of the  
11 selling price through June 30, 1995, one and seven-tenths percent of  
12 the selling price for the period July 1, 1995, through June 30, 1997,  
13 and two and three-tenths of the selling price thereafter. This  
14 additional tax applies to all such sales to spirits, beer, and wine  
15 restaurant licensees.

16 (c) An additional tax is imposed upon each retail sale of spirits  
17 in the original package at the rate of twenty cents per liter through  
18 June 30, 1995, thirty cents per liter for the period July 1, 1995,  
19 through June 30, 1997, and forty-one cents per liter thereafter. This  
20 additional tax applies to all such sales including sales by Washington  
21 state liquor stores and agencies, and including sales to spirits, beer,  
22 and wine restaurant licensees.

23 (d) All revenues collected during any month from additional taxes  
24 under this subsection shall be deposited in the health services account  
25 created under RCW 43.72.900 by the twenty-fifth day of the following  
26 month.

27 (7) The tax imposed in RCW 82.08.020 shall not apply to sales of  
28 spirits (~~(or strong beer)~~) in the original package.

29 (8) The taxes imposed in this section shall be paid by the buyer to  
30 the seller, and each seller shall collect from the buyer the full  
31 amount of the tax payable in respect to each taxable sale under this  
32 section. The taxes required by this section to be collected by the  
33 seller shall be stated separately from the selling price and for  
34 purposes of determining the tax due from the buyer to the seller, it  
35 shall be conclusively presumed that the selling price quoted in any  
36 price list does not include the taxes imposed by this section.

37 (9) As used in this section, the terms, "spirits(~~(, "—"strong~~

1 ~~beer~~))" and "package" shall have the meaning ascribed to them in  
2 chapter 66.04 RCW.

3 NEW SECTION. **Sec. 12.** The liquor control board shall study the  
4 impacts of strong beer sales, and report its findings to the  
5 legislature by December 31, 2008.

6 NEW SECTION. **Sec. 13.** This act is necessary for the immediate  
7 preservation of the public peace, health, or safety, or support of the  
8 state government and its existing public institutions, and takes effect  
9 July 1, 2003.

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