

CERTIFICATION OF ENROLLMENT

SUBSTITUTE SENATE BILL 5051

58th Legislature
2003 Regular Session

Passed by the Senate April 17, 2003
YEAS 47 NAYS 1

President of the Senate

Passed by the House April 14, 2003
YEAS 94 NAYS 2

Speaker of the House of Representatives

Approved

Governor of the State of Washington

CERTIFICATE

I, Milton H. Doumit, Jr.,
Secretary of the Senate of the
State of Washington, do hereby
certify that the attached is
SUBSTITUTE SENATE BILL 5051 as
passed by the Senate and the House
of Representatives on the dates
hereon set forth.

Secretary

FILED

**Secretary of State
State of Washington**

SUBSTITUTE SENATE BILL 5051

AS AMENDED BY THE HOUSE

Passed Legislature - 2003 Regular Session

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 new sections; 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. Strong beer may not be sold at a farmers market or under
14 any endorsement which may authorize microbreweries to sell beer at
15 farmers markets. Any microbrewery operating as a distributor and/or
16 retailer under this subsection shall comply with the applicable laws
17 and rules relating to distributors and/or retailers.

18 (3) The board may issue an endorsement to this license allowing for
19 on-premises consumption of beer, including strong beer, wine, or both

1 of other manufacture if purchased from a Washington state-licensed
2 distributor. Each endorsement shall cost two hundred dollars per year,
3 or four hundred dollars per year allowing the sale and service of both
4 beer and wine.

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

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

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

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

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

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

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

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

1 (4) As a requirement for license approval, a beer importer shall
2 enter into a written agreement with the board to furnish on or before
3 the twentieth day of each month, a report under oath, detailing the
4 quantity of beer and strong beer sold or delivered to each licensed
5 beer distributor. Failure to file such reports may result in the
6 suspension or cancellation of this license.

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

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

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

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

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

1 agencies, shall and will faithfully comply with all laws of the state
2 of Washington pertaining to the sale of intoxicating liquors and all
3 rules and regulations of the Washington state liquor control board. A
4 violation of the terms of this agreement will cause the board to take
5 action to suspend or revoke such certificate.

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

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

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

33 (2) An additional tax is imposed on all beer and strong beer
34 subject to tax under subsection (1) of this section. The additional
35 tax is equal to two dollars per barrel of thirty-one gallons. All
36 revenues collected during any month from this additional tax shall be

1 deposited in the violence reduction and drug enforcement account under
2 RCW 69.50.520 by the twenty-fifth day of the following month.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

34 There shall be a beer and wine retailer's license to be designated
35 as a tavern license to sell beer, including strong beer, or wine, or

1 both, at retail, for consumption on the premises. Such licenses may be
2 issued only to a person operating a tavern that may be frequented only
3 by persons twenty-one years of age and older.

4 The annual fee for such license shall be two hundred dollars for
5 the beer license, two hundred dollars for the wine license, or four
6 hundred dollars for a combination beer and wine license. Licensees who
7 have a fee increase of more than one hundred dollars as a result of
8 this change shall have their fees increased fifty percent of the amount
9 the first renewal year and the remaining amount beginning with the
10 second renewal period. New licensees obtaining a license after July 1,
11 1998, shall pay the full amount of four hundred dollars.

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

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

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

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

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

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

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

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

1 If the board receives no evidence or objection that the sale of
2 strong beer or fortified wine would be against the public interest, it
3 shall issue or renew the license without restriction, as applicable.
4 The burden of establishing that the sale of strong beer or fortified
5 wine by the licensee would be against the public interest is on those
6 persons objecting.

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

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

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

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

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

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

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

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

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

1 of liquid. The annual fee for the beer and/or wine specialty shop
2 license is one hundred dollars for each store.

3 (2) Licensees under this section may provide, free or for a charge,
4 single-serving samples of two ounces or less to customers for the
5 purpose of sales promotion. Sampling activities of licensees under
6 this section are subject to RCW 66.28.010 and 66.28.040 and the cost of
7 sampling under this section may not be borne, directly or indirectly,
8 by any manufacturer, importer, or distributor of liquor.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

34 (5) An additional tax is imposed upon each retail sale of spirits
35 in the original package at the rate of seven cents per liter. The
36 additional tax imposed in this subsection shall apply to all such sales
37 including sales by Washington state liquor stores and agencies, and

1 including sales to spirits, beer, and wine restaurant licensees. All
2 revenues collected during any month from this additional tax shall be
3 deposited in the violence reduction and drug enforcement account under
4 RCW 69.50.520 by the twenty-fifth day of the following month.

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

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

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

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

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

33 (8) The taxes imposed in this section shall be paid by the buyer to
34 the seller, and each seller shall collect from the buyer the full
35 amount of the tax payable in respect to each taxable sale under this
36 section. The taxes required by this section to be collected by the
37 seller shall be stated separately from the selling price and for

1 purposes of determining the tax due from the buyer to the seller, it
2 shall be conclusively presumed that the selling price quoted in any
3 price list does not include the taxes imposed by this section.

4 (9) As used in this section, the terms, "spirits(~~(7"—"strong~~
5 ~~beer~~)")" and "package" shall have the meaning ascribed to them in
6 chapter 66.04 RCW.

7 NEW SECTION. **Sec. 12.** Sections 8 and 9 of this act apply to
8 retailers who hold a restricted grocery store license or restricted
9 beer and/or wine specialty shop license on or after the effective date
10 of this section.

11 NEW SECTION. **Sec. 13.** The liquor control board shall report to
12 the legislature by December 1, 2004, on the impacts of strong beer
13 sales.

14 NEW SECTION. **Sec. 14.** This act is necessary for the immediate
15 preservation of the public peace, health, or safety, or support of the
16 state government and its existing public institutions, and takes effect
17 July 1, 2003.

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