

ESB 6661 - H COMM AMD

By Committee on Economic Development, Agriculture & Trade

ADOPTED 03/01/2006

1 Strike everything after the enacting clause and insert the
2 following:

3 "NEW SECTION. **Sec. 1.** The legislature declares that:

4 (1) Marketing is a dynamic and changing part of Washington
5 agriculture and a vital element in expanding the state economy;

6 (2) The sale in this state and export to other states and abroad of
7 beer made in this state contribute substantial benefits to the economy
8 of the state and provide a large number of jobs and sizeable tax
9 revenues;

10 (3) The production of beer in this state is a new and important
11 segment of Washington agriculture that has potential for greater
12 contribution to the economy of the state if it undergoes continued
13 development; and

14 (4) The general welfare of the people of this state will be served
15 by continued development of the activities of the production of beer,
16 that will improve the tax bases of local communities where agricultural
17 land and processing facilities are located, and reduce the need for
18 state and federal funding of local services. The industries are
19 therefore affected with the public interest.

20 NEW SECTION. **Sec. 2.** The definitions in this section apply
21 throughout this chapter unless the context clearly requires otherwise.

22 (1) "Affected producer" means any producer who is subject to this
23 chapter.

24 (2) "Beer" means any malt beverage or malt liquor as the terms are
25 defined in chapter 66.04 RCW.

26 (3) "Commission" means the Washington beer commission.

27 (4) "Department" means the department of agriculture.

28 (5) "Director" means the director of the department or the
29 director's duly authorized representative.

1 (6) "Fiscal year" means the twelve-month period beginning with
2 January 1st of any year and ending December 31st.

3 (7) "Producer" means any person or other entity licensed under
4 Title 66 RCW to produce beer within Washington state and who produces
5 less than one hundred thousand barrels of beer annually per location.

6 (8) "Referendum" means a vote by affected producers that is
7 conducted by secret ballot.

8 NEW SECTION. **Sec. 3.** The history, economy, culture, and future of
9 Washington state's agriculture involve the beer industry. In order to
10 develop and promote beer as part of an existing comprehensive scheme to
11 regulate those products, the legislature declares that:

12 (1) It is vital to the continued economic well-being of the
13 citizens of this state and their general welfare that beer produced in
14 Washington state be properly promoted;

15 (2) It is in the overriding public interest that support for the
16 Washington beer industry be clearly expressed and that beer be promoted
17 individually, and as part of a comprehensive industry to:

18 (a) Enhance the reputation and image of Washington state's
19 agriculture industry;

20 (b) Protect the public by educating the public in reference to the
21 quality, care, and methods used in the production of beer;

22 (c) Increase the knowledge of the qualities and value of
23 Washington's beer; and

24 (d) Support and engage in programs or activities that benefit the
25 production, handling, processing, marketing, and uses of beer;

26 (3) This chapter is enacted in the exercise of the police powers of
27 this state to protect the health, peace, safety, and general welfare of
28 the people of this state; and

29 (4) The production and marketing of beer is a highly regulated
30 industry and this chapter and the rules adopted under it are only one
31 aspect of the regulated industry. Other laws applicable to the beer
32 industry include:

33 (a) The organic food products act, chapter 15.86 RCW;

34 (b) The wholesale distributors and suppliers of malt beverages,
35 chapter 19.126 RCW;

36 (c) Weights and measures, chapter 19.94 RCW;

37 (d) Title 66 RCW, alcoholic beverage control;

- 1 (e) Title 69 RCW, food, drugs, cosmetics, and poisons;
- 2 (f) 21 C.F.R. as it relates to general manufacturing practices,
- 3 food labeling, food standards, food additives, and pesticide
- 4 tolerances;
- 5 (g) Chapter 69.07 RCW, Washington food processing act;
- 6 (h) 27 U.S.C. Secs. 201 through 211, 213 through 219a, and 122A;
- 7 (i) 27 C.F.R. Parts 1, 6, 9, 10, 12, 16, 240, 251, and 252; and
- 8 (j) Rules under Title 314 WAC.

9 NEW SECTION. **Sec. 4.** (1) Subject to the referendum conducted
10 under section 5 of this act, there is created an agricultural commodity
11 commission, to be known as the Washington beer commission. The
12 commission shall be comprised of seven voting members; six members
13 shall be producers and one voting member shall be the director.

14 (2) Five voting members of the commission constitute a quorum for
15 the transaction of any commission business.

16 (3) Each producer member shall be a citizen and resident of this
17 state and over the age of twenty-one. Each producer member must be
18 engaged in producing beer, and must, during his or her term of office,
19 derive a substantial portion of income from the production of beer, or
20 have a substantial investment in the production of beer as an owner,
21 lessee, partner, or the manager or executive officer of such a
22 corporation. No more than one board member may be part of the same
23 person as defined by RCW 15.04.010. These qualifications apply
24 throughout each member's term of office but do not apply to the
25 director.

26 (4) The producer members shall serve three-year terms. Of the
27 initial voting members, two members shall be appointed for a one-year
28 term, two members shall be appointed for a two-year term, and two
29 members shall be appointed for a three-year term.

30 NEW SECTION. **Sec. 5.** (1) Upon receipt of a petition containing
31 the signatures of five beer producers from a statewide Washington state
32 craft brewing trade association or other affected producers to
33 implement this chapter and to determine producer participation in the
34 commission and assessment under this chapter, the director shall:

35 (a) Conduct a referendum of beer producers. The requirements of
36 assent or approval of the referendum are met if:

1 (i) At least fifty-one percent by numbers of affected producers
2 participating in the referendum vote affirmatively; and

3 (ii) Thirty percent of the affected producers and thirty percent of
4 the production have been represented in the referendum to determine
5 assent or approval of participation and assessment. The referendum
6 shall be conducted within sixty days of receipt of the petition; and

7 (b) Establish a list of beer producers from information provided by
8 the petitioners, by obtaining information on beer producers from
9 applicable producer organizations or associations or other sources
10 identified as maintaining the information. In establishing a current
11 list of beer producers and their individual production, the director
12 shall use the beer producer's name, mailing address, and production by
13 the producer in the preceding fiscal year. Information on each
14 producer shall be mailed to each beer producer on record with the
15 director for verification. All corrections shall be filed with the
16 director within twenty days from the date of mailing. The list of
17 affected producers shall be kept in a file by the director. The list
18 shall be certified as a true representation of the referendum mailing
19 list. Inadvertent failure to notify an affected producer does not
20 invalidate a proceeding conducted under this chapter. The director
21 shall provide the commission the list of affected producers after
22 assent in a referendum as provided in this section.

23 (2) If the director determines that the requisite assent has been
24 given in the referendum conducted under subsection (1) of this section,
25 the director shall:

26 (a) Within sixty days after assent of the referendum held, appoint
27 the members of the commission; and

28 (b) Direct the commission to put into force the assessment as
29 provided for in section 14 of this act.

30 (3) If the director determines that the requisite assent has not
31 been given in the referendum conducted under subsection (1) of this
32 section, the director shall take no further action to implement or
33 enforce this chapter.

34 (4) Upon completion of the referendum conducted under subsection
35 (1) of this section, the department shall tally the results of the vote
36 and provide the results to affected producers. If an affected producer
37 disputes the results of a vote, that producer within sixty days from
38 the announced results, shall provide in writing a statement of why the

1 vote is disputed and request a recount. Once the vote is tallied and
2 distributed, all disputes are resolved, and all matters in a vote are
3 finalized, the individual ballots may be destroyed.

4 (5) Before conducting the referendum provided for in subsection (1)
5 of this section, the director may require the petitioners to deposit
6 with him or her an amount of money as the director deems necessary to
7 defray the expenses of conducting the referendum. The director shall
8 provide the petitioners an estimate of expenses that may be incurred to
9 conduct a referendum before any service takes place. Petitioners shall
10 deposit funds with the director to pay for expenses incurred by the
11 department. The commission shall reimburse petitioners the amount paid
12 to the department when funds become available. However, if for any
13 reason the referendum process is discontinued, the petitioners shall
14 reimburse the department for expenses incurred by the department up
15 until the time the process is discontinued.

16 (6) The director is not required to hold a referendum under
17 subsection (1) of this section more than once in any twelve-month
18 period.

19 NEW SECTION. **Sec. 6.** (1) The director shall appoint the producer
20 members of the commission. In making appointments, no later than
21 ninety days before an expiration of a commission member's term, the
22 director shall call for recommendations for commission member
23 positions, and the director shall take into consideration
24 recommendations made by a statewide Washington state craft brewing
25 trade association or other affected producers. In appointing persons
26 to the commission, the director shall seek a balanced representation on
27 the commission that reflects the composition of the beer producers
28 throughout the state on the basis of beer produced and geographic
29 location. Information on beer production by geographic location shall
30 be provided by the commission upon the director's request.

31 (2) If a position on the commission becomes vacant due to
32 resignation, disqualification, death, or for any other reason, the
33 commission shall notify the director and the unexpired term shall
34 immediately be filled by appointment by the director.

35 (3) Each member or employee of the commission shall be reimbursed
36 for actual travel expenses incurred in carrying out this chapter as

1 defined by the commission in rule. Otherwise if not defined in rule,
2 reimbursement for travel expenses shall be at the rates allowed by RCW
3 43.03.050 and 43.03.060.

4 NEW SECTION. **Sec. 7.** Obligations incurred by the commission and
5 any other liabilities or claims against the commission shall be
6 enforced only against the assets of the commission and, except to the
7 extent of such assets, no liability for the debts or actions of the
8 commission exists against either the state of Washington or any
9 subdivision or instrumentality thereof or against any member, employee,
10 or agent of the commission or the state of Washington in his or her
11 individual capacity. Except as otherwise provided in this chapter,
12 neither the commission members, nor its employees, may be held
13 individually responsible for errors in judgment, mistakes, or other
14 acts, either of commission or omission, as principal, agent, person, or
15 employee, except for their own individual acts of dishonesty or crime.
16 No person or employee may be held individually responsible for any act
17 or omission of any other commission members. The liability of the
18 commission members shall be several and not joint, and no member is
19 liable for the default of any other member. This provision confirms
20 that commission members have been and continue to be, state officers or
21 volunteers for purposes of RCW 4.92.075 and are entitled to the
22 defenses, indemnifications, limitations of liability, and other
23 protections and benefits of chapter 4.92 RCW.

24 NEW SECTION. **Sec. 8.** The commission shall:

25 (1) Elect a chair and officers. The officers must include a
26 treasurer who is responsible for all receipts and disbursements by the
27 commission and the faithful discharge of whose duties shall be
28 guaranteed by a bond at the sole expense of the commission. The
29 commission must adopt rules for its own governance that provide for the
30 holding of an annual meeting for the election of officers and the
31 transaction of other business and for other meetings the commission may
32 direct;

33 (2) Do all things reasonably necessary to effect the purposes of
34 this chapter. However, the commission has no rule-making power except
35 as provided in this chapter;

1 (3) Employ and discharge managers, secretaries, agents, attorneys,
2 and employees and engage the services of independent contractors;

3 (4) Retain, as necessary, the services of private legal counsel to
4 conduct legal actions on behalf of the commission. The retention of a
5 private attorney is subject to review by the office of the attorney
6 general;

7 (5) Receive donations of beer from producers for promotional
8 purposes under subsections (6) and (7) of this section and for fund-
9 raising purposes under subsection (8) of this section. Donations of
10 beer for promotional purposes may only be disseminated without charge;

11 (6) Engage directly or indirectly in the promotion of Washington
12 beer, including, without limitation, the acquisition in any lawful
13 manner and the dissemination without charge of beer. This
14 dissemination is not deemed a sale for any purpose and the commission
15 is not deemed a producer, supplier, or manufacturer, or the clerk,
16 servant, or agent of a producer, supplier, distributor, or
17 manufacturer. This dissemination without charge shall be for
18 agricultural development or trade promotion, and not for fund-raising
19 purposes under subsection (8) of this section. Dissemination for
20 promotional purposes may include promotional hosting and must in the
21 good faith judgment of the commission be in the aid of the marketing,
22 advertising, sale of beer, or of research related to such marketing,
23 advertising, or sale;

24 (7) Promote Washington beer by conducting unique beer tastings
25 without charge;

26 (8) Beginning July 1, 2007, fund the Washington beer commission
27 through sponsorship of up to twelve beer festivals annually at which
28 beer may be sold to festival participants. For this purpose, the
29 commission would qualify for issue of a special occasion license as an
30 exception to WAC 314-05-020 but must comply with laws under Title 66
31 RCW and rules adopted by the liquor control board under which such
32 events may be conducted;

33 (9) Participate in international, federal, state, and local
34 hearings, meetings, and other proceedings relating to the production,
35 regulation, distribution, sale, or use of beer including activities
36 authorized under RCW 42.17.190, including the reporting of those
37 activities to the public disclosure commission;

1 (10) Acquire and transfer personal and real property, establish
2 offices, incur expenses, and enter into contracts, including contracts
3 for the creation and printing of promotional literature. The contracts
4 are not subject to chapter 43.78 RCW, and are cancelable by the
5 commission unless performed under conditions of employment that
6 substantially conform to the laws of this state and the rules of the
7 department of labor and industries. The commission may create debt and
8 other liabilities that are reasonable for proper discharge of its
9 duties under this chapter;

10 (11) Maintain accounts with one or more qualified public
11 depositories as the commission may direct, for the deposit of money,
12 and expend money for purposes authorized by this chapter by drafts made
13 by the commission upon such institutions or by other means;

14 (12) Cause to be kept and annually closed, in accordance with
15 generally accepted accounting principles, accurate records of all
16 receipts, disbursements, and other financial transactions, available
17 for audit by the state auditor;

18 (13) Create and maintain a list of producers and disseminate
19 information among and solicit the opinions of producers with respect to
20 the discharge of the duties of the commission, directly or by
21 arrangement with trade associations or other instrumentalities;

22 (14) Employ, designate as an agent, act in concert with, and enter
23 into contracts with any person, council, commission, or other entity to
24 promote the general welfare of the beer industry and particularly to
25 assist in the sale and distribution of Washington beer in domestic and
26 foreign commerce. The commission shall expend money necessary or
27 advisable for this purpose and to pay its proportionate share of the
28 cost of any program providing direct or indirect assistance to the sale
29 and distribution of Washington beer in domestic or foreign commerce,
30 employing and paying for vendors of professional services of all kinds;

31 (15) Sue and be sued as a commission, without individual liability
32 for acts of the commission within the scope of the powers conferred
33 upon it by this chapter; and

34 (16) Serve as liaison with the liquor control board on behalf of
35 the commission and not for any individual producer.

36 NEW SECTION. **Sec. 9.** (1) The commission shall develop and submit

1 to the director for approval any plans, programs, and projects
2 concerning the following:

3 (a) The establishment, issuance, effectuation, and administration
4 of appropriate programs or projects for advertising, promotion, and
5 education programs related to beer; and

6 (b) The establishment and effectuation of market research projects,
7 market development projects, or both to the end that the marketing of
8 beer may be encouraged, expanded, improved, or made more efficient.

9 (2) The director shall review the commission's advertising or
10 promotion program to ensure that no false claims are being made
11 concerning beer.

12 (3) The commission, before the beginning of its fiscal year, shall
13 prepare and submit to the director for approval its research plan, its
14 commodity-related education and training plan, and its budget on a
15 fiscal period basis.

16 (4) The director shall strive to review and make a determination of
17 all submissions described in this section in a timely manner.

18 NEW SECTION. **Sec. 10.** The commission exists primarily for the
19 benefit of the people of the state of Washington and its economy. The
20 legislature hereby charges the commission, with oversight by the
21 director, to speak on behalf of the Washington state government with
22 regard to the marketing and promotion of Washington produced beer.

23 NEW SECTION. **Sec. 11.** The commission may create, provide for, and
24 conduct a comprehensive and extensive research, promotional, and
25 educational campaign as sales and market conditions reasonably require.
26 It shall investigate and ascertain the needs of producers, conditions
27 of markets, and degree of public awareness of products, and take into
28 account this information in the discharge of its duties under this
29 chapter.

30 NEW SECTION. **Sec. 12.** The commission shall adopt as major
31 objectives of its research, promotional, and educational campaign goals
32 that serve the needs of producers. The goals may include efforts to:

33 (1) Establish Washington beer as a major factor in markets
34 everywhere;

35 (2) Promote Washington breweries as tourist attractions;

1 (3) Encourage favorable reporting of Washington beer and breweries
2 in the press throughout the world;

3 (4) Establish Washington beer in markets everywhere as a major
4 source of premium beer;

5 (5) Encourage favorable legislative and regulatory treatment of
6 Washington beer in markets everywhere;

7 (6) Encourage promotion of Washington agriculture related to beer
8 production, specifically hops, malting barley, and wheat grown in the
9 state; and

10 (7) Foster economic conditions favorable to investment in the
11 production of Washington beer.

12 NEW SECTION. **Sec. 13.** (1) The commission shall prepare a list of
13 all affected producers from information available from the liquor
14 control board, the department, or the producers' association. This
15 list must contain the names and addresses of affected producers within
16 this state and the amount, by barrelage, of beer produced during the
17 period designated by the commission. A qualified person may, at any
18 time, have his or her name placed upon the list by delivering or
19 mailing the information to the commission. This list shall be
20 corrected and brought up-to-date in accordance with evidence and
21 information available to the commission by December 31st of each year.
22 For the purposes of giving notice and holding referendums, the list
23 updated before the date for issuing notices or ballots is the list of
24 all producers entitled to notice, to assent or dissent, or to vote.
25 Inadvertent failure to notify a producer does not invalidate a
26 proceeding conducted under this chapter.

27 (2) It is the responsibility of affected producers to ensure that
28 their correct address is filed with the commission. It is also the
29 responsibility of affected producers to submit production data to the
30 commission as prescribed by this chapter.

31 (3) The commission shall develop a reporting system to document
32 that the affected producers in this state are reporting quantities of
33 beer produced and are paying the assessment as provided in section 14
34 of this act.

35 NEW SECTION. **Sec. 14.** (1) Pursuant to referendum in accordance
36 with section 5 of this act, there is levied, and the commission shall

1 collect, upon beer produced by an affected producer, an annual
2 assessment of ten cents per barrel of beer produced, up to ten thousand
3 barrels per location.

4 (2) The commission shall adopt rules prescribing the time, place,
5 and method for payment and collection of this assessment and provide
6 for the collection of assessments from affected producers who ship
7 directly out-of-state.

8 (3) The commission may reduce the assessment per affected producer
9 based upon in-kind contributions to the commission.

10 NEW SECTION. **Sec. 15.** The commission shall deposit money
11 collected under section 14 of this act in a separate account in the
12 name of the commission in any bank that is a state depository. All
13 expenditures and disbursements made from this account under this
14 chapter may be made without the necessity of a specific legislative
15 appropriation. RCW 43.01.050 does not apply to this account or to the
16 money received, collected, or expended as provided in this chapter.

17 NEW SECTION. **Sec. 16.** An assessment levied in an amount
18 determined by the commission under section 14 of this act constitutes
19 a personal debt of every person assessed or who otherwise owes the
20 assessment, and the assessment is due and payable to the commission
21 when payment is called for by the commission. If a producer fails to
22 pay the commission the full amount of the assessment by the date due,
23 the commission may add to the unpaid assessment an amount not exceeding
24 ten percent of the assessment to defray the cost of enforcing its
25 collection. If the person fails to pay an assessment, the commission
26 may bring a civil action for collection against the person or persons
27 in a court of competent jurisdiction. The action shall be tried and
28 judgment rendered as in any other cause of action for a debt due and
29 payable.

30 NEW SECTION. **Sec. 17.** (1) Under RCW 42.56.380, certain
31 agricultural business records, commission records, and department of
32 agriculture records relating to the commission and producers of
33 agricultural commodities are exempt from public disclosure.

34 (2) Financial and commercial information and records submitted to
35 either the department or the commission for the purpose of

1 administering this chapter may be shared between the department and the
2 commission. They may also be used, if required, in any suit or
3 administrative hearing involving this chapter.

4 (3) This section does not prohibit:

5 (a) The issuance of general statements based upon the reports of
6 persons subject to this chapter as long as the statements do not
7 identify the information furnished by any person; or

8 (b) The publication by the director or the commission of the name
9 of any person violating this chapter and a statement of the manner of
10 the violation by that person.

11 NEW SECTION. **Sec. 18.** (1) All costs incurred by the department,
12 including the adoption of rules and other actions necessary to carry
13 out this chapter, shall be reimbursed by the commission.

14 (2) The director may provide by rule for a method to fund staff
15 support for all commodity boards or commissions in accordance with RCW
16 43.23.033 if a position is not directly funded by the legislature and
17 costs are related to the specific activity undertaken on behalf of an
18 individual commodity board or commission. The commission shall provide
19 funds to the department according to the rules adopted by the director.

20 NEW SECTION. **Sec. 19.** County and state law enforcement officers,
21 the liquor control board and its enforcement agents, and employees of
22 the department shall enforce this chapter.

23 NEW SECTION. **Sec. 20.** (1) Any prosecution brought under this
24 chapter may be instituted in any county in which the defendant or any
25 defendant resides, or in which the violation was committed, or in which
26 the defendant or any defendant has his or her principal place of
27 business.

28 (2) The superior courts may enforce this chapter and the rules and
29 regulations of the commission issued hereunder, and may prevent and
30 restrain violations thereof.

31 NEW SECTION. **Sec. 21.** This act shall be liberally construed to
32 effectuate its purposes.

1 **Sec. 22.** RCW 66.44.800 and 1987 c 452 s 17 are each amended to
2 read as follows:

3 (1) Nothing contained in chapter 15.88 RCW shall affect the
4 compliance by the Washington wine commission with this chapter.

5 (2) Nothing contained in chapter 15.-- RCW (sections 1 through 21
6 of this act) shall affect the compliance by the Washington beer
7 commission with this chapter.

8 NEW SECTION. **Sec. 23.** A new section is added to chapter 66.12 RCW
9 to read as follows:

10 The Washington beer commission created under section 4 of this act
11 may purchase or receive donations of beer or malt beverages from any
12 brewery, in any state, or in any country and may use such beer or malt
13 beverages for any promotional purposes as outlined in section 8 of this
14 act. Beer and malt beverages that are furnished to the commission
15 under this section that are used within the state are subject to the
16 taxes imposed under RCW 66.24.290. No license, permit, or bond is
17 required of the Washington beer commission under this title for
18 promotional activities conducted under chapter 15.-- RCW (sections 1
19 through 21 of this act).

20 **Sec. 24.** RCW 15.04.200 and 1987 c 452 s 16 are each amended to
21 read as follows:

22 (1) Under the authority of Article VIII of the state Constitution
23 as amended, agricultural commodity commission expenditures for
24 agricultural development or trade promotion and promotional hosting by
25 an agricultural commodities commission under chapters 15.24, 15.28,
26 15.44, 15.65, 15.66, 15.88, 15.-- (sections 1 through 21 of this act),
27 and 16.67 RCW shall be pursuant to specific budget items as approved by
28 the agricultural commodity commission at the annual public hearings on
29 the agricultural commodity commission budget.

30 (2) Agricultural commodity commissions shall adopt rules governing
31 promotional hosting expenditures by agricultural commodity commission
32 employees, agents or commissioners. The rules shall identify officials
33 and agents authorized to make expenditures and the objectives of the
34 expenditures. Individual agricultural commodity commission
35 commissioners shall make promotional hosting expenditures, or seek
36 reimbursements for these expenditures, only in those instances where

1 the expenditures have been approved by the agricultural commodity
2 commission. All payments and reimbursements shall be identified and
3 supported on vouchers.

4 (3) Agricultural commodity commissions shall be exempt from the
5 requirements of RCW 43.01.090 and 43.19.500 and chapter 43.82 RCW.

6 **Sec. 25.** RCW 42.17.31907 and 2002 c 313 s 66 are each amended to
7 read as follows:

8 The following agricultural business records and commodity board and
9 commission records are exempt from the disclosure requirements of this
10 chapter:

11 (1) Production or sales records required to determine assessment
12 levels and actual assessment payments to commodity boards and
13 commissions formed under chapters 15.24, 15.26, 15.28, 15.44, 15.65,
14 15.66, 15.74, 15.88, 15.100, 15.-- (sections 1 through 21 of this act),
15 and 16.67 RCW or required by the department of agriculture to
16 administer these chapters or the department's programs;

17 (2) Consignment information contained on phytosanitary certificates
18 issued by the department of agriculture under chapters 15.13, 15.49,
19 and 15.17 RCW or federal phytosanitary certificates issued under
20 C.F.R. 353 through cooperative agreements with the animal and plant
21 health inspection service, United States department of agriculture, or
22 on applications for phytosanitary certification required by the
23 department of agriculture; and

24 (3) Financial and commercial information and records supplied by
25 persons (a) to the department of agriculture for the purpose of
26 conducting a referendum for the potential establishment of a commodity
27 board or commission; (b) to the department of agriculture or commodity
28 boards or commissions formed under chapter 15.24, 15.28, 15.44, 15.65,
29 15.66, 15.74, 15.88, 15.100, 15.-- (sections 1 through 21 of this act),
30 or 16.67 RCW with respect to domestic or export marketing activities or
31 individual producer's production information.

32 **Sec. 26.** RCW 42.56.380 and 2005 c 274 s 418 are each amended to
33 read as follows:

34 The following information relating to agriculture and livestock is
35 exempt from disclosure under this chapter:

36 (1) Business-related information under RCW 15.86.110;

1 (2) Information provided under RCW 15.54.362;

2 (3) Production or sales records required to determine assessment
3 levels and actual assessment payments to commodity boards and
4 commissions formed under chapters 15.24, 15.26, 15.28, 15.44, 15.65,
5 15.66, 15.74, 15.88, 15.100, 15.-- (sections 1 through 21 of this act),
6 and 16.67 RCW or required by the department of agriculture to
7 administer these chapters or the department's programs;

8 (4) Consignment information contained on phytosanitary certificates
9 issued by the department of agriculture under chapters 15.13, 15.49,
10 and 15.17 RCW or federal phytosanitary certificates issued under 7
11 C.F.R. 353 through cooperative agreements with the animal and plant
12 health inspection service, United States department of agriculture, or
13 on applications for phytosanitary certification required by the
14 department of agriculture;

15 (5) Financial and commercial information and records supplied by
16 persons (a) to the department of agriculture for the purpose of
17 conducting a referendum for the potential establishment of a commodity
18 board or commission; or (b) to the department of agriculture or
19 commodity boards or commissions formed under chapter 15.24, 15.28,
20 15.44, 15.65, 15.66, 15.74, 15.88, 15.100, 15.-- (sections 1 through 21
21 of this act), or 16.67 RCW with respect to domestic or export marketing
22 activities or individual producer's production information;

23 (6) Except under RCW 15.19.080, information obtained regarding the
24 purchases, sales, or production of an individual American ginseng
25 grower or dealer;

26 (7) Information that can be identified to a particular business and
27 that is collected under section 3(1), chapter 235, Laws of 2002; and

28 (8) Financial statements provided under RCW 16.65.030(1)(d).

29 **Sec. 27.** RCW 43.23.033 and 2002 c 313 s 78 are each amended to
30 read as follows:

31 (1) The director may provide by rule for a method to fund staff
32 support for all commodity boards and commissions if a position is not
33 directly funded by the legislature.

34 (2) Staff support funded under this section and RCW
35 15.65.047(1)(c), 15.66.055(3), 15.24.215, 15.26.265, 15.28.320,
36 15.44.190, 15.88.180, section 18 of this act, and 16.67.190 shall be

1 limited to one-half full-time equivalent employee for all commodity
2 boards and commissions.

3 **Sec. 28.** RCW 66.28.010 and 2004 c 160 s 9 and 2004 c 62 s 1 are
4 each reenacted and amended to read as follows:

5 (1)(a) No manufacturer, importer, distributor, or authorized
6 representative, or person financially interested, directly or
7 indirectly, in such business; whether resident or nonresident, shall
8 have any financial interest, direct or indirect, in any licensed retail
9 business, unless the retail business is owned by a corporation in which
10 a manufacturer or importer has no direct stock ownership and there are
11 no interlocking officers and directors, the retail license is held by
12 a corporation that is not owned directly or indirectly by a
13 manufacturer or importer, the sales of liquor are incidental to the
14 primary activity of operating the property as a hotel, alcoholic
15 beverages produced by the manufacturer or importer or their
16 subsidiaries are not sold at the licensed premises, and the board
17 reviews the ownership and proposed method of operation of all involved
18 entities and determines that there will not be an unacceptable level of
19 control or undue influence over the operation or the retail licensee;
20 nor shall any manufacturer, importer, distributor, or authorized
21 representative own any of the property upon which such licensed persons
22 conduct their business; nor shall any such licensed person, under any
23 arrangement whatsoever, conduct his or her business upon property in
24 which any manufacturer, importer, distributor, or authorized
25 representative has any interest unless title to that property is owned
26 by a corporation in which a manufacturer has no direct stock ownership
27 and there are no interlocking officers or directors, the retail license
28 is held by a corporation that is not owned directly or indirectly by
29 the manufacturer, the sales of liquor are incidental to the primary
30 activity of operating the property either as a hotel or as an
31 amphitheater offering live musical and similar live entertainment
32 activities to the public, alcoholic beverages produced by the
33 manufacturer or any of its subsidiaries are not sold at the licensed
34 premises, and the board reviews the ownership and proposed method of
35 operation of all involved entities and determines that there will not
36 be an unacceptable level of control or undue influence over the
37 operation of the retail licensee. Except as provided in subsection (3)

1 of this section, no manufacturer, importer, distributor, or authorized
2 representative shall advance moneys or moneys' worth to a licensed
3 person under an arrangement, nor shall such licensed person receive,
4 under an arrangement, an advance of moneys or moneys' worth. "Person"
5 as used in this section only shall not include those state or federally
6 chartered banks, state or federally chartered savings and loan
7 associations, state or federally chartered mutual savings banks, or
8 institutional investors which are not controlled directly or indirectly
9 by a manufacturer, importer, distributor, or authorized representative
10 as long as the bank, savings and loan association, or institutional
11 investor does not influence or attempt to influence the purchasing
12 practices of the retailer with respect to alcoholic beverages. Except
13 as otherwise provided in this section, no manufacturer, importer,
14 distributor, or authorized representative shall be eligible to receive
15 or hold a retail license under this title, nor shall such manufacturer,
16 importer, distributor, or authorized representative sell at retail any
17 liquor as herein defined. A corporation granted an exemption under
18 this subsection may use debt instruments issued in connection with
19 financing construction or operations of its facilities.

20 (b) Nothing in this section shall prohibit a licensed domestic
21 brewery or microbrewery from being licensed as a retailer pursuant to
22 chapter 66.24 RCW for the purpose of selling beer or wine at retail on
23 the brewery premises and nothing in this section shall prohibit a
24 domestic winery from being licensed as a retailer pursuant to chapter
25 66.24 RCW for the purpose of selling beer or wine at retail on the
26 winery premises. Such beer and wine so sold at retail shall be subject
27 to the taxes imposed by RCW 66.24.290 and 66.24.210 and to reporting
28 and bonding requirements as prescribed by regulations adopted by the
29 board pursuant to chapter 34.05 RCW, and beer and wine that is not
30 produced by the brewery or winery shall be purchased from a licensed
31 beer or wine distributor.

32 (c) Nothing in this section shall prohibit a licensed distiller,
33 domestic brewery, microbrewery, domestic winery, or a lessee of a
34 licensed domestic brewer, microbrewery, or domestic winery, from being
35 licensed as a spirits, beer, and wine restaurant pursuant to chapter
36 66.24 RCW for the purpose of selling liquor at a spirits, beer, and
37 wine restaurant premises on the property on which the primary
38 manufacturing facility of the licensed distiller, domestic brewer,

1 microbrewery, or domestic winery is located or on contiguous property
2 owned or leased by the licensed distiller, domestic brewer,
3 microbrewery, or domestic winery as prescribed by rules adopted by the
4 board pursuant to chapter 34.05 RCW.

5 (d) Nothing in this section prohibits retail licensees with a
6 caterer's endorsement issued under RCW 66.24.320 or 66.24.420 from
7 operating on a domestic winery premises.

8 (e) Until July 1, 2007, nothing in this section prohibits a
9 nonprofit statewide organization of microbreweries formed for the
10 purpose of promoting Washington's craft beer industry as a trade
11 association registered as a 501(c) with the internal revenue service
12 from holding a special occasion license to conduct up to six beer
13 festivals.

14 (2) Financial interest, direct or indirect, as used in this
15 section, shall include any interest, whether by stock ownership,
16 mortgage, lien, or through interlocking directors, or otherwise.
17 Pursuant to rules promulgated by the board in accordance with chapter
18 34.05 RCW manufacturers, distributors, and importers may perform, and
19 retailers may accept the service of building, rotating and restocking
20 case displays and stock room inventories; rotating and rearranging can
21 and bottle displays of their own products; provide point of sale
22 material and brand signs; price case goods of their own brands; and
23 perform such similar normal business services as the board may by
24 regulation prescribe.

25 (3)(a) This section does not prohibit a manufacturer, importer, or
26 distributor from providing services to a special occasion licensee for:
27 (i) Installation of draft beer dispensing equipment or advertising,
28 (ii) advertising, pouring, or dispensing of beer or wine at a beer or
29 wine tasting exhibition or judging event, or (iii) a special occasion
30 licensee from receiving any such services as may be provided by a
31 manufacturer, importer, or distributor. Nothing in this section shall
32 prohibit a retail licensee, or any person financially interested,
33 directly or indirectly, in such a retail licensee from having a
34 financial interest, direct or indirect, in a business which provides,
35 for a compensation commensurate in value to the services provided,
36 bottling, canning or other services to a manufacturer, so long as the
37 retail licensee or person interested therein has no direct financial
38 interest in or control of said manufacturer.

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

8 (c) The board shall adopt such rules as are deemed necessary to
9 carry out the purposes and provisions of subsection (3)(a) of this
10 section in accordance with the administrative procedure act, chapter
11 34.05 RCW.

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

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

17 NEW SECTION. **Sec. 29.** If any provision of this act or its
18 application to any person or circumstance is held invalid, the
19 remainder of the act or the application of the provision to other
20 persons or circumstances is not affected.

21 NEW SECTION. **Sec. 30.** Sections 1 through 21 of this act
22 constitute a new chapter in Title 15 RCW.

23 NEW SECTION. **Sec. 31.** Section 25 of this act expires July 1,
24 2006.

25 NEW SECTION. **Sec. 32.** Section 26 of this act takes effect July 1,
26 2006."

27 Correct the title.

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