
HOUSE BILL 3128

State of Washington

59th Legislature

2006 Regular Session

By Representatives Kenney, Hankins, Conway, Chandler, Wood, Condotta, Newhouse and Springer

Read first time 01/20/2006. Referred to Committee on Commerce & Labor.

1 AN ACT Relating to the relationship between liquor manufacturers,
2 importers, or distributors and nonprofit organizations holding a liquor
3 license; amending RCW 66.24.375; and reenacting and amending RCW
4 66.28.010.

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

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

8 (1)(a) No manufacturer, importer, distributor, or authorized
9 representative, or person financially interested, directly or
10 indirectly, in such business; whether resident or nonresident, shall
11 have any financial interest, direct or indirect, in any licensed retail
12 business, unless the retail business is owned by a corporation in which
13 a manufacturer or importer has no direct stock ownership and there are
14 no interlocking officers and directors, the retail license is held by
15 a corporation that is not owned directly or indirectly by a
16 manufacturer or importer, the sales of liquor are incidental to the
17 primary activity of operating the property as a hotel, alcoholic
18 beverages produced by the manufacturer or importer or their
19 subsidiaries are not sold at the licensed premises, and the board

1 reviews the ownership and proposed method of operation of all involved
2 entities and determines that there will not be an unacceptable level of
3 control or undue influence over the operation or the retail licensee;
4 nor shall any manufacturer, importer, distributor, or authorized
5 representative own any of the property upon which such licensed persons
6 conduct their business; nor shall any such licensed person, under any
7 arrangement whatsoever, conduct his or her business upon property in
8 which any manufacturer, importer, distributor, or authorized
9 representative has any interest unless title to that property is owned
10 by a corporation in which a manufacturer has no direct stock ownership
11 and there are no interlocking officers or directors, the retail license
12 is held by a corporation that is not owned directly or indirectly by
13 the manufacturer, the sales of liquor are incidental to the primary
14 activity of operating the property either as a hotel or as an
15 amphitheater offering live musical and similar live entertainment
16 activities to the public, alcoholic beverages produced by the
17 manufacturer or any of its subsidiaries are not sold at the licensed
18 premises, and the board reviews the ownership and proposed method of
19 operation of all involved entities and determines that there will not
20 be an unacceptable level of control or undue influence over the
21 operation of the retail licensee. Except as provided in subsection (3)
22 of this section, no manufacturer, importer, distributor, or authorized
23 representative shall advance moneys or moneys' worth to a licensed
24 person under an arrangement, nor shall such licensed person receive,
25 under an arrangement, an advance of moneys or moneys' worth. "Person"
26 as used in this section only shall not include (i) those state or
27 federally chartered banks, state or federally chartered savings and
28 loan associations, state or federally chartered mutual savings banks,
29 or institutional investors which are not controlled directly or
30 indirectly by a manufacturer, importer, distributor, or authorized
31 representative as long as the bank, savings and loan association, or
32 institutional investor does not influence or attempt to influence the
33 purchasing practices of the retailer with respect to alcoholic
34 beverages, or (ii) any society or organization as defined in RCW
35 66.24.375. Except as otherwise provided in this section, no
36 manufacturer, importer, distributor, or authorized representative shall
37 be eligible to receive or hold a retail license under this title, nor
38 shall such manufacturer, importer, distributor, or authorized

1 representative sell at retail any liquor as herein defined. A
2 corporation granted an exemption under this subsection may use debt
3 instruments issued in connection with financing construction or
4 operations of its facilities.

5 (b) Nothing in this section shall prohibit a licensed domestic
6 brewery or microbrewery from being licensed as a retailer pursuant to
7 chapter 66.24 RCW for the purpose of selling beer or wine at retail on
8 the brewery premises and nothing in this section shall prohibit a
9 domestic winery from being licensed as a retailer pursuant to chapter
10 66.24 RCW for the purpose of selling beer or wine at retail on the
11 winery premises. Such beer and wine so sold at retail shall be subject
12 to the taxes imposed by RCW 66.24.290 and 66.24.210 and to reporting
13 and bonding requirements as prescribed by regulations adopted by the
14 board pursuant to chapter 34.05 RCW, and beer and wine that is not
15 produced by the brewery or winery shall be purchased from a licensed
16 beer or wine distributor.

17 (c) Nothing in this section shall prohibit a licensed distiller,
18 domestic brewery, microbrewery, domestic winery, or a lessee of a
19 licensed domestic brewer, microbrewery, or domestic winery, from being
20 licensed as a spirits, beer, and wine restaurant pursuant to chapter
21 66.24 RCW for the purpose of selling liquor at a spirits, beer, and
22 wine restaurant premises on the property on which the primary
23 manufacturing facility of the licensed distiller, domestic brewer,
24 microbrewery, or domestic winery is located or on contiguous property
25 owned or leased by the licensed distiller, domestic brewer,
26 microbrewery, or domestic winery as prescribed by rules adopted by the
27 board pursuant to chapter 34.05 RCW.

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

31 (e) Nothing in this section prohibits any director, officer,
32 employee, agent, or representative of any manufacturer, importer,
33 distributor, or authorized representative, or person financially
34 interested, directly or indirectly, in such business, whether resident
35 or nonresident, from serving as a director, officer, or employee of a
36 society or organization licensed under this title.

37 (f) Nothing in this section prohibits a society or organization
38 licensed under this title from selling wine manufactured, imported, or

1 distributed by any licensed person, including but not limited to a
2 licensed person with a director, officer, employee, agent, or
3 representative who is also a director, officer, or employee of the
4 society or organization, as long as the sale is otherwise consistent
5 with the terms of the society or organization's license.

6 (2) Financial interest, direct or indirect, as used in this
7 section, shall include any interest, whether by stock ownership,
8 mortgage, lien, or through interlocking directors, or otherwise.
9 Pursuant to rules promulgated by the board in accordance with chapter
10 34.05 RCW manufacturers, distributors, and importers may perform, and
11 retailers may accept the service of building, rotating and restocking
12 case displays and stock room inventories; rotating and rearranging can
13 and bottle displays of their own products; provide point of sale
14 material and brand signs; price case goods of their own brands; and
15 perform such similar normal business services as the board may by
16 regulation prescribe.

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

32 (b) A person holding contractual rights to payment from selling a
33 liquor distributor's business and transferring the license shall not be
34 deemed to have a financial interest under this section if the person
35 (i) lacks any ownership in or control of the distributor, (ii) is not
36 employed by the distributor, and (iii) does not influence or attempt to
37 influence liquor purchases by retail liquor licensees from the
38 distributor.

1 (c) The board shall adopt such rules as are deemed necessary to
2 carry out the purposes and provisions of subsection (3)(a) of this
3 section in accordance with the administrative procedure act, chapter
4 34.05 RCW.

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

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

10 **Sec. 2.** RCW 66.24.375 and 1997 c 321 s 61 are each amended to read
11 as follows:

12 "Society or organization" as used in RCW 66.24.380 and 66.28.010
13 means a not-for-profit group organized and operated solely for
14 charitable, religious, social, political, educational, civic,
15 fraternal, athletic, or benevolent purposes. No portion of the profits
16 from events sponsored by a not-for-profit group may be paid directly or
17 indirectly to members, officers, directors, or trustees except for
18 services performed for the organization. Any compensation paid to its
19 officers and executives must be only for actual services and at levels
20 comparable to the compensation for like positions within the state. A
21 society or organization which is registered with the secretary of state
22 or the federal internal revenue service as a nonprofit organization may
23 submit such registration as proof that it is a not-for-profit group.

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