

---

HOUSE BILL 3166

---

State of Washington                      59th Legislature                      2006 Regular Session

By Representatives Hunter, Jarrett, Clibborn, Kagi and Tom

Read first time 01/23/2006. Referred to Committee on Commerce & Labor.

1            AN ACT Relating to the shipment of wine and beer from wine and beer  
2 manufacturers directly to Washington retailers; amending RCW 66.24.206,  
3 66.24.210, 66.24.270, and 66.24.290; reenacting and amending RCW  
4 66.28.070; creating a new section; and declaring an emergency.

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

6            NEW SECTION.    **Sec. 1.** The purpose of this act is to grant  
7 certificate of approval holders the same distribution rights granted to  
8 domestic wineries under RCW 66.24.170 and to domestic breweries under  
9 RCW 66.24.240.

10           **Sec. 2.** RCW 66.24.206 and 2004 c 160 s 4 are each amended to read  
11 as follows:

12           (1)(a) A United States winery or manufacturer of wine located  
13 outside the state of Washington must hold a certificate of approval to  
14 allow sales and shipment of the certificate of approval holder's wine  
15 to licensed Washington wine retailers as specified in subsection (3) of  
16 this section and to licensed Washington wine distributors or importers.

17           (b) Authorized representatives must hold a certificate of approval

1 to allow sales and shipment of United States produced wine to licensed  
2 Washington wine retailers as specified in subsection (3) of this  
3 section and to licensed Washington wine distributors or importers.

4 (c) Authorized representatives must also hold a certificate of  
5 approval to allow sales and shipments of foreign produced wine to  
6 licensed Washington wine retailers as specified in subsection (3) of  
7 this section and to licensed Washington wine distributors or importers.

8 (2) The certificate of approval shall not be granted unless and  
9 until such winery or manufacturer of wine or authorized representative  
10 shall have made a written agreement with the board to furnish to the  
11 board, on or before the twentieth day of each month, a report under  
12 oath, on a form to be prescribed by the board, showing the quantity of  
13 wine sold or delivered to each licensed wine retailer as specified in  
14 subsection (3) of this section and to each licensed wine distributor or  
15 importer, during the preceding month, and shall further have agreed  
16 with the board, that such wineries, manufacturers, or authorized  
17 representatives, and all general sales corporations or agencies  
18 maintained by them, and all of their trade representatives, shall and  
19 will faithfully comply with all laws of the state of Washington  
20 pertaining to the sale of intoxicating liquors and all rules and  
21 regulations of the Washington state liquor control board. A violation  
22 of the terms of this agreement will cause the board to take action to  
23 suspend or revoke such certificate.

24 (3) Any winery or manufacturer of wine holding a certificate of  
25 approval may also act as a distributor of wine of its own production,  
26 and any authorized representative holding a certificate of approval may  
27 also act as a distributor of wine produced by the winery or  
28 manufacturer it represents. Any certificate of approval holder  
29 operating as a distributor under this subsection: (a) May use a common  
30 carrier to deliver wine of its own production to licensed Washington  
31 wine retailers as specified in this subsection; and (b) shall comply  
32 with the applicable laws and rules relating to distributors.

33 (4) The fee for the certificate of approval, issued pursuant to the  
34 provisions of this title, shall be from time to time established by the  
35 board at a level that is sufficient to defray the costs of  
36 administering the certificate of approval program. The fee shall be  
37 fixed by rule by the board in accordance with the provisions of the  
38 administrative procedure act, chapter 34.05 RCW.

1       **Sec. 3.** RCW 66.24.210 and 2001 c 124 s 1 are each amended to read  
2 as follows:

3       (1) There is hereby imposed upon all wines except cider sold to  
4 wine retailers by certificate of approval holders as specified in RCW  
5 66.24.206(3) and to wine distributors and the Washington state liquor  
6 control board(~~(7)~~) within the state a tax at the rate of twenty and  
7 one-fourth cents per liter. There is hereby imposed on all cider sold  
8 to wine distributors and the Washington state liquor control board  
9 within the state a tax at the rate of three and fifty-nine one-  
10 hundredths cents per liter(~~(:—PROVIDED, HOWEVER, That)~~). However,  
11 wine sold or shipped in bulk from one winery to another winery shall  
12 not be subject to such tax. The tax provided for in this section shall  
13 be collected by direct payments based on wine purchased by wine  
14 retailers from certificate of approval holders as specified in RCW  
15 66.24.206(3) and by wine distributors. Except as otherwise provided in  
16 this subsection, every person purchasing wine under the provisions of  
17 this section shall on or before the twentieth day of each month report  
18 to the board all purchases during the preceding calendar month in such  
19 manner and upon such forms as may be prescribed by the board, and with  
20 such report shall pay the tax due from the purchases covered by such  
21 report unless the same has previously been paid. Any such purchaser of  
22 wine whose applicable tax payment is not postmarked by the twentieth  
23 day following the month of purchase will be assessed a penalty at the  
24 rate of two percent a month or fraction thereof. The board may require  
25 that every such person shall execute to and file with the board a bond  
26 to be approved by the board, in such amount as the board may fix,  
27 securing the payment of the tax. If any such person fails to pay the  
28 tax when due, the board may forthwith suspend or cancel the license  
29 until all taxes are paid. Certificate of approval holders acting as  
30 distributors as specified in RCW 66.24.206(3) and domestic wineries  
31 acting as distributors shall pay taxes imposed by this section.

32       (2) An additional tax is imposed equal to the rate specified in RCW  
33 82.02.030 multiplied by the tax payable under subsection (1) of this  
34 section. All revenues collected during any month from this additional  
35 tax shall be transferred to the state general fund by the twenty-fifth  
36 day of the following month.

37       (3) An additional tax is imposed on wines subject to tax under  
38 subsection (1) of this section, at the rate of one-fourth of one cent

1 per liter for wine sold after June 30, 1987. After June 30, 1996, such  
2 additional tax does not apply to cider. An additional tax of five one-  
3 hundredths of one cent per liter is imposed on cider sold after June  
4 30, 1996. All revenues collected under this subsection (3) shall be  
5 disbursed quarterly to the Washington wine commission for use in  
6 carrying out the purposes of chapter 15.88 RCW.

7 (4) An additional tax is imposed on all wine subject to tax under  
8 subsection (1) of this section. The additional tax is equal to twenty-  
9 three and forty-four one-hundredths cents per liter on fortified wine  
10 as defined in RCW 66.04.010(~~(+38)~~) (39) when bottled or packaged by  
11 the manufacturer, one cent per liter on all other wine except cider,  
12 and eighteen one-hundredths of one cent per liter on cider. All  
13 revenues collected during any month from this additional tax shall be  
14 deposited in the violence reduction and drug enforcement account under  
15 RCW 69.50.520 by the twenty-fifth day of the following month.

16 (5)(a) An additional tax is imposed on all cider subject to tax  
17 under subsection (1) of this section. The additional tax is equal to  
18 two and four one-hundredths cents per liter of cider sold after June  
19 30, 1996, and before July 1, 1997, and is equal to four and seven one-  
20 hundredths cents per liter of cider sold after June 30, 1997.

21 (b) All revenues collected from the additional tax imposed under  
22 this subsection (5) shall be deposited in the health services account  
23 under RCW 43.72.900.

24 (6) For the purposes of this section, "cider" means table wine that  
25 contains not less than one-half of one percent of alcohol by volume and  
26 not more than seven percent of alcohol by volume and is made from the  
27 normal alcoholic fermentation of the juice of sound, ripe apples or  
28 pears. "Cider" includes, but is not limited to, flavored, sparkling,  
29 or carbonated cider and cider made from condensed apple or pear must.

30 **Sec. 4.** RCW 66.24.270 and 2004 c 160 s 8 are each amended to read  
31 as follows:

32 (1) Every person, firm or corporation, holding a license to  
33 manufacture malt liquors or strong beer within the state of Washington,  
34 shall, on or before the twentieth day of each month, furnish to the  
35 Washington state liquor control board, on a form to be prescribed by  
36 the board, a statement showing the quantity of malt liquors and strong

1 beer sold for resale during the preceding calendar month to each beer  
2 distributor within the state of Washington.

3 (2)(a) A United States brewery or manufacturer of beer or strong  
4 beer((7)) located outside the state of Washington((7)) must hold a  
5 certificate of approval to allow sales and shipment of the certificate  
6 of approval holder's beer or strong beer to licensed Washington beer  
7 retailers as specified in subsection (4) of this section and to  
8 licensed Washington beer distributors or importers.

9 (b) Authorized representatives must hold a certificate of approval  
10 to allow sales and shipment of United States produced beer or strong  
11 beer to licensed Washington beer retailers as specified in subsection  
12 (4) of this section and to licensed Washington beer distributors or  
13 importers.

14 (c) Authorized representatives must also hold a certificate of  
15 approval to allow sales and shipments of foreign produced beer or  
16 strong beer to licensed Washington beer retailers as specified in  
17 subsection (4) of this section and to licensed Washington beer  
18 distributors or importers.

19 (3) The certificate of approval shall not be granted unless and  
20 until such brewer or manufacturer of beer or strong beer or authorized  
21 representative shall have made a written agreement with the board to  
22 furnish to the board, on or before the twentieth day of each month, a  
23 report under oath, on a form to be prescribed by the board, showing the  
24 quantity of beer and strong beer sold or delivered to each licensed  
25 Washington beer retailer as specified in subsection (4) of this section  
26 and to each licensed beer distributor or importer during the preceding  
27 month, and shall further have agreed with the board, that such brewer  
28 or manufacturer of beer or strong beer or authorized representative and  
29 all general sales corporations or agencies maintained by them, and all  
30 of their trade representatives, corporations, and agencies, shall and  
31 will faithfully comply with all laws of the state of Washington  
32 pertaining to the sale of intoxicating liquors and all rules and  
33 regulations of the Washington state liquor control board. A violation  
34 of the terms of this agreement will cause the board to take action to  
35 suspend or revoke such certificate.

36 (4) Any brewery or manufacturer of beer or strong beer holding a  
37 certificate of approval, except for a brand owner of malt beverages  
38 under RCW 66.04.010(6), may also act as a distributor of beer of its

1 own production, and any authorized representative holding a certificate  
2 of approval may also act as a distributor of beer produced by the  
3 brewery or manufacturer it represents. Any certificate of approval  
4 holder operating as a distributor under this subsection: (a) May use  
5 a common carrier to deliver beer of its own production to licensed  
6 Washington beer retailers as specified in this subsection; and (b)  
7 shall comply with the applicable laws and rules relating to  
8 distributors.

9 (5) The fee for the certificate of approval, issued pursuant to the  
10 provisions of this title, shall be from time to time established by the  
11 board at a level that is sufficient to defray the costs of  
12 administering the certificate of approval program. The fee shall be  
13 fixed by rule by the board in accordance with the provisions of the  
14 administrative procedure act, chapter 34.05 RCW.

15 **Sec. 5.** RCW 66.24.290 and 2003 c 167 s 5 are each amended to read  
16 as follows:

17 (1) Any microbrewer or domestic brewery or beer distributor  
18 licensed under this title and any certificate of approval holder as  
19 specified in RCW 66.24.270(4) may sell and deliver beer and strong beer  
20 to holders of authorized licenses direct, but to no other person, other  
21 than the board(~~(+and)~~). Every such brewery or beer distributor and  
22 every such certificate of approval holder shall report all sales to the  
23 board monthly, pursuant to the regulations, and shall pay to the board  
24 as an added tax for the privilege of manufacturing and selling the beer  
25 and strong beer within the state a tax of one dollar and thirty cents  
26 per barrel of thirty-one gallons on sales to licensees within the state  
27 and on sales to licensees within the state of bottled and canned beer,  
28 including strong beer, shall pay a tax computed in gallons at the rate  
29 of one dollar and thirty cents per barrel of thirty-one gallons. Any  
30 brewery or beer distributor and any certificate of approval holder  
31 whose applicable tax payment is not postmarked by the twentieth day  
32 following the month of sale will be assessed a penalty at the rate of  
33 two percent per month or fraction thereof. Beer and strong beer shall  
34 be sold by breweries and distributors or by certificate of approval  
35 holders in sealed barrels or packages. The moneys collected under this  
36 subsection shall be distributed as follows: (a) Three-tenths of a  
37 percent shall be distributed to border areas under RCW 66.08.195; and

1 (b) of the remaining moneys: (i) Twenty percent shall be distributed  
2 to counties in the same manner as under RCW 66.08.200; and (ii) eighty  
3 percent shall be distributed to incorporated cities and towns in the  
4 same manner as under RCW 66.08.210.

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

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

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

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

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

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

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

8 **Sec. 6.** RCW 66.28.070 and 1994 c 201 s 5 and 1994 c 63 s 2 are  
9 each reenacted and amended to read as follows:

10 (1) Except as provided in subsection (2) of this section, it shall  
11 be unlawful for any retail beer or wine licensee to purchase beer or  
12 wine, except from a certificate of approval holder as specified in RCW  
13 66.24.206(3) or 66.24.270(4), a duly licensed wholesaler, or the board,  
14 and it shall be unlawful for any brewer, winery, or beer or wine  
15 wholesaler to purchase beer or wine, except from a duly licensed beer  
16 or wine wholesaler or importer.

17 (2) A beer or wine retailer licensee may purchase beer or wine from  
18 a government agency which has lawfully seized beer or wine from a  
19 licensed beer or wine retailer, or from a board-authorized retailer, or  
20 from a licensed retailer which has discontinued business if the  
21 wholesaler has refused to accept beer or wine from that retailer for  
22 return and refund. Beer and wine purchased under this subsection shall  
23 meet the quality standards set by its manufacturer.

24 (3) Special occasion licensees (~~holding either a class G or J~~  
25 ~~license~~) may only purchase beer or wine from a beer or wine retailer  
26 duly licensed to sell beer or wine for off-premises consumption, the  
27 board, or from a duly licensed beer or wine wholesaler.

28 NEW SECTION. **Sec. 7.** This act is necessary for the immediate  
29 preservation of the public peace, health, or safety, or support of the  
30 state government and its existing public institutions, and takes effect  
31 immediately.

--- END ---