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HOUSE BILL 3213

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State of Washington                      59th Legislature                      2006 Regular Session

By Representative Conway; by request of Liquor Control Board

Read first time 01/25/2006. Referred to Committee on Commerce & Labor.

1            AN ACT Relating to the distribution of beer and wine by wineries  
2 and breweries located inside and outside Washington state to Washington  
3 retail liquor licensees; amending RCW 66.24.170, 66.24.240, 66.24.206,  
4 66.24.210, 66.24.270, 66.24.290, 66.28.180, and 42.56.270; reenacting  
5 and amending RCW 66.24.244, 66.28.070, 66.28.180, and 42.17.310;  
6 providing effective dates; providing an expiration date; and declaring  
7 an emergency.

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

9            **Sec. 1.** RCW 66.24.170 and 2003 c 44 s 1 are each amended to read  
10 as follows:

11            (1) There shall be a license for domestic wineries; fee to be  
12 computed only on the liters manufactured: Less than two hundred fifty  
13 thousand liters per year, one hundred dollars per year; and two hundred  
14 fifty thousand liters or more per year, four hundred dollars per year.

15            (2) The license allows for the manufacture of wine in Washington  
16 state from grapes or other agricultural products.

17            (3) Any domestic winery licensed under this section may also act as  
18 a (~~distributor and/or~~) retailer of wine of its own production. Any  
19 domestic winery licensed under this section may act as a distributor

1 for five thousand cases or less annually of its own production. A  
2 domestic winery acting as a distributor of its own production may use  
3 a common carrier to deliver to a Washington retailer. Any winery  
4 operating as a distributor and/or retailer under this subsection shall  
5 comply with the applicable laws and rules relating to distributors  
6 and/or retailers.

7 (4) A domestic winery licensed under this section, at locations  
8 separate from any of its production or manufacturing sites, may serve  
9 samples of its own products, with or without charge, and sell wine of  
10 its own production at retail for off-premise consumption, provided  
11 that: (a) Each additional location has been approved by the board  
12 under RCW 66.24.010; (b) the total number of additional locations does  
13 not exceed two; and (c) a winery may not act as a distributor at any  
14 such additional location. Each additional location is deemed to be  
15 part of the winery license for the purpose of this title. Nothing in  
16 this subsection shall be construed to prevent a domestic winery from  
17 holding multiple domestic winery licenses.

18 (5)(a) A domestic winery licensed under this section may apply to  
19 the board for an endorsement to sell wine of its own production at  
20 retail for off-premises consumption at a qualifying farmers market.  
21 The annual fee for this endorsement is seventy-five dollars. An  
22 endorsement issued pursuant to this subsection does not count toward  
23 the two additional retail locations limit specified in this section.

24 (b) For each month during which a domestic winery will sell wine at  
25 a qualifying farmers market, the winery must provide the board or its  
26 designee a list of the dates, times, and locations at which bottled  
27 wine may be offered for sale. This list must be received by the board  
28 before the winery may offer wine for sale at a qualifying farmers  
29 market.

30 (c) The wine sold at qualifying farmers markets must be made  
31 entirely from grapes grown in a recognized Washington appellation or  
32 from other agricultural products grown in this state.

33 (d) Each approved location in a qualifying farmers market is deemed  
34 to be part of the winery license for the purpose of this title. The  
35 approved locations under an endorsement granted under this subsection  
36 do not include the tasting or sampling privilege of a winery. The  
37 winery may not store wine at a farmers market beyond the hours that the

1 winery offers bottled wine for sale. The winery may not act as a  
2 distributor from a farmers market location.

3 (e) Before a winery may sell bottled wine at a qualifying farmers  
4 market, the farmers market must apply to the board for authorization  
5 for any winery with an endorsement approved under this subsection to  
6 sell bottled wine at retail at the farmers market. This application  
7 shall include, at a minimum: (i) A map of the farmers market showing  
8 all booths, stalls, or other designated locations at which an approved  
9 winery may sell bottled wine; and (ii) the name and contact information  
10 for the on-site market managers who may be contacted by the board or  
11 its designee to verify the locations at which bottled wine may be sold.  
12 Before authorizing a qualifying farmers market to allow an approved  
13 winery to sell bottled wine at retail at its farmers market location,  
14 the board shall notify the persons or entities of such application for  
15 authorization pursuant to RCW 66.24.010 (8) and (9). An authorization  
16 granted under this subsection (5)(e) may be withdrawn by the board for  
17 any violation of this title or any rules adopted under this title.

18 (f) The board may adopt rules establishing the application and  
19 approval process under this section and such additional rules as may be  
20 necessary to implement this section.

21 (g) For the purposes of this subsection:

22 (i) "Qualifying farmers market" means an entity that sponsors a  
23 regular assembly of vendors at a defined location for the purpose of  
24 promoting the sale of agricultural products grown or produced in this  
25 state directly to the consumer under conditions that meet the following  
26 minimum requirements:

27 (A) There are at least five participating vendors who are farmers  
28 selling their own agricultural products;

29 (B) The total combined gross annual sales of vendors who are  
30 farmers exceeds the total combined gross annual sales of vendors who  
31 are processors or resellers;

32 (C) The total combined gross annual sales of vendors who are  
33 farmers, processors, or resellers exceeds the total combined gross  
34 annual sales of vendors who are not farmers, processors, or resellers;

35 (D) The sale of imported items and secondhand items by any vendor  
36 is prohibited; and

37 (E) No vendor is a franchisee.

1 (ii) "Farmer" means a natural person who sells, with or without  
2 processing, agricultural products that he or she raises on land he or  
3 she owns or leases in this state or in another state's county that  
4 borders this state.

5 (iii) "Processor" means a natural person who sells processed food  
6 that he or she has personally prepared on land he or she owns or leases  
7 in this state or in another state's county that borders this state.

8 (iv) "Reseller" means a natural person who buys agricultural  
9 products from a farmer and resells the products directly to the  
10 consumer.

11 (6) Wine produced in Washington state by a domestic winery licensee  
12 may be shipped out-of-state for the purpose of making it into sparkling  
13 wine and then returned to such licensee for resale. Such wine shall be  
14 deemed wine manufactured in the state of Washington for the purposes of  
15 RCW 66.24.206, and shall not require a special license.

16 **Sec. 2.** RCW 66.24.240 and 2003 c 154 s 1 are each amended to read  
17 as follows:

18 (1) There shall be a license for domestic breweries; fee to be two  
19 thousand dollars for production of sixty thousand barrels or more of  
20 malt liquor per year.

21 (2) Any domestic brewery, except for a brand owner of malt  
22 beverages under RCW 66.04.010(~~(+5)~~) (6), licensed under this section  
23 may also act as a (~~distributor and/or~~) retailer for beer of its own  
24 production. Any domestic brewery licensed under this section may act  
25 as a distributor for two thousand five hundred barrels or less annually  
26 of beer of its own production. A domestic brewery acting as a  
27 distributor of its own production may use a common carrier to deliver  
28 to a Washington retailer. Any domestic brewery operating as a  
29 distributor and/or retailer under this subsection shall comply with the  
30 applicable laws and rules relating to distributors and/or retailers.

31 (3) Any domestic brewery licensed under this section may contract-  
32 produce beer for a brand owner of malt beverages defined under RCW  
33 66.04.010(~~(+5)~~) (6), and this contract-production is not a sale for  
34 the purposes of RCW 66.28.170 and 66.28.180.

35 (4)(a) A domestic brewery licensed under this section and qualified  
36 for a reduced rate of taxation pursuant to RCW 66.24.290(3)(b) may  
37 apply to the board for an endorsement to sell bottled beer of its own

1 production at retail for off-premises consumption at a qualifying  
2 farmers market. The annual fee for this endorsement is seventy-five  
3 dollars.

4 (b) For each month during which a domestic brewery will sell beer  
5 at a qualifying farmers market, the domestic brewery must provide the  
6 board or its designee a list of the dates, times, and locations at  
7 which bottled beer may be offered for sale. This list must be received  
8 by the board before the domestic brewery may offer beer for sale at a  
9 qualifying farmers market.

10 (c) The beer sold at qualifying farmers markets must be produced in  
11 Washington.

12 (d) Each approved location in a qualifying farmers market is deemed  
13 to be part of the domestic brewery license for the purpose of this  
14 title. The approved locations under an endorsement granted under this  
15 subsection do not include the tasting or sampling privilege of a  
16 domestic brewery. The domestic brewery may not store beer at a farmers  
17 market beyond the hours that the domestic brewery offers bottled beer  
18 for sale. The domestic brewery may not act as a distributor from a  
19 farmers market location.

20 (e) Before a domestic brewery may sell bottled beer at a qualifying  
21 farmers market, the farmers market must apply to the board for  
22 authorization for any domestic brewery with an endorsement approved  
23 under this subsection to sell bottled beer at retail at the farmers  
24 market. This application shall include, at a minimum: (i) A map of  
25 the farmers market showing all booths, stalls, or other designated  
26 locations at which an approved domestic brewery may sell bottled beer;  
27 and (ii) the name and contact information for the on-site market  
28 managers who may be contacted by the board or its designee to verify  
29 the locations at which bottled beer may be sold. Before authorizing a  
30 qualifying farmers market to allow an approved domestic brewery to sell  
31 bottled beer at retail at its farmers market location, the board shall  
32 notify the persons or entities of such application for authorization  
33 pursuant to RCW 66.24.010 (8) and (9). An authorization granted under  
34 this subsection (4)(e) may be withdrawn by the board for any violation  
35 of this title or any rules adopted under this title.

36 (f) The board may adopt rules establishing the application and  
37 approval process under this section and such additional rules as may be  
38 necessary to implement this section.

1 (g) For the purposes of this subsection:

2 (i) "Qualifying farmers market" means an entity that sponsors a  
3 regular assembly of vendors at a defined location for the purpose of  
4 promoting the sale of agricultural products grown or produced in this  
5 state directly to the consumer under conditions that meet the following  
6 minimum requirements:

7 (A) There are at least five participating vendors who are farmers  
8 selling their own agricultural products;

9 (B) The total combined gross annual sales of vendors who are  
10 farmers exceeds the total combined gross annual sales of vendors who  
11 are processors or resellers;

12 (C) The total combined gross annual sales of vendors who are  
13 farmers, processors, or resellers exceeds the total combined gross  
14 annual sales of vendors who are not farmers, processors, or resellers;

15 (D) The sale of imported items and secondhand items by any vendor  
16 is prohibited; and

17 (E) No vendor is a franchisee.

18 (ii) "Farmer" means a natural person who sells, with or without  
19 processing, agricultural products that he or she raises on land he or  
20 she owns or leases in this state or in another state's county that  
21 borders this state.

22 (iii) "Processor" means a natural person who sells processed food  
23 that he or she has personally prepared on land he or she owns or leases  
24 in this state or in another state's county that borders this state.

25 (iv) "Reseller" means a natural person who buys agricultural  
26 products from a farmer and resells the products directly to the  
27 consumer.

28 **Sec. 3.** RCW 66.24.244 and 2003 c 167 s 1 and 2003 c 154 s 2 are  
29 each reenacted and amended to read as follows:

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

33 (2) Any microbrewery license under this section may also act as a  
34 distributor and/or retailer for beer and strong beer of its own  
35 production. Any microbrewery licensed under this section may act as a  
36 distributor for two thousand five hundred barrels or less annually of  
37 beer of its own production. A microbrewery acting as a distributor of

1 its own production may use a common carrier to deliver to a Washington  
2 retailer. Strong beer may not be sold at a farmers market or under any  
3 endorsement which may authorize microbreweries to sell beer at farmers  
4 markets. Any microbrewery operating as a distributor and/or retailer  
5 under this subsection shall comply with the applicable laws and rules  
6 relating to distributors and/or retailers.

7 (3) The board may issue an endorsement to this license allowing for  
8 on-premises consumption of beer, including strong beer, wine, or both  
9 of other manufacture if purchased from a Washington state-licensed  
10 distributor. Each endorsement shall cost two hundred dollars per year,  
11 or four hundred dollars per year allowing the sale and service of both  
12 beer and wine.

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

18 (5)(a) A microbrewery licensed under this section may apply to the  
19 board for an endorsement to sell bottled beer of its own production at  
20 retail for off-premises consumption at a qualifying farmers market.  
21 The annual fee for this endorsement is seventy-five dollars.

22 (b) For each month during which a microbrewery will sell beer at a  
23 qualifying farmers market, the microbrewery must provide the board or  
24 its designee a list of the dates, times, and locations at which bottled  
25 beer may be offered for sale. This list must be received by the board  
26 before the microbrewery may offer beer for sale at a qualifying farmers  
27 market.

28 (c) The beer sold at qualifying farmers markets must be produced in  
29 Washington.

30 (d) Each approved location in a qualifying farmers market is deemed  
31 to be part of the microbrewery license for the purpose of this title.  
32 The approved locations under an endorsement granted under this  
33 subsection (5) do not constitute the tasting or sampling privilege of  
34 a microbrewery. The microbrewery may not store beer at a farmers  
35 market beyond the hours that the microbrewery offers bottled beer for  
36 sale. The microbrewery may not act as a distributor from a farmers  
37 market location.

1 (e) Before a microbrewery may sell bottled beer at a qualifying  
2 farmers market, the farmers market must apply to the board for  
3 authorization for any microbrewery with an endorsement approved under  
4 this subsection (5) to sell bottled beer at retail at the farmers  
5 market. This application shall include, at a minimum: (i) A map of  
6 the farmers market showing all booths, stalls, or other designated  
7 locations at which an approved microbrewery may sell bottled beer; and  
8 (ii) the name and contact information for the on-site market managers  
9 who may be contacted by the board or its designee to verify the  
10 locations at which bottled beer may be sold. Before authorizing a  
11 qualifying farmers market to allow an approved microbrewery to sell  
12 bottled beer at retail at its farmers market location, the board shall  
13 notify the persons or entities of the application for authorization  
14 pursuant to RCW 66.24.010 (8) and (9). An authorization granted under  
15 this subsection (5)(e) may be withdrawn by the board for any violation  
16 of this title or any rules adopted under this title.

17 (f) The board may adopt rules establishing the application and  
18 approval process under this section and any additional rules necessary  
19 to implement this section.

20 (g) For the purposes of this subsection (5):

21 (i) "Qualifying farmers market" means an entity that sponsors a  
22 regular assembly of vendors at a defined location for the purpose of  
23 promoting the sale of agricultural products grown or produced in this  
24 state directly to the consumer under conditions that meet the following  
25 minimum requirements:

26 (A) There are at least five participating vendors who are farmers  
27 selling their own agricultural products;

28 (B) The total combined gross annual sales of vendors who are  
29 farmers exceeds the total combined gross annual sales of vendors who  
30 are processors or resellers;

31 (C) The total combined gross annual sales of vendors who are  
32 farmers, processors, or resellers exceeds the total combined gross  
33 annual sales of vendors who are not farmers, processors, or resellers;

34 (D) The sale of imported items and secondhand items by any vendor  
35 is prohibited; and

36 (E) No vendor is a franchisee.

37 (ii) "Farmer" means a natural person who sells, with or without

1 processing, agricultural products that he or she raises on land he or  
2 she owns or leases in this state or in another state's county that  
3 borders this state.

4 (iii) "Processor" means a natural person who sells processed food  
5 that he or she has personally prepared on land he or she owns or leases  
6 in this state or in another state's county that borders this state.

7 (iv) "Reseller" means a natural person who buys agricultural  
8 products from a farmer and resells the products directly to the  
9 consumer.

10 **Sec. 4.** 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 distributors (~~(or)~~), importers, or  
16 retailers. A certificate of approval holder with a direct shipment  
17 endorsement may act as a distributor of five thousand cases of wine  
18 annually of its own production. A certificate of approval holder  
19 acting as a distributor of its own production may use a common carrier  
20 to deliver to a Washington retailer.

21 (b) Authorized representatives must hold a certificate of approval  
22 to allow sales and shipment of United States produced wine to licensed  
23 Washington wine distributors or importers.

24 (c) Authorized representatives must also hold a certificate of  
25 approval to allow sales and shipments of foreign produced wine to  
26 licensed Washington wine distributors or importers.

27 (2) The certificate of approval shall not be granted unless and  
28 until such winery or manufacturer of wine or authorized representative  
29 shall have made a written agreement with the board to furnish to the  
30 board, on or before the twentieth day of each month, a report under  
31 oath, on a form to be prescribed by the board, showing the quantity of  
32 wine sold or delivered to each licensed wine distributor (~~(or)~~),  
33 importer, or retailer, during the preceding month, and shall further  
34 have agreed with the board, that such wineries, manufacturers, or  
35 authorized representatives, and all general sales corporations or  
36 agencies maintained by them, and all of their trade representatives,  
37 shall and will faithfully comply with all laws of the state of

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

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

12 (4) Certificate of approval holders are deemed to have consented to  
13 the jurisdiction of Washington concerning enforcement of this chapter  
14 and all laws and rules related to the sale and shipment of wine.

15 **Sec. 5.** RCW 66.24.210 and 2001 c 124 s 1 are each amended to read  
16 as follows:

17 (1) There is hereby imposed upon all wines except cider sold to  
18 wine distributors and the Washington state liquor control board, within  
19 the state a tax at the rate of twenty and one-fourth cents per liter.  
20 Any domestic winery or certificate of approval holder acting as a  
21 distributor of its own production shall pay taxes imposed by this  
22 section. There is hereby imposed on all cider sold to wine  
23 distributors and the Washington state liquor control board within the  
24 state a tax at the rate of three and fifty-nine one-hundredths cents  
25 per liter: PROVIDED, HOWEVER, That wine sold or shipped in bulk from  
26 one winery to another winery shall not be subject to such tax.

27 (a) The tax provided for in this section shall be collected by  
28 direct payments based on wine purchased by wine distributors.

29 (b) Every person purchasing wine under the provisions of this  
30 section shall on or before the twentieth day of each month report to  
31 the board all purchases during the preceding calendar month in such  
32 manner and upon such forms as may be prescribed by the board, and with  
33 such report shall pay the tax due from the purchases covered by such  
34 report unless the same has previously been paid. Any such purchaser of  
35 wine whose applicable tax payment is not postmarked by the twentieth  
36 day following the month of purchase will be assessed a penalty at the  
37 rate of two percent a month or fraction thereof. The board may require

1 that every such person shall execute to and file with the board a bond  
2 to be approved by the board, in such amount as the board may fix,  
3 securing the payment of the tax. If any such person fails to pay the  
4 tax when due, the board may forthwith suspend or cancel the license  
5 until all taxes are paid.

6 (c) Any licensed retailer authorized to purchase wine from a  
7 certificate of approval holder with a direct shipment endorsement shall  
8 make monthly reports to the liquor control board on wine purchased  
9 during the preceding calendar month in the manner and upon such forms  
10 as may be prescribed by the board.

11 (2) An additional tax is imposed equal to the rate specified in RCW  
12 82.02.030 multiplied by the tax payable under subsection (1) of this  
13 section. All revenues collected during any month from this additional  
14 tax shall be transferred to the state general fund by the twenty-fifth  
15 day of the following month.

16 (3) An additional tax is imposed on wines subject to tax under  
17 subsection (1) of this section, at the rate of one-fourth of one cent  
18 per liter for wine sold after June 30, 1987. After June 30, 1996, such  
19 additional tax does not apply to cider. An additional tax of five one-  
20 hundredths of one cent per liter is imposed on cider sold after June  
21 30, 1996. All revenues collected under this subsection (3) shall be  
22 disbursed quarterly to the Washington wine commission for use in  
23 carrying out the purposes of chapter 15.88 RCW.

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

33 (5)(a) An additional tax is imposed on all cider subject to tax  
34 under subsection (1) of this section. The additional tax is equal to  
35 two and four one-hundredths cents per liter of cider sold after June  
36 30, 1996, and before July 1, 1997, and is equal to four and seven one-  
37 hundredths cents per liter of cider sold after June 30, 1997.

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

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

10 **Sec. 6.** RCW 66.24.270 and 2004 c 160 s 8 are each amended to read  
11 as follows:

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

19 (2)(a) A United States brewery or manufacturer of beer or strong  
20 beer, located outside the state of Washington, must hold a certificate  
21 of approval to allow sales and shipment of the certificate of approval  
22 holder's beer or strong beer to licensed Washington beer distributors  
23 ~~((or)), importers, or retailers.~~ A certificate of approval holder with  
24 a direct shipment endorsement may act as a distributor for two thousand  
25 five hundred barrels or less annually of beer of its own production.  
26 A certificate of approval holder acting as a distributor of its own  
27 production may use a common carrier to deliver to a Washington  
28 retailer.

29 (b) Authorized representatives must hold a certificate of approval  
30 to allow sales and shipment of United States produced beer or strong  
31 beer to licensed Washington beer distributors or importers.

32 (c) Authorized representatives must also hold a certificate of  
33 approval to allow sales and shipments of foreign produced beer or  
34 strong beer to licensed Washington beer distributors or importers.

35 (3) The certificate of approval shall not be granted unless and  
36 until such brewer or manufacturer of beer or strong beer or authorized  
37 representative shall have made a written agreement with the board to

1 furnish to the board, on or before the twentieth day of each month, a  
2 report under oath, on a form to be prescribed by the board, showing the  
3 quantity of beer and strong beer sold or delivered to each licensed  
4 beer distributor (~~(or)~~), importer, or retailer during the preceding  
5 month, and shall further have agreed with the board, that such brewer  
6 or manufacturer of beer or strong beer or authorized representative and  
7 all general sales corporations or agencies maintained by them, and all  
8 of their trade representatives, corporations, and agencies, shall and  
9 will faithfully comply with all laws of the state of Washington  
10 pertaining to the sale of intoxicating liquors and all rules and  
11 regulations of the Washington state liquor control board. A violation  
12 of the terms of this agreement will cause the board to take action to  
13 suspend or revoke such certificate.

14 (4) The fee for the certificate of approval and related  
15 endorsements, issued pursuant to the provisions of this title, shall be  
16 from time to time established by the board at a level that is  
17 sufficient to defray the costs of administering the certificate of  
18 approval program. The fee shall be fixed by rule by the board in  
19 accordance with the provisions of the administrative procedure act,  
20 chapter 34.05 RCW.

21 (5) Certificate of approval holders are deemed to have consented to  
22 the jurisdiction of Washington concerning enforcement of this chapter  
23 and all laws and rules related to the sale and shipment of beer.

24 **Sec. 7.** RCW 66.24.290 and 2003 c 167 s 5 are each amended to read  
25 as follows:

26 (1) Any microbrewer or domestic brewery or beer distributor  
27 licensed under this title may sell and deliver beer and strong beer to  
28 holders of authorized licenses direct, but to no other person, other  
29 than the board(~~(+and)~~). Any certificate of approval holder authorized  
30 to act as a distributor under RCW 66.24.270 shall pay the taxes imposed  
31 by this section.

32 (a) Every such brewery or beer distributor shall report all sales  
33 to the board monthly, pursuant to the regulations, and shall pay to the  
34 board as an added tax for the privilege of manufacturing and selling  
35 the beer and strong beer within the state a tax of one dollar and  
36 thirty cents per barrel of thirty-one gallons on sales to licensees  
37 within the state and on sales to licensees within the state of bottled

1 and canned beer, including strong beer, shall pay a tax computed in  
2 gallons at the rate of one dollar and thirty cents per barrel of  
3 thirty-one gallons.

4 (b) Any brewery or beer distributor whose applicable tax payment is  
5 not postmarked by the twentieth day following the month of sale will be  
6 assessed a penalty at the rate of two percent per month or fraction  
7 thereof. Beer and strong beer shall be sold by breweries and  
8 distributors in sealed barrels or packages.

9 (c) The moneys collected under this subsection shall be distributed  
10 as follows: ~~((a))~~ (i) Three-tenths of a percent shall be distributed  
11 to border areas under RCW 66.08.195; and ~~((b))~~ (ii) of the remaining  
12 moneys: ~~((i))~~ (A) Twenty percent shall be distributed to counties in  
13 the same manner as under RCW 66.08.200; and ~~((i))~~ (B) eighty percent  
14 shall be distributed to incorporated cities and towns in the same  
15 manner as under RCW 66.08.210.

16 (d) Any licensed retailer authorized to purchase beer from a  
17 certificate of approval holder with a direct shipment endorsement shall  
18 make monthly reports to the liquor control board on beer purchased  
19 during the preceding calendar month in the manner and upon such forms  
20 as may be prescribed by the board.

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

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

34 (b) The additional tax imposed under this subsection does not apply  
35 to the sale of the first sixty thousand barrels of beer each year by  
36 breweries that are entitled to a reduced rate of tax under 26 U.S.C.  
37 Sec. 5051, as existing on July 1, 1993, or such subsequent date as may

1 be provided by the board by rule consistent with the purposes of this  
2 exemption.

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

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

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

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

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

27 (1) Except as provided in subsection (2) of this section, it shall  
28 be unlawful for any retail beer or wine licensee to purchase beer or  
29 wine, except from a duly licensed (~~wholesaler~~) distributor, domestic  
30 winery, domestic brewer, certificate of approval holder, or the  
31 board(~~, and~~). It shall be unlawful for any brewer, winery, or beer  
32 or wine (~~wholesaler~~) distributor to purchase beer or wine, except  
33 from a duly licensed beer or wine (~~wholesaler~~) distributor, or  
34 importer or certificate of approval holder with a direct shipment  
35 endorsement.

36 (2) A beer or wine retailer licensee may purchase beer or wine from  
37 a government agency which has lawfully seized beer or wine from a

1 licensed beer or wine retailer, or from a board-authorized retailer, or  
2 from a licensed retailer which has discontinued business if the  
3 (~~wholesaler~~) distributor has refused to accept beer or wine from that  
4 retailer for return and refund. Beer and wine purchased under this  
5 subsection shall meet the quality standards set by its manufacturer.

6 (3) Special occasion licensees holding either a (~~class G or J~~)  
7 special occasion license may only purchase beer or wine from a beer or  
8 wine retailer duly licensed to sell beer or wine for off-premises  
9 consumption, the board, or from a duly licensed beer or wine  
10 (~~wholesaler~~) distributor.

11 **Sec. 9.** RCW 66.28.180 and 2004 c 269 s 1 and 2004 c 160 s 18 are  
12 each reenacted and amended to read as follows:

13 It is unlawful for a person, firm, or corporation holding a  
14 certificate of approval issued under RCW 66.24.270 or 66.24.206, a beer  
15 distributor's license, a domestic brewery license, a microbrewery  
16 license, a beer importer's license, a beer distributor's license, a  
17 domestic winery license, a wine importer's license, or a wine  
18 distributor's license within the state of Washington to modify any  
19 prices without prior notification to and approval of the board.

20 (1) Intent. This section is enacted, pursuant to the authority of  
21 this state under the twenty-first amendment to the United States  
22 Constitution, to promote the public's interest in fostering the orderly  
23 and responsible distribution of malt beverages and wine towards  
24 effective control of consumption; to promote the fair and efficient  
25 three-tier system of distribution of such beverages; and to confirm  
26 existing board rules as the clear expression of state policy to  
27 regulate the manner of selling and pricing of wine and malt beverages  
28 by licensed suppliers and distributors.

29 (2) Beer and wine distributor price posting.

30 (a) Every beer or wine distributor shall file with the board at its  
31 office in Olympia a price posting showing the wholesale prices at which  
32 any and all brands of beer and wine sold by such beer and/or wine  
33 distributor shall be sold to retailers within the state.

34 (b) Each price posting shall be made on a form prepared and  
35 furnished by the board, or a reasonable facsimile thereof, and shall  
36 set forth:

1 (i) All brands, types, packages, and containers of beer offered for  
2 sale by such beer and/or wine distributor;

3 (ii) The wholesale prices thereof to retail licensees, including  
4 allowances, if any, for returned empty containers.

5 (c) No beer and/or wine distributor may sell or offer to sell any  
6 package or container of beer or wine to any retail licensee at a price  
7 differing from the price for such package or container as shown in the  
8 price posting filed by the beer and/or wine distributor and then in  
9 effect, according to rules adopted by the board.

10 (d) Quantity discounts are prohibited. No price may be posted that  
11 is below acquisition cost plus ten percent of acquisition cost.  
12 However, the board is empowered to review periodically, as it may deem  
13 appropriate, the amount of the percentage of acquisition cost as a  
14 minimum mark-up over cost and to modify such percentage by rule of the  
15 board, except such percentage shall be not less than ten percent.

16 (e) Distributor prices on a "close-out" item shall be accepted by  
17 the board if the item to be discontinued has been listed on the state  
18 market for a period of at least six months, and upon the further  
19 condition that the distributor who posts such a close-out price shall  
20 not restock the item for a period of one year following the first  
21 effective date of such close-out price.

22 (f) The board may reject any price posting that it deems to be in  
23 violation of this section or any rule, or portion thereof, or that  
24 would tend to disrupt the orderly sale and distribution of beer and  
25 wine. Whenever the board rejects any posting, the licensee submitting  
26 the posting may be heard by the board and shall have the burden of  
27 showing that the posting is not in violation of this section or a rule  
28 or does not tend to disrupt the orderly sale and distribution of beer  
29 and wine. If the posting is accepted, it shall become effective at the  
30 time fixed by the board. If the posting is rejected, the last  
31 effective posting shall remain in effect until such time as an amended  
32 posting is filed and approved, in accordance with the provisions of  
33 this section.

34 (g) Prior to the effective date of the posted prices, all price  
35 postings filed as required by this section constitute investigative  
36 information and shall not be subject to disclosure, pursuant to RCW  
37 42.17.310(1)(d).

1 (h) Any beer and/or wine distributor or employee authorized by the  
2 distributor-employer may sell beer and/or wine at the distributor's  
3 posted prices to any annual or special occasion retail licensee upon  
4 presentation to the distributor or employee at the time of purchase of  
5 a special permit issued by the board to such licensee.

6 (i) Every annual or special occasion retail licensee, upon  
7 purchasing any beer and/or wine from a distributor, shall immediately  
8 cause such beer or wine to be delivered to the licensed premises, and  
9 the licensee shall not thereafter permit such beer to be disposed of in  
10 any manner except as authorized by the license.

11 (ii) Beer and wine sold as provided in this section shall be  
12 delivered by the distributor or an authorized employee either to the  
13 retailer's licensed premises or directly to the retailer at the  
14 distributor's licensed premises. A distributor's prices to retail  
15 licensees shall be the same at both such places of delivery. A  
16 licensed retailer with multiple retail locations in Washington that is  
17 receiving shipment from a certificate of approval holder with a direct  
18 shipment endorsement may accept delivery at the retailer's warehouse or  
19 a single retail location upon approval from the liquor control board.

20 (3) Beer and wine suppliers' price filings, contracts, and  
21 memoranda.

22 (a) Every domestic brewery, microbrewery, and domestic winery  
23 offering beer and/or wine for sale within the state shall file with the  
24 board at its office in Olympia a copy of every written contract and a  
25 memorandum of every oral agreement which such brewery or winery may  
26 have with any beer or wine distributor, which contracts or memoranda  
27 shall contain a schedule of prices charged to distributors for all  
28 items and all terms of sale, including all regular and special  
29 discounts; all advertising, sales and trade allowances, and incentive  
30 programs; and all commissions, bonuses or gifts, and any and all other  
31 discounts or allowances. Whenever changed or modified, such revised  
32 contracts or memoranda shall forthwith be filed with the board as  
33 provided for by rule. The provisions of this section also apply to  
34 certificate of approval holders, beer and/or wine importers, and beer  
35 and/or wine distributors who sell to other beer and/or wine  
36 distributors.

37 Each price schedule shall be made on a form prepared and furnished  
38 by the board, or a reasonable facsimile thereof, and shall set forth

1 all brands, types, packages, and containers of beer or wine offered for  
2 sale by such licensed brewery or winery; all additional information  
3 required may be filed as a supplement to the price schedule forms.

4 (b) Prices filed by a domestic brewery, microbrewery, domestic  
5 winery, or certificate of approval holder shall be uniform prices to  
6 all distributors or retailers on a statewide basis less bona fide  
7 allowances for freight differentials. Quantity discounts are  
8 prohibited. No price shall be filed that is below  
9 acquisition/production cost plus ten percent of that cost, except that  
10 acquisition cost plus ten percent of acquisition cost does not apply to  
11 sales of beer or wine between a beer or wine importer who sells beer or  
12 wine to another beer or wine importer or to a beer or wine distributor,  
13 or to a beer or wine distributor who sells beer or wine to another beer  
14 or wine distributor. However, the board is empowered to review  
15 periodically, as it may deem appropriate, the amount of the percentage  
16 of acquisition/production cost as a minimum mark-up over cost and to  
17 modify such percentage by rule of the board, except such percentage  
18 shall be not less than ten percent.

19 (c) No domestic brewery, microbrewery, domestic winery, certificate  
20 of approval holder, beer or wine importer, or beer or wine distributor  
21 may sell or offer to sell any beer or wine to any persons whatsoever in  
22 this state until copies of such written contracts or memoranda of such  
23 oral agreements are on file with the board.

24 (d) No domestic brewery, microbrewery, domestic winery, or  
25 certificate of approval holder may sell or offer to sell any package or  
26 container of beer or wine to any distributor at a price differing from  
27 the price for such package or container as shown in the schedule of  
28 prices filed by the domestic brewery, microbrewery, domestic winery, or  
29 certificate of approval holder and then in effect, according to rules  
30 adopted by the board.

31 (e) The board may reject any supplier's price filing, contract, or  
32 memorandum of oral agreement, or portion thereof that it deems to be in  
33 violation of this section or any rule or that would tend to disrupt the  
34 orderly sale and distribution of beer or wine. Whenever the board  
35 rejects any such price filing, contract, or memorandum, the licensee  
36 submitting the price filing, contract, or memorandum may be heard by  
37 the board and shall have the burden of showing that the price filing,  
38 contract, or memorandum is not in violation of this section or a rule

1 or does not tend to disrupt the orderly sale and distribution of beer  
2 or wine. If the price filing, contract, or memorandum is accepted, it  
3 shall become effective at a time fixed by the board. If the price  
4 filing, contract, or memorandum, or portion thereof, is rejected, the  
5 last effective price filing, contract, or memorandum shall remain in  
6 effect until such time as an amended price filing, contract, or  
7 memorandum is filed and approved, in accordance with the provisions of  
8 this section.

9 (f) Prior to the effective date of the posted prices, all prices,  
10 contracts, and memoranda filed as required by this section constitute  
11 investigative information and shall not be subject to disclosure,  
12 pursuant to RCW 42.17.310(1)(d).

13 **Sec. 10.** RCW 66.28.180 and 2005 c 274 s 327 are each amended to  
14 read as follows:

15 It is unlawful for a person, firm, or corporation holding a  
16 certificate of approval issued under RCW 66.24.270 or 66.24.206, a beer  
17 distributor's license, a domestic brewery license, a microbrewery  
18 license, a beer importer's license, a beer distributor's license, a  
19 domestic winery license, a wine importer's license, or a wine  
20 distributor's license within the state of Washington to modify any  
21 prices without prior notification to and approval of the board.

22 (1) Intent. This section is enacted, pursuant to the authority of  
23 this state under the twenty-first amendment to the United States  
24 Constitution, to promote the public's interest in fostering the orderly  
25 and responsible distribution of malt beverages and wine towards  
26 effective control of consumption; to promote the fair and efficient  
27 three-tier system of distribution of such beverages; and to confirm  
28 existing board rules as the clear expression of state policy to  
29 regulate the manner of selling and pricing of wine and malt beverages  
30 by licensed suppliers and distributors.

31 (2) Beer and wine distributor price posting.

32 (a) Every beer or wine distributor shall file with the board at its  
33 office in Olympia a price posting showing the wholesale prices at which  
34 any and all brands of beer and wine sold by such beer and/or wine  
35 distributor shall be sold to retailers within the state.

36 (b) Each price posting shall be made on a form prepared and

1 furnished by the board, or a reasonable facsimile thereof, and shall  
2 set forth:

3 (i) All brands, types, packages, and containers of beer offered for  
4 sale by such beer and/or wine distributor;

5 (ii) The wholesale prices thereof to retail licensees, including  
6 allowances, if any, for returned empty containers.

7 (c) No beer and/or wine distributor may sell or offer to sell any  
8 package or container of beer or wine to any retail licensee at a price  
9 differing from the price for such package or container as shown in the  
10 price posting filed by the beer and/or wine distributor and then in  
11 effect, according to rules adopted by the board.

12 (d) Quantity discounts are prohibited. No price may be posted that  
13 is below acquisition cost plus ten percent of acquisition cost.  
14 However, the board is empowered to review periodically, as it may deem  
15 appropriate, the amount of the percentage of acquisition cost as a  
16 minimum mark-up over cost and to modify such percentage by rule of the  
17 board, except such percentage shall be not less than ten percent.

18 (e) Distributor prices on a "close-out" item shall be accepted by  
19 the board if the item to be discontinued has been listed on the state  
20 market for a period of at least six months, and upon the further  
21 condition that the distributor who posts such a close-out price shall  
22 not restock the item for a period of one year following the first  
23 effective date of such close-out price.

24 (f) The board may reject any price posting that it deems to be in  
25 violation of this section or any rule, or portion thereof, or that  
26 would tend to disrupt the orderly sale and distribution of beer and  
27 wine. Whenever the board rejects any posting, the licensee submitting  
28 the posting may be heard by the board and shall have the burden of  
29 showing that the posting is not in violation of this section or a rule  
30 or does not tend to disrupt the orderly sale and distribution of beer  
31 and wine. If the posting is accepted, it shall become effective at the  
32 time fixed by the board. If the posting is rejected, the last  
33 effective posting shall remain in effect until such time as an amended  
34 posting is filed and approved, in accordance with the provisions of  
35 this section.

36 (g) Prior to the effective date of the posted prices, all price  
37 postings filed as required by this section constitute investigative

1 information and shall not be subject to disclosure, pursuant to RCW  
2 42.56.240(1).

3 (h) Any beer and/or wine distributor or employee authorized by the  
4 distributor-employer may sell beer and/or wine at the distributor's  
5 posted prices to any annual or special occasion retail licensee upon  
6 presentation to the distributor or employee at the time of purchase of  
7 a special permit issued by the board to such licensee.

8 (i) Every annual or special occasion retail licensee, upon  
9 purchasing any beer and/or wine from a distributor, shall immediately  
10 cause such beer or wine to be delivered to the licensed premises, and  
11 the licensee shall not thereafter permit such beer to be disposed of in  
12 any manner except as authorized by the license.

13 (ii) Beer and wine sold as provided in this section shall be  
14 delivered by the distributor or an authorized employee either to the  
15 retailer's licensed premises or directly to the retailer at the  
16 distributor's licensed premises. A distributor's prices to retail  
17 licensees shall be the same at both such places of delivery. A  
18 licensed retailer with multiple retail locations in Washington that is  
19 receiving shipment from a certificate of approval holder with a direct  
20 shipment endorsement may accept delivery at the retailer's warehouse or  
21 a single retail location upon approval from the liquor control board.

22 (3) Beer and wine suppliers' price filings, contracts, and  
23 memoranda.

24 (a) Every domestic brewery, microbrewery, and domestic winery  
25 offering beer and/or wine for sale within the state shall file with the  
26 board at its office in Olympia a copy of every written contract and a  
27 memorandum of every oral agreement which such brewery or winery may  
28 have with any beer or wine distributor, which contracts or memoranda  
29 shall contain a schedule of prices charged to distributors for all  
30 items and all terms of sale, including all regular and special  
31 discounts; all advertising, sales and trade allowances, and incentive  
32 programs; and all commissions, bonuses or gifts, and any and all other  
33 discounts or allowances. Whenever changed or modified, such revised  
34 contracts or memoranda shall forthwith be filed with the board as  
35 provided for by rule. The provisions of this section also apply to  
36 certificate of approval holders, beer and/or wine importers, and beer  
37 and/or wine distributors who sell to other beer and/or wine  
38 distributors.

1 Each price schedule shall be made on a form prepared and furnished  
2 by the board, or a reasonable facsimile thereof, and shall set forth  
3 all brands, types, packages, and containers of beer or wine offered for  
4 sale by such licensed brewery or winery; all additional information  
5 required may be filed as a supplement to the price schedule forms.

6 (b) Prices filed by a domestic brewery, microbrewery, domestic  
7 winery, or certificate of approval holder shall be uniform prices to  
8 all distributors or retailers on a statewide basis less bona fide  
9 allowances for freight differentials. Quantity discounts are  
10 prohibited. No price shall be filed that is below  
11 acquisition/production cost plus ten percent of that cost, except that  
12 acquisition cost plus ten percent of acquisition cost does not apply to  
13 sales of beer or wine between a beer or wine importer who sells beer or  
14 wine to another beer or wine importer or to a beer or wine distributor,  
15 or to a beer or wine distributor who sells beer or wine to another beer  
16 or wine distributor. However, the board is empowered to review  
17 periodically, as it may deem appropriate, the amount of the percentage  
18 of acquisition/production cost as a minimum mark-up over cost and to  
19 modify such percentage by rule of the board, except such percentage  
20 shall be not less than ten percent.

21 (c) No domestic brewery, microbrewery, domestic winery, certificate  
22 of approval holder, beer or wine importer, or beer or wine distributor  
23 may sell or offer to sell any beer or wine to any persons whatsoever in  
24 this state until copies of such written contracts or memoranda of such  
25 oral agreements are on file with the board.

26 (d) No domestic brewery, microbrewery, domestic winery, or  
27 certificate of approval holder may sell or offer to sell any package or  
28 container of beer or wine to any distributor at a price differing from  
29 the price for such package or container as shown in the schedule of  
30 prices filed by the domestic brewery, microbrewery, domestic winery, or  
31 certificate of approval holder and then in effect, according to rules  
32 adopted by the board.

33 (e) The board may reject any supplier's price filing, contract, or  
34 memorandum of oral agreement, or portion thereof that it deems to be in  
35 violation of this section or any rule or that would tend to disrupt the  
36 orderly sale and distribution of beer or wine. Whenever the board  
37 rejects any such price filing, contract, or memorandum, the licensee  
38 submitting the price filing, contract, or memorandum may be heard by

1 the board and shall have the burden of showing that the price filing,  
2 contract, or memorandum is not in violation of this section or a rule  
3 or does not tend to disrupt the orderly sale and distribution of beer  
4 or wine. If the price filing, contract, or memorandum is accepted, it  
5 shall become effective at a time fixed by the board. If the price  
6 filing, contract, or memorandum, or portion thereof, is rejected, the  
7 last effective price filing, contract, or memorandum shall remain in  
8 effect until such time as an amended price filing, contract, or  
9 memorandum is filed and approved, in accordance with the provisions of  
10 this section.

11 (f) Prior to the effective date of the posted prices, all prices,  
12 contracts, and memoranda filed as required by this section constitute  
13 investigative information and shall not be subject to disclosure,  
14 pursuant to RCW 42.56.240(1).

15 **Sec. 11.** RCW 42.17.310 and 2005 c 424 s 16, 2005 c 349 s 1, 2005  
16 c 312 s 6, 2005 c 284 s 1, 2005 c 172 s 13, and 2005 c 33 s 4 are each  
17 reenacted and amended to read as follows:

18 (1) The following are exempt from public inspection and copying:

19 (a) Personal information in any files maintained for students in  
20 public schools, patients or clients of public institutions or public  
21 health agencies, or welfare recipients.

22 (b) Personal information in files maintained for employees,  
23 appointees, or elected officials of any public agency to the extent  
24 that disclosure would violate their right to privacy.

25 (c) Information required of any taxpayer in connection with the  
26 assessment or collection of any tax if the disclosure of the  
27 information to other persons would (i) be prohibited to such persons by  
28 RCW 84.08.210, 82.32.330, 84.40.020, or 84.40.340 or (ii) violate the  
29 taxpayer's right to privacy or result in unfair competitive  
30 disadvantage to the taxpayer.

31 (d) Specific intelligence information and specific investigative  
32 records compiled by investigative, law enforcement, and penology  
33 agencies, and state agencies vested with the responsibility to  
34 discipline members of any profession, the nondisclosure of which is  
35 essential to effective law enforcement or for the protection of any  
36 person's right to privacy.

1 (e) Information revealing the identity of persons who are witnesses  
2 to or victims of crime or who file complaints with investigative, law  
3 enforcement, or penology agencies, other than the public disclosure  
4 commission, if disclosure would endanger any person's life, physical  
5 safety, or property. If at the time a complaint is filed the  
6 complainant, victim or witness indicates a desire for disclosure or  
7 nondisclosure, such desire shall govern. However, all complaints filed  
8 with the public disclosure commission about any elected official or  
9 candidate for public office must be made in writing and signed by the  
10 complainant under oath.

11 (f) Test questions, scoring keys, and other examination data used  
12 to administer a license, employment, or academic examination.

13 (g) Except as provided by chapter 8.26 RCW, the contents of real  
14 estate appraisals, made for or by any agency relative to the  
15 acquisition or sale of property, until the project or prospective sale  
16 is abandoned or until such time as all of the property has been  
17 acquired or the property to which the sale appraisal relates is sold,  
18 but in no event shall disclosure be denied for more than three years  
19 after the appraisal.

20 (h) Valuable formulae, designs, drawings, computer source code or  
21 object code, and research data obtained by any agency within five years  
22 of the request for disclosure when disclosure would produce private  
23 gain and public loss.

24 (i) Preliminary drafts, notes, recommendations, and intra-agency  
25 memorandums in which opinions are expressed or policies formulated or  
26 recommended except that a specific record shall not be exempt when  
27 publicly cited by an agency in connection with any agency action.

28 (j) Records which are relevant to a controversy to which an agency  
29 is a party but which records would not be available to another party  
30 under the rules of pretrial discovery for causes pending in the  
31 superior courts.

32 (k) Records, maps, or other information identifying the location of  
33 archaeological sites in order to avoid the looting or depredation of  
34 such sites.

35 (l) Any library record, the primary purpose of which is to maintain  
36 control of library materials, or to gain access to information, which  
37 discloses or could be used to disclose the identity of a library user.

1 (m) Financial information supplied by or on behalf of a person,  
2 firm, or corporation for the purpose of qualifying to submit a bid or  
3 proposal for (i) a ferry system construction or repair contract as  
4 required by RCW 47.60.680 through 47.60.750 or (ii) highway  
5 construction or improvement as required by RCW 47.28.070.

6 (n) Railroad company contracts filed prior to July 28, 1991, with  
7 the utilities and transportation commission under RCW 81.34.070, except  
8 that the summaries of the contracts are open to public inspection and  
9 copying as otherwise provided by this chapter.

10 (o) Financial and commercial information and records supplied by  
11 private persons pertaining to export services provided pursuant to  
12 chapter 43.163 RCW and chapter 53.31 RCW, and by persons pertaining to  
13 export projects pursuant to RCW 43.23.035.

14 (p) Financial disclosures filed by private vocational schools under  
15 chapters 28B.85 and 28C.10 RCW.

16 (q) Records filed with the utilities and transportation commission  
17 or attorney general under RCW 80.04.095 that a court has determined are  
18 confidential under RCW 80.04.095.

19 (r) Financial and commercial information and records supplied by  
20 businesses or individuals during application for loans or program  
21 services provided by chapters 43.163, 43.160, 43.330, and 43.168 RCW,  
22 or during application for economic development loans or program  
23 services provided by any local agency.

24 (s) Membership lists or lists of members or owners of interests of  
25 units in timeshare projects, subdivisions, camping resorts,  
26 condominiums, land developments, or common-interest communities  
27 affiliated with such projects, regulated by the department of  
28 licensing, in the files or possession of the department.

29 (t) All applications for public employment, including the names of  
30 applicants, resumes, and other related materials submitted with respect  
31 to an applicant.

32 (u) The residential addresses, residential telephone numbers,  
33 personal wireless telephone numbers, personal electronic mail  
34 addresses, Social Security numbers, and emergency contact information  
35 of employees or volunteers of a public agency, and the names, dates of  
36 birth, residential addresses, residential telephone numbers, personal  
37 wireless telephone numbers, personal electronic mail addresses, Social  
38 Security numbers, and emergency contact information of dependents of

1 employees or volunteers of a public agency, which are held by any  
2 public agency in personnel records, public employment related records,  
3 or volunteer rosters, or are included in any mailing list of employees  
4 or volunteers of any public agency. For purposes of this subsection,  
5 "employees" includes independent provider home care workers as defined  
6 in RCW 74.39A.240.

7 (v) The residential addresses and residential telephone numbers of  
8 the customers of a public utility contained in the records or lists  
9 held by the public utility of which they are customers, except that  
10 this information may be released to the division of child support or  
11 the agency or firm providing child support enforcement for another  
12 state under Title IV-D of the federal social security act, for the  
13 establishment, enforcement, or modification of a support order.

14 (w)(i) The federal social security number of individuals governed  
15 under chapter 18.130 RCW maintained in the files of the department of  
16 health, except this exemption does not apply to requests made directly  
17 to the department from federal, state, and local agencies of  
18 government, and national and state licensing, credentialing,  
19 investigatory, disciplinary, and examination organizations; (ii) the  
20 current residential address and current residential telephone number of  
21 a health care provider governed under chapter 18.130 RCW maintained in  
22 the files of the department, if the provider requests that this  
23 information be withheld from public inspection and copying, and  
24 provides to the department an accurate alternate or business address  
25 and business telephone number. On or after January 1, 1995, the  
26 current residential address and residential telephone number of a  
27 health care provider governed under RCW 18.130.040 maintained in the  
28 files of the department shall automatically be withheld from public  
29 inspection and copying unless the provider specifically requests the  
30 information be released, and except as provided for under RCW  
31 42.17.260(9).

32 (x) Information obtained by the board of pharmacy as provided in  
33 RCW 69.45.090.

34 (y) Information obtained by the board of pharmacy or the department  
35 of health and its representatives as provided in RCW 69.41.044,  
36 69.41.280, and 18.64.420.

37 (z) Financial information, business plans, examination reports, and

1 any information produced or obtained in evaluating or examining a  
2 business and industrial development corporation organized or seeking  
3 certification under chapter 31.24 RCW.

4 (aa) Financial and commercial information supplied to the state  
5 investment board by any person when the information relates to the  
6 investment of public trust or retirement funds and when disclosure  
7 would result in loss to such funds or in private loss to the providers  
8 of this information.

9 (bb) Financial and valuable trade information under RCW 51.36.120.

10 (cc) Client records maintained by an agency that is a domestic  
11 violence program as defined in RCW 70.123.020 or 70.123.075 or a rape  
12 crisis center as defined in RCW 70.125.030.

13 (dd) Information that identifies a person who, while an agency  
14 employee: (i) Seeks advice, under an informal process established by  
15 the employing agency, in order to ascertain his or her rights in  
16 connection with a possible unfair practice under chapter 49.60 RCW  
17 against the person; and (ii) requests his or her identity or any  
18 identifying information not be disclosed.

19 (ee) Investigative records compiled by an employing agency  
20 conducting a current investigation of a possible unfair practice under  
21 chapter 49.60 RCW or of a possible violation of other federal, state,  
22 or local laws prohibiting discrimination in employment.

23 (ff) Business related information protected from public inspection  
24 and copying under RCW 15.86.110.

25 (gg) Financial, commercial, operations, and technical and research  
26 information and data submitted to or obtained by the clean Washington  
27 center in applications for, or delivery of, program services under  
28 chapter 70.95H RCW.

29 (hh) Information and documents created specifically for, and  
30 collected and maintained by, a quality improvement committee pursuant  
31 to RCW 43.70.510 or 70.41.200, by a peer review committee under RCW  
32 4.24.250, or by a quality assurance committee pursuant to RCW 74.42.640  
33 or 18.20.390, regardless of which agency is in possession of the  
34 information and documents.

35 (ii) Personal information in files maintained in a data base  
36 created under RCW 43.07.360.

37 (jj) Financial and commercial information requested by the public

1 stadium authority from any person or organization that leases or uses  
2 the stadium and exhibition center as defined in RCW 36.102.010.

3 (kk) Names of individuals residing in emergency or transitional  
4 housing that are furnished to the department of revenue or a county  
5 assessor in order to substantiate a claim for property tax exemption  
6 under RCW 84.36.043.

7 (ll) The names, residential addresses, residential telephone  
8 numbers, and other individually identifiable records held by an agency  
9 in relation to a vanpool, carpool, or other ride-sharing program or  
10 service. However, these records may be disclosed to other persons who  
11 apply for ride-matching services and who need that information in order  
12 to identify potential riders or drivers with whom to share rides.

13 (mm) The personally identifying information of current or former  
14 participants or applicants in a paratransit or other transit service  
15 operated for the benefit of persons with disabilities or elderly  
16 persons.

17 (nn) The personally identifying information of persons who acquire  
18 and use transit passes and other fare payment media including, but not  
19 limited to, stored value smart cards and magnetic strip cards, except  
20 that an agency may disclose this information to a person, employer,  
21 educational institution, or other entity that is responsible, in whole  
22 or in part, for payment of the cost of acquiring or using a transit  
23 pass or other fare payment media, or to the news media when reporting  
24 on public transportation or public safety. This information may also  
25 be disclosed at the agency's discretion to governmental agencies or  
26 groups concerned with public transportation or public safety.

27 (oo) Proprietary financial and commercial information that the  
28 submitting entity, with review by the department of health,  
29 specifically identifies at the time it is submitted and that is  
30 provided to or obtained by the department of health in connection with  
31 an application for, or the supervision of, an antitrust exemption  
32 sought by the submitting entity under RCW 43.72.310. If a request for  
33 such information is received, the submitting entity must be notified of  
34 the request. Within ten business days of receipt of the notice, the  
35 submitting entity shall provide a written statement of the continuing  
36 need for confidentiality, which shall be provided to the requester.  
37 Upon receipt of such notice, the department of health shall continue to  
38 treat information designated under this section as exempt from

1 disclosure. If the requester initiates an action to compel disclosure  
2 under this chapter, the submitting entity must be joined as a party to  
3 demonstrate the continuing need for confidentiality.

4 (pp) Records maintained by the board of industrial insurance  
5 appeals that are related to appeals of crime victims' compensation  
6 claims filed with the board under RCW 7.68.110.

7 (qq) Financial and commercial information supplied by or on behalf  
8 of a person, firm, corporation, or entity under chapter 28B.95 RCW  
9 relating to the purchase or sale of tuition units and contracts for the  
10 purchase of multiple tuition units.

11 (rr) Any records of investigative reports prepared by any state,  
12 county, municipal, or other law enforcement agency pertaining to sex  
13 offenses contained in chapter 9A.44 RCW or sexually violent offenses as  
14 defined in RCW 71.09.020, which have been transferred to the Washington  
15 association of sheriffs and police chiefs for permanent electronic  
16 retention and retrieval pursuant to RCW 40.14.070(2)(b).

17 (ss) Credit card numbers, debit card numbers, electronic check  
18 numbers, card expiration dates, or bank or other financial account  
19 numbers, except when disclosure is expressly required by or governed by  
20 other law.

21 (tt) Financial information, including but not limited to account  
22 numbers and values, and other identification numbers supplied by or on  
23 behalf of a person, firm, corporation, limited liability company,  
24 partnership, or other entity related to an application for a horse  
25 racing license submitted pursuant to RCW 67.16.260(1)(b), liquor  
26 license, gambling license, or lottery retail license.

27 (uu) Records maintained by the employment security department and  
28 subject to chapter 50.13 RCW if provided to another individual or  
29 organization for operational, research, or evaluation purposes.

30 (vv) Individually identifiable information received by the work  
31 force training and education coordinating board for research or  
32 evaluation purposes.

33 (ww) Those portions of records assembled, prepared, or maintained  
34 to prevent, mitigate, or respond to criminal terrorist acts, which are  
35 acts that significantly disrupt the conduct of government or of the  
36 general civilian population of the state or the United States and that  
37 manifest an extreme indifference to human life, the public disclosure

1 of which would have a substantial likelihood of threatening public  
2 safety, consisting of:

3 (i) Specific and unique vulnerability assessments or specific and  
4 unique response or deployment plans, including compiled underlying data  
5 collected in preparation of or essential to the assessments, or to the  
6 response or deployment plans; and

7 (ii) Records not subject to public disclosure under federal law  
8 that are shared by federal or international agencies, and information  
9 prepared from national security briefings provided to state or local  
10 government officials related to domestic preparedness for acts of  
11 terrorism.

12 (xx) Commercial fishing catch data from logbooks required to be  
13 provided to the department of fish and wildlife under RCW 77.12.047,  
14 when the data identifies specific catch location, timing, or  
15 methodology and the release of which would result in unfair competitive  
16 disadvantage to the commercial fisher providing the catch data.  
17 However, this information may be released to government agencies  
18 concerned with the management of fish and wildlife resources.

19 (yy) Sensitive wildlife data obtained by the department of fish and  
20 wildlife. However, sensitive wildlife data may be released to  
21 government agencies concerned with the management of fish and wildlife  
22 resources. Sensitive wildlife data includes:

23 (i) The nesting sites or specific locations of endangered species  
24 designated under RCW 77.12.020, or threatened or sensitive species  
25 classified by rule of the department of fish and wildlife;

26 (ii) Radio frequencies used in, or locational data generated by,  
27 telemetry studies; or

28 (iii) Other location data that could compromise the viability of a  
29 specific fish or wildlife population, and where at least one of the  
30 following criteria are met:

31 (A) The species has a known commercial or black market value;

32 (B) There is a history of malicious take of that species; or

33 (C) There is a known demand to visit, take, or disturb, and the  
34 species behavior or ecology renders it especially vulnerable or the  
35 species has an extremely limited distribution and concentration.

36 (zz) The personally identifying information of persons who acquire  
37 recreational licenses under RCW 77.32.010 or commercial licenses under  
38 chapter 77.65 or 77.70 RCW, except name, address of contact used by the

1 department, and type of license, endorsement, or tag. However, the  
2 department of fish and wildlife may disclose personally identifying  
3 information to:

4 (i) Government agencies concerned with the management of fish and  
5 wildlife resources;

6 (ii) The department of social and health services, child support  
7 division, and to the department of licensing in order to implement RCW  
8 77.32.014 and 46.20.291; and

9 (iii) Law enforcement agencies for the purpose of firearm  
10 possession enforcement under RCW 9.41.040.

11 (aaa)(i) Discharge papers of a veteran of the armed forces of the  
12 United States filed at the office of the county auditor before July 1,  
13 2002, that have not been commingled with other recorded documents.  
14 These records will be available only to the veteran, the veteran's next  
15 of kin, a deceased veteran's properly appointed personal representative  
16 or executor, a person holding that veteran's general power of attorney,  
17 or to anyone else designated in writing by that veteran to receive the  
18 records.

19 (ii) Discharge papers of a veteran of the armed forces of the  
20 United States filed at the office of the county auditor before July 1,  
21 2002, that have been commingled with other records, if the veteran has  
22 recorded a "request for exemption from public disclosure of discharge  
23 papers" with the county auditor. If such a request has been recorded,  
24 these records may be released only to the veteran filing the papers,  
25 the veteran's next of kin, a deceased veteran's properly appointed  
26 personal representative or executor, a person holding the veteran's  
27 general power of attorney, or anyone else designated in writing by the  
28 veteran to receive the records.

29 (iii) Discharge papers of a veteran filed at the office of the  
30 county auditor after June 30, 2002, are not public records, but will be  
31 available only to the veteran, the veteran's next of kin, a deceased  
32 veteran's properly appointed personal representative or executor, a  
33 person holding the veteran's general power of attorney, or anyone else  
34 designated in writing by the veteran to receive the records.

35 (iv) For the purposes of this subsection (1)(aaa), next of kin of  
36 deceased veterans have the same rights to full access to the record.  
37 Next of kin are the veteran's widow or widower who has not remarried,  
38 son, daughter, father, mother, brother, and sister.

1 (bbb) Those portions of records containing specific and unique  
2 vulnerability assessments or specific and unique emergency and escape  
3 response plans at a city, county, or state adult or juvenile  
4 correctional facility, the public disclosure of which would have a  
5 substantial likelihood of threatening the security of a city, county,  
6 or state adult or juvenile correctional facility or any individual's  
7 safety.

8 (ccc) Information compiled by school districts or schools in the  
9 development of their comprehensive safe school plans pursuant to RCW  
10 28A.320.125, to the extent that they identify specific vulnerabilities  
11 of school districts and each individual school.

12 (ddd) Information regarding the infrastructure and security of  
13 computer and telecommunications networks, consisting of security  
14 passwords, security access codes and programs, access codes for secure  
15 software applications, security and service recovery plans, security  
16 risk assessments, and security test results to the extent that they  
17 identify specific system vulnerabilities.

18 (eee) Information obtained and exempted or withheld from public  
19 inspection by the health care authority under RCW 41.05.026, whether  
20 retained by the authority, transferred to another state purchased  
21 health care program by the authority, or transferred by the authority  
22 to a technical review committee created to facilitate the development,  
23 acquisition, or implementation of state purchased health care under  
24 chapter 41.05 RCW.

25 (fff) Proprietary data, trade secrets, or other information that  
26 relates to: (i) A vendor's unique methods of conducting business; (ii)  
27 data unique to the product or services of the vendor; or (iii)  
28 determining prices or rates to be charged for services, submitted by  
29 any vendor to the department of social and health services for purposes  
30 of the development, acquisition, or implementation of state purchased  
31 health care as defined in RCW 41.05.011.

32 (ggg) The personally identifying information of persons who acquire  
33 and use transponders or other technology to facilitate payment of  
34 tolls. This information may be disclosed in aggregate form as long as  
35 the data does not contain any personally identifying information. For  
36 these purposes aggregate data may include the census tract of the  
37 account holder as long as any individual personally identifying  
38 information is not released. Personally identifying information may be

1 released to law enforcement agencies only for toll enforcement  
2 purposes. Personally identifying information may be released to law  
3 enforcement agencies for other purposes only if the request is  
4 accompanied by a court order.

5 (hhh) Financial, commercial, operations, and technical and research  
6 information and data submitted to or obtained by the life sciences  
7 discovery fund authority in applications for, or delivery of, grants  
8 under chapter 43.350 RCW, to the extent that such information, if  
9 revealed, would reasonably be expected to result in private loss to the  
10 providers of this information.

11 (iii) Records of mediation communications that are privileged under  
12 chapter 7.07 RCW.

13 (jjj) Financial or proprietary information, data, trade secrets,  
14 contractual agreements, or other information, including but not limited  
15 to sales data, and acquisition and production costs, supplied to the  
16 liquor control board by a licensee in connection with the licensee's  
17 obligation under RCW 66.28.180, or in connection with a retail  
18 licensee's obligation under RCW 66.24.210 or 66.24.290, for receipt of  
19 shipments of beer or wine from a domestic winery, brewery,  
20 microbrewery, or certificate of approval holder under RCW 66.24.206(1)  
21 or 66.24.270(2)(a), or for purposes of research and evaluation.

22 (2) Except for information described in subsection (1)(c)(i) of  
23 this section and confidential income data exempted from public  
24 inspection pursuant to RCW 84.40.020, the exemptions of this section  
25 are inapplicable to the extent that information, the disclosure of  
26 which would violate personal privacy or vital governmental interests,  
27 can be deleted from the specific records sought. No exemption may be  
28 construed to permit the nondisclosure of statistical information not  
29 descriptive of any readily identifiable person or persons.

30 (3) Inspection or copying of any specific records exempt under the  
31 provisions of this section may be permitted if the superior court in  
32 the county in which the record is maintained finds, after a hearing  
33 with notice thereof to every person in interest and the agency, that  
34 the exemption of such records is clearly unnecessary to protect any  
35 individual's right of privacy or any vital governmental function.

36 (4) Agency responses refusing, in whole or in part, inspection of  
37 any public record shall include a statement of the specific exemption

1 authorizing the withholding of the record (or part) and a brief  
2 explanation of how the exemption applies to the record withheld.

3 **Sec. 12.** RCW 42.56.270 and 2005 c 274 s 407 are each amended to  
4 read as follows:

5 The following financial, commercial, and proprietary information is  
6 exempt from disclosure under this chapter:

7 (1) Valuable formulae, designs, drawings, computer source code or  
8 object code, and research data obtained by any agency within five years  
9 of the request for disclosure when disclosure would produce private  
10 gain and public loss;

11 (2) Financial information supplied by or on behalf of a person,  
12 firm, or corporation for the purpose of qualifying to submit a bid or  
13 proposal for (a) a ferry system construction or repair contract as  
14 required by RCW 47.60.680 through 47.60.750 or (b) highway construction  
15 or improvement as required by RCW 47.28.070;

16 (3) Financial and commercial information and records supplied by  
17 private persons pertaining to export services provided under chapters  
18 43.163 and 53.31 RCW, and by persons pertaining to export projects  
19 under RCW 43.23.035;

20 (4) Financial and commercial information and records supplied by  
21 businesses or individuals during application for loans or program  
22 services provided by chapters 43.163, 43.160, 43.330, and 43.168 RCW,  
23 or during application for economic development loans or program  
24 services provided by any local agency;

25 (5) Financial information, business plans, examination reports, and  
26 any information produced or obtained in evaluating or examining a  
27 business and industrial development corporation organized or seeking  
28 certification under chapter 31.24 RCW;

29 (6) Financial and commercial information supplied to the state  
30 investment board by any person when the information relates to the  
31 investment of public trust or retirement funds and when disclosure  
32 would result in loss to such funds or in private loss to the providers  
33 of this information;

34 (7) Financial and valuable trade information under RCW 51.36.120;

35 (8) Financial, commercial, operations, and technical and research  
36 information and data submitted to or obtained by the clean Washington

1 center in applications for, or delivery of, program services under  
2 chapter 70.95H RCW;

3 (9) Financial and commercial information requested by the public  
4 stadium authority from any person or organization that leases or uses  
5 the stadium and exhibition center as defined in RCW 36.102.010;

6 (10)(a) Financial information, including but not limited to account  
7 numbers and values, and other identification numbers supplied by or on  
8 behalf of a person, firm, corporation, limited liability company,  
9 partnership, or other entity related to an application for a liquor  
10 license, gambling license, or lottery retail license;

11 (b) Financial or proprietary information, data, trade secrets,  
12 contractual agreements, or other information, including but not limited  
13 to sales data, and acquisition and production costs, supplied to the  
14 liquor control board by a licensee in connection with the licensee's  
15 obligation under RCW 66.28.180, or in connection with a retail  
16 licensee's obligation under RCW 66.24.210 or 66.24.290, for receipt of  
17 shipments of beer or wine from a domestic winery, brewery,  
18 microbrewery, or certificate of approval holder under RCW 66.24.206(1)  
19 or 66.24.270(2)(a), or for purposes of research and evaluation;

20 (11) Proprietary data, trade secrets, or other information that  
21 relates to: (a) A vendor's unique methods of conducting business; (b)  
22 data unique to the product or services of the vendor; or (c)  
23 determining prices or rates to be charged for services, submitted by  
24 any vendor to the department of social and health services for purposes  
25 of the development, acquisition, or implementation of state purchased  
26 health care as defined in RCW 41.05.011; and

27 (12)(a) When supplied to and in the records of the department of  
28 community, trade, and economic development:

29 (i) Financial and proprietary information collected from any person  
30 and provided to the department of community, trade, and economic  
31 development pursuant to RCW 43.330.050(8) and 43.330.080(4); and

32 (ii) Financial or proprietary information collected from any person  
33 and provided to the department of community, trade, and economic  
34 development or the office of the governor in connection with the  
35 siting, recruitment, expansion, retention, or relocation of that  
36 person's business and until a siting decision is made, identifying  
37 information of any person supplying information under this subsection

1 and the locations being considered for siting, relocation, or expansion  
2 of a business;

3 (b) When developed by the department of community, trade, and  
4 economic development based on information as described in (a)(i) of  
5 this subsection, any work product is not exempt from disclosure;

6 (c) For the purposes of this subsection, "siting decision" means  
7 the decision to acquire or not to acquire a site;

8 (d) If there is no written contact for a period of sixty days to  
9 the department of community, trade, and economic development from a  
10 person connected with siting, recruitment, expansion, retention, or  
11 relocation of that person's business, information described in (a)(ii)  
12 of this subsection will be available to the public under this chapter.

13 NEW SECTION. **Sec. 13.** Sections 9 and 11 of this act expire July  
14 1, 2006.

15 NEW SECTION. **Sec. 14.** Sections 10 and 12 of this act take effect  
16 July 1, 2006.

17 NEW SECTION. **Sec. 15.** Except for sections 10 and 12 of this act,  
18 this act is necessary for the immediate preservation of the public  
19 peace, health, or safety, or support of the state government and its  
20 existing public institutions, and takes effect April 14, 2006.

--- END ---