

CERTIFICATION OF ENROLLMENT

SUBSTITUTE HOUSE BILL 3128

59th Legislature
2006 Regular Session

Passed by the House February 10, 2006
Yeas 98 Nays 0

Speaker of the House of Representatives

Passed by the Senate March 2, 2006
Yeas 42 Nays 0

President of the Senate

Approved

Governor of the State of Washington

CERTIFICATE

I, Richard Nafziger, Chief Clerk of the House of Representatives of the State of Washington, do hereby certify that the attached is **SUBSTITUTE HOUSE BILL 3128** as passed by the House of Representatives and the Senate on the dates hereon set forth.

Chief Clerk

FILED

**Secretary of State
State of Washington**

SUBSTITUTE HOUSE BILL 3128

Passed Legislature - 2006 Regular Session

State of Washington

59th Legislature

2006 Regular Session

By House Committee on Commerce & Labor (originally sponsored by Representatives Kenney, Hankins, Conway, Chandler, Wood, Condotta, Newhouse and Springer)

READ FIRST TIME 02/03/06.

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

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

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

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

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

1 this subsection may use debt instruments issued in connection with
2 financing construction or operations of its facilities.

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

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

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

29 (e) Nothing in this section prohibits an organization qualifying
30 under RCW 66.24.375 formed for the purpose of constructing and
31 operating a facility to promote Washington wines from holding retail
32 licenses on the facility property or leasing all or any portion of such
33 facility property to a retail licensee on the facility property if the
34 members of the board of directors or officers of the board for the
35 organization include officers, directors, owners, or employees of a
36 licensed domestic winery. Financing for the construction of the
37 facility must include both public and private money.

1 (f) Nothing in this section prohibits a bona fide charitable
2 nonprofit society or association registered as a 501(c)(3) under the
3 internal revenue code and having an officer, director, owner, or
4 employee of a licensed domestic winery or a wine certificate of
5 approval holder on its board of directors from holding a special
6 occasion license under RCW 66.24.380.

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

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

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

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

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

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

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