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SENATE BILL 6538

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State of Washington

59th Legislature

2006 Regular Session

By Senators Kohl-Welles, Parlette and Keiser; by request of Liquor Control Board

Read first time 01/13/2006. Referred to Committee on Labor, Commerce, Research & Development.

1 AN ACT Relating to flavored malt beverage; and amending RCW  
2 66.04.010.

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

4 **Sec. 1.** RCW 66.04.010 and 2005 c 151 (HB 1409) s 1 are each  
5 amended to read as follows:

6 In this title, unless the context otherwise requires:

7 (1) "Alcohol" is that substance known as ethyl alcohol, hydrated  
8 oxide of ethyl, or spirit of wine, which is commonly produced by the  
9 fermentation or distillation of grain, starch, molasses, or sugar, or  
10 other substances including all dilutions and mixtures of this  
11 substance. The term "alcohol" does not include alcohol in the  
12 possession of a manufacturer or distiller of alcohol fuel, as described  
13 in RCW 66.12.130, which is intended to be denatured and used as a fuel  
14 for use in motor vehicles, farm implements, and machines or implements  
15 of husbandry.

16 (2) "Authorized representative" means a person who:

17 (a) Is required to have a federal basic permit issued pursuant to  
18 the federal alcohol administration act, 27 U.S.C. Sec. 204;

1 (b) Has its business located in the United States outside of the  
2 state of Washington;

3 (c) Acquires ownership of beer or wine for transportation into and  
4 resale in the state of Washington; and which beer or wine is produced  
5 anywhere outside Washington by a brewery or winery which does not hold  
6 a certificate of approval issued by the board; and

7 (d) Is appointed by the brewery or winery referenced in (c) of this  
8 subsection as its exclusive authorized representative for marketing and  
9 selling its products within the United States in accordance with a  
10 written agreement between the authorized representative and such  
11 brewery or winery pursuant to this title. The board may waive the  
12 requirement for the written agreement of exclusivity in situations  
13 consistent with the normal marketing practices of certain products,  
14 such as classified growths.

15 (3) "Beer" means any malt beverage, flavored malt beverage, or malt  
16 liquor as these terms are defined in this chapter.

17 (4) "Beer distributor" means a person who buys beer from a domestic  
18 brewery, microbrewery, beer certificate of approval holder, or beer  
19 importers, or who acquires foreign produced beer from a source outside  
20 of the United States, for the purpose of selling the same pursuant to  
21 this title, or who represents such brewer or brewery as agent.

22 (5) "Beer importer" means a person or business within Washington  
23 who purchases beer from a beer certificate of approval holder or who  
24 acquires foreign produced beer from a source outside of the United  
25 States for the purpose of selling the same pursuant to this title.

26 (6) "Brewer" or "brewery" means any person engaged in the business  
27 of manufacturing beer and malt liquor. Brewer includes a brand owner  
28 of malt beverages who holds a brewer's notice with the federal bureau  
29 of alcohol, tobacco, and firearms at a location outside the state and  
30 whose malt beverage is contract-produced by a licensed in-state  
31 brewery, and who may exercise within the state, under a domestic  
32 brewery license, only the privileges of storing, selling to licensed  
33 beer distributors, and exporting beer from the state.

34 (7) "Board" means the liquor control board, constituted under this  
35 title.

36 (8) "Club" means an organization of persons, incorporated or  
37 unincorporated, operated solely for fraternal, benevolent, educational,  
38 athletic or social purposes, and not for pecuniary gain.

1 (9) "Consume" includes the putting of liquor to any use, whether by  
2 drinking or otherwise.

3 (10) "Contract liquor store" means a business that sells liquor on  
4 behalf of the board through a contract with a contract liquor store  
5 manager.

6 (11) "Dentist" means a practitioner of dentistry duly and regularly  
7 licensed and engaged in the practice of his profession within the state  
8 pursuant to chapter 18.32 RCW.

9 (12) "Distiller" means a person engaged in the business of  
10 distilling spirits.

11 (13) "Domestic brewery" means a place where beer and malt liquor  
12 are manufactured or produced by a brewer within the state.

13 (14) "Domestic winery" means a place where wines are manufactured  
14 or produced within the state of Washington.

15 (15) "Druggist" means any person who holds a valid certificate and  
16 is a registered pharmacist and is duly and regularly engaged in  
17 carrying on the business of pharmaceutical chemistry pursuant to  
18 chapter 18.64 RCW.

19 (16) "Drug store" means a place whose principal business is, the  
20 sale of drugs, medicines and pharmaceutical preparations and maintains  
21 a regular prescription department and employs a registered pharmacist  
22 during all hours the drug store is open.

23 (17) "Employee" means any person employed by the board.

24 (18) "Flavored malt beverage" means:

25 (a) A malt beverage containing six percent or less alcohol by  
26 volume to which flavoring or other added nonbeverage ingredients are  
27 added that contain distilled spirits of not more than forty-nine  
28 percent of the beverage's overall alcohol content; or

29 (b) A malt beverage containing more than six percent alcohol by  
30 volume to which flavoring or other added nonbeverage ingredients are  
31 added that contain distilled spirits of not more than one and one-half  
32 percent of the beverage's overall alcohol content.

33 (19) "Fund" means 'liquor revolving fund.'

34 ~~((+19))~~ (20) "Hotel" means every building or other structure kept,  
35 used, maintained, advertised or held out to the public to be a place  
36 where food is served and sleeping accommodations are offered for pay to  
37 transient guests, in which twenty or more rooms are used for the  
38 sleeping accommodation of such transient guests and having one or more

1 dining rooms where meals are served to such transient guests, such  
2 sleeping accommodations and dining rooms being conducted in the same  
3 building and buildings, in connection therewith, and such structure or  
4 structures being provided, in the judgment of the board, with adequate  
5 and sanitary kitchen and dining room equipment and capacity, for  
6 preparing, cooking and serving suitable food for its guests: PROVIDED  
7 FURTHER, That in cities and towns of less than five thousand  
8 population, the board shall have authority to waive the provisions  
9 requiring twenty or more rooms.

10 ~~((+20+))~~ (21) "Importer" means a person who buys distilled spirits  
11 from a distillery outside the state of Washington and imports such  
12 spirituous liquor into the state for sale to the board or for export.

13 ~~((+21+))~~ (22) "Imprisonment" means confinement in the county jail.

14 ~~((+22+))~~ (23) "Liquor" includes the four varieties of liquor herein  
15 defined (alcohol, spirits, wine and beer), and all fermented,  
16 spirituous, vinous, or malt liquor, or combinations thereof, and mixed  
17 liquor, a part of which is fermented, spirituous, vinous or malt  
18 liquor, or otherwise intoxicating; and every liquid or solid or  
19 semisolid or other substance, patented or not, containing alcohol,  
20 spirits, wine or beer, and all drinks or drinkable liquids and all  
21 preparations or mixtures capable of human consumption, and any liquid,  
22 semisolid, solid, or other substance, which contains more than one  
23 percent of alcohol by weight shall be conclusively deemed to be  
24 intoxicating. Liquor does not include confections or food products  
25 that contain one percent or less of alcohol by weight.

26 ~~((+23+))~~ (24) "Manufacturer" means a person engaged in the  
27 preparation of liquor for sale, in any form whatsoever.

28 ~~((+24+))~~ (25) "Malt beverage" or "malt liquor" means any beverage  
29 such as beer, ale, lager beer, stout, and porter obtained by the  
30 alcoholic fermentation of an infusion or decoction of pure hops, or  
31 pure extract of hops and pure barley malt or other wholesome grain or  
32 cereal in pure water containing not more than eight percent of alcohol  
33 by weight, and not less than one-half of one percent of alcohol by  
34 volume. For the purposes of this title, any such beverage containing  
35 more than eight percent of alcohol by weight shall be referred to as  
36 "strong beer."

37 ~~((+25+))~~ (26) "Package" means any container or receptacle used for  
38 holding liquor.

1        ~~((+26+))~~ (27) "Permit" means a permit for the purchase of liquor  
2 under this title.

3        ~~((+27+))~~ (28) "Person" means an individual, copartnership,  
4 association, or corporation.

5        ~~((+28+))~~ (29) "Physician" means a medical practitioner duly and  
6 regularly licensed and engaged in the practice of his profession within  
7 the state pursuant to chapter 18.71 RCW.

8        ~~((+29+))~~ (30) "Prescription" means a memorandum signed by a  
9 physician and given by him to a patient for the obtaining of liquor  
10 pursuant to this title for medicinal purposes.

11        ~~((+30+))~~ (31) "Public place" includes streets and alleys of  
12 incorporated cities and towns; state or county or township highways or  
13 roads; buildings and grounds used for school purposes; public dance  
14 halls and grounds adjacent thereto; those parts of establishments where  
15 beer may be sold under this title, soft drink establishments, public  
16 buildings, public meeting halls, lobbies, halls and dining rooms of  
17 hotels, restaurants, theatres, stores, garages and filling stations  
18 which are open to and are generally used by the public and to which the  
19 public is permitted to have unrestricted access; railroad trains,  
20 stages, and other public conveyances of all kinds and character, and  
21 the depots and waiting rooms used in conjunction therewith which are  
22 open to unrestricted use and access by the public; publicly owned  
23 bathing beaches, parks, and/or playgrounds; and all other places of  
24 like or similar nature to which the general public has unrestricted  
25 right of access, and which are generally used by the public.

26        ~~((+31+))~~ (32) "Regulations" means regulations made by the board  
27 under the powers conferred by this title.

28        ~~((+32+))~~ (33) "Restaurant" means any establishment provided with  
29 special space and accommodations where, in consideration of payment,  
30 food, without lodgings, is habitually furnished to the public, not  
31 including drug stores and soda fountains.

32        ~~((+33+))~~ (34) "Sale" and "sell" include exchange, barter, and  
33 traffic; and also include the selling or supplying or distributing, by  
34 any means whatsoever, of liquor, or of any liquid known or described as  
35 beer or by any name whatever commonly used to describe malt or brewed  
36 liquor or of wine, by any person to any person; and also include a sale  
37 or selling within the state to a foreign consignee or his agent in the  
38 state. "Sale" and "sell" shall not include the giving, at no charge,

1 of a reasonable amount of liquor by a person not licensed by the board  
2 to a person not licensed by the board, for personal use only. "Sale"  
3 and "sell" also does not include a raffle authorized under RCW  
4 9.46.0315: PROVIDED, That the nonprofit organization conducting the  
5 raffle has obtained the appropriate permit from the board.

6 ~~((+34+))~~ (35) "Soda fountain" means a place especially equipped  
7 with apparatus for the purpose of dispensing soft drinks, whether mixed  
8 or otherwise.

9 ~~((+35+))~~ (36) "Spirits" means any beverage which contains alcohol  
10 obtained by distillation, except flavored malt beverages, but including  
11 wines exceeding twenty-four percent of alcohol by volume.

12 ~~((+36+))~~ (37) "Store" means a state liquor store established under  
13 this title.

14 ~~((+37+))~~ (38) "Tavern" means any establishment with special space  
15 and accommodation for sale by the glass and for consumption on the  
16 premises, of beer, as herein defined.

17 ~~((+38+))~~ (39) "Winery" means a business conducted by any person for  
18 the manufacture of wine for sale, other than a domestic winery.

19 ~~((+39+))~~ (40) "Wine" means any alcoholic beverage obtained by  
20 fermentation of fruits (grapes, berries, apples, et cetera) or other  
21 agricultural product containing sugar, to which any saccharine  
22 substances may have been added before, during or after fermentation,  
23 and containing not more than twenty-four percent of alcohol by volume,  
24 including sweet wines fortified with wine spirits, such as port,  
25 sherry, muscatel and angelica, not exceeding twenty-four percent of  
26 alcohol by volume and not less than one-half of one percent of alcohol  
27 by volume. For purposes of this title, any beverage containing no more  
28 than fourteen percent of alcohol by volume when bottled or packaged by  
29 the manufacturer shall be referred to as "table wine," and any beverage  
30 containing alcohol in an amount more than fourteen percent by volume  
31 when bottled or packaged by the manufacturer shall be referred to as  
32 "fortified wine." However, "fortified wine" shall not include: (a)  
33 Wines that are both sealed or capped by cork closure and aged two years  
34 or more; and (b) wines that contain more than fourteen percent alcohol  
35 by volume solely as a result of the natural fermentation process and  
36 that have not been produced with the addition of wine spirits, brandy,  
37 or alcohol.

1           This subsection shall not be interpreted to require that any wine  
2 be labeled with the designation "table wine" or "fortified wine."

3           (~~(40)~~) (41) "Wine distributor" means a person who buys wine from  
4 a domestic winery, wine certificate of approval holder, or wine  
5 importer, or who acquires foreign produced wine from a source outside  
6 of the United States, for the purpose of selling the same not in  
7 violation of this title, or who represents such vintner or winery as  
8 agent.

9           (~~(41)~~) (42) "Wine importer" means a person or business within  
10 Washington who purchases wine from a wine certificate of approval  
11 holder or who acquires foreign produced wine from a source outside of  
12 the United States for the purpose of selling the same pursuant to this  
13 title.

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