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SENATE BILL 6850

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State of Washington

59th Legislature

2006 Regular Session

By Senators Jacobsen and Keiser

Read first time 01/26/2006. Referred to Committee on Labor, Commerce, Research & Development.

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

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

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

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

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

16 (3) Any domestic winery licensed under this section may also act as  
17 a (~~distributor and/or~~) retailer of wine of its own production. Any  
18 domestic winery licensed under this section producing less than five  
19 thousand cases annually may act as a distributor of its own production.

1 Any domestic winery licensed under this section producing more than  
2 five thousand cases annually may act as a distributor of its own  
3 production, so long as it does so only from a facility located in the  
4 state of Washington that is physically separate and distinct from its  
5 production facilities. The board shall adopt rules establishing the  
6 criteria for determining whether a wholesaling facility is physically  
7 separate and distinct from a production facility, and upon application  
8 from a domestic winery shall issue a license for any wholesaling  
9 facility that meets such criteria. Any winery operating as a  
10 distributor and/or retailer under this subsection shall comply with the  
11 applicable laws and rules relating to distributors and/or retailers.

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

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

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

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

1 (d) Each approved location in a qualifying farmers market is deemed  
2 to be part of the winery license for the purpose of this title. The  
3 approved locations under an endorsement granted under this subsection  
4 do not include the tasting or sampling privilege of a winery. The  
5 winery may not store wine at a farmers market beyond the hours that the  
6 winery offers bottled wine for sale. The winery may not act as a  
7 distributor from a farmers market location.

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

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

26 (g) For the purposes of this subsection:

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

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

34 (B) The total combined gross annual sales of vendors who are  
35 farmers exceeds the total combined gross annual sales of vendors who  
36 are processors or resellers;

37 (C) The total combined gross annual sales of vendors who are

1 farmers, processors, or resellers exceeds the total combined gross  
2 annual sales of vendors who are not farmers, processors, or resellers;

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

5 (E) No vendor is a franchisee.

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

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

13 (iv) "Reseller" means a natural person who buys agricultural  
14 products from a farmer and resells the products directly to the  
15 consumer.

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

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

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

26 (2) Any domestic brewery, except for a brand owner of malt  
27 beverages under RCW 66.04.010(~~(+5)~~) (6), licensed under this section  
28 may also act as a (~~distributor and/or~~) retailer for beer of its own  
29 production. Any domestic brewery licensed under this section producing  
30 less than two thousand five hundred barrels annually may act as a  
31 distributor of beer of its own production. Any domestic brewery  
32 licensed under this section producing more than two thousand five  
33 hundred barrels annually may act as a distributor of its own  
34 production, so long as it does so only from a facility located in the  
35 state of Washington that is physically separate and distinct from its  
36 production facilities. The board shall adopt rules establishing the  
37 criteria for determining whether a wholesaling facility is physically

1 separate and distinct from a production facility, and upon application  
2 from a domestic brewery shall issue a license for any wholesaling  
3 facility that meets such criteria. Any domestic brewery operating as  
4 a distributor and/or retailer under this subsection shall comply with  
5 the applicable laws and rules relating to distributors and/or  
6 retailers.

7 (3) Any domestic brewery licensed under this section may contract-  
8 produce beer for a brand owner of malt beverages defined under RCW  
9 66.04.010(~~(+5)~~) (6), and this contract-production is not a sale for  
10 the purposes of RCW 66.28.170 and 66.28.180.

11 (4)(a) A domestic brewery licensed under this section and qualified  
12 for a reduced rate of taxation pursuant to RCW 66.24.290(3)(b) may  
13 apply to the board for an endorsement to sell bottled beer of its own  
14 production at retail for off-premises consumption at a qualifying  
15 farmers market. The annual fee for this endorsement is seventy-five  
16 dollars.

17 (b) For each month during which a domestic brewery will sell beer  
18 at a qualifying farmers market, the domestic brewery must provide the  
19 board or its designee a list of the dates, times, and locations at  
20 which bottled beer may be offered for sale. This list must be received  
21 by the board before the domestic brewery may offer beer for sale at a  
22 qualifying farmers market.

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

25 (d) Each approved location in a qualifying farmers market is deemed  
26 to be part of the domestic brewery license for the purpose of this  
27 title. The approved locations under an endorsement granted under this  
28 subsection do not include the tasting or sampling privilege of a  
29 domestic brewery. The domestic brewery may not store beer at a farmers  
30 market beyond the hours that the domestic brewery offers bottled beer  
31 for sale. The domestic brewery may not act as a distributor from a  
32 farmers market location.

33 (e) Before a domestic brewery may sell bottled beer at a qualifying  
34 farmers market, the farmers market must apply to the board for  
35 authorization for any domestic brewery with an endorsement approved  
36 under this subsection to sell bottled beer at retail at the farmers  
37 market. This application shall include, at a minimum: (i) A map of  
38 the farmers market showing all booths, stalls, or other designated

1 locations at which an approved domestic brewery may sell bottled beer;  
2 and (ii) the name and contact information for the on-site market  
3 managers who may be contacted by the board or its designee to verify  
4 the locations at which bottled beer may be sold. Before authorizing a  
5 qualifying farmers market to allow an approved domestic brewery to sell  
6 bottled beer at retail at its farmers market location, the board shall  
7 notify the persons or entities of such application for authorization  
8 pursuant to RCW 66.24.010 (8) and (9). An authorization granted under  
9 this subsection (4)(e) may be withdrawn by the board for any violation  
10 of this title or any rules adopted under this title.

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

14 (g) For the purposes of this subsection:

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

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

22 (B) The total combined gross annual sales of vendors who are  
23 farmers exceeds the total combined gross annual sales of vendors who  
24 are processors or resellers;

25 (C) The total combined gross annual sales of vendors who are  
26 farmers, processors, or resellers exceeds the total combined gross  
27 annual sales of vendors who are not farmers, processors, or resellers;

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

30 (E) No vendor is a franchisee.

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

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

1 (iv) "Reseller" means a natural person who buys agricultural  
2 products from a farmer and resells the products directly to the  
3 consumer.

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

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

9 (2) Any microbrewery license under this section may also act as a  
10 distributor and/or retailer for beer and strong beer of its own  
11 production. Any microbrewery licensed under this section producing  
12 less than two thousand five hundred barrels annually may act as a  
13 distributor of beer of its own production. Any microbrewery licensed  
14 under this section producing more than two thousand five hundred  
15 barrels annually may act as a distributor of its own production, so  
16 long as it does so only from a facility located in the state of  
17 Washington that is physically separate and distinct from its production  
18 facilities. The board shall adopt rules establishing the criteria for  
19 determining whether a wholesaling facility is physically separate and  
20 distinct from a production facility, and upon application from a  
21 microbrewery shall issue a license for any wholesaling facility that  
22 meets such criteria. Strong beer may not be sold at a farmers market  
23 or under any endorsement which may authorize microbreweries to sell  
24 beer at farmers markets. Any microbrewery operating as a distributor  
25 and/or retailer under this subsection shall comply with the applicable  
26 laws and rules relating to distributors and/or retailers.

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

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

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

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

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

13 (d) Each approved location in a qualifying farmers market is deemed  
14 to be part of the microbrewery license for the purpose of this title.  
15 The approved locations under an endorsement granted under this  
16 subsection (5) do not constitute the tasting or sampling privilege of  
17 a microbrewery. The microbrewery may not store beer at a farmers  
18 market beyond the hours that the microbrewery offers bottled beer for  
19 sale. The microbrewery may not act as a distributor from a farmers  
20 market location.

21 (e) Before a microbrewery may sell bottled beer at a qualifying  
22 farmers market, the farmers market must apply to the board for  
23 authorization for any microbrewery with an endorsement approved under  
24 this subsection (5) to sell bottled beer at retail at the farmers  
25 market. This application shall include, at a minimum: (i) A map of  
26 the farmers market showing all booths, stalls, or other designated  
27 locations at which an approved microbrewery may sell bottled beer; and  
28 (ii) the name and contact information for the on-site market managers  
29 who may be contacted by the board or its designee to verify the  
30 locations at which bottled beer may be sold. Before authorizing a  
31 qualifying farmers market to allow an approved microbrewery to sell  
32 bottled beer at retail at its farmers market location, the board shall  
33 notify the persons or entities of the application for authorization  
34 pursuant to RCW 66.24.010 (8) and (9). An authorization granted under  
35 this subsection (5)(e) may be withdrawn by the board for any violation  
36 of this title or any rules adopted under this title.

37 (f) The board may adopt rules establishing the application and



1 approval process under this section and any additional rules necessary  
2 to implement this section.

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

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

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

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

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

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

19 (E) No vendor is a franchisee.

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

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

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

30 **Sec. 4.** RCW 66.24.206 and 2004 c 160 s 4 are each amended to read  
31 as follows:

32 (1)(a) A United States winery (~~(or manufacturer of wine)~~) located  
33 outside the state of Washington must hold a certificate of approval to  
34 allow sales and shipment of the certificate of approval holder's wine  
35 to licensed Washington wine distributors (~~(or)~~), importers, or  
36 retailers. A certificate of approval holder producing less than five  
37 thousand cases annually may act as a distributor of wine of its own

1 production. Any certificate of approval holder producing more than  
2 five thousand cases annually may act as a distributor of its own  
3 production, so long as it does so only from a facility located in the  
4 state of Washington that is physically separate and distinct from its  
5 production facilities. The board shall adopt rules establishing the  
6 criteria for determining whether a wholesaling facility is physically  
7 separate and distinct from a production facility, and upon application  
8 from a certificate of approval holder shall issue a license for any  
9 wholesaling facility that meets such criteria.

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

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

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

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

1       (4) By applying for and exercising its rights under a certificate  
2 of approval, the holder of the certificate consents to the jurisdiction  
3 of Washington concerning enforcement of this act and all laws and rules  
4 of the state of Washington related to the sale and shipment of wine,  
5 and further consents to the entry of the board or its agents or  
6 designees on the premises of the certificate of approval holder to the  
7 same extent and for all the same purposes as if the certificate of  
8 approval holder were physically located in the state of Washington. In  
9 the event the board determines that there has been any material  
10 discrepancy in the recordkeeping or recording of any person holding a  
11 certificate of approval, the person shall reimburse the board for the  
12 entire cost of determining that such discrepancy occurred.

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

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

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

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

1 securing the payment of the tax. If any such person fails to pay the  
2 tax when due, the board may forthwith suspend or cancel the license  
3 until all taxes are paid.

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

8 (2) An additional tax is imposed equal to the rate specified in RCW  
9 82.02.030 multiplied by the tax payable under subsection (1) of this  
10 section. All revenues collected during any month from this additional  
11 tax shall be transferred to the state general fund by the twenty-fifth  
12 day of the following month.

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

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

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

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

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

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

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

16 (2)(a) A United States brewery or manufacturer of beer or strong  
17 beer, located outside the state of Washington, must hold a certificate  
18 of approval to allow sales and shipment of the certificate of approval  
19 holder's beer or strong beer to licensed Washington beer distributors  
20 ~~((or)), importers, or retailers.~~ A certificate of approval holder  
21 producing less than two thousand five hundred barrels annually may act  
22 as a distributor of beer of its own production. Any certificate of  
23 approval holder producing more than two thousand five hundred barrels  
24 annually may act as a distributor of its own production, so long as it  
25 does so only from a facility that is physically separate and distinct  
26 from its production facilities. The board shall adopt rules  
27 establishing the criteria for determining whether a wholesaling  
28 facility is physically separate and distinct from a production  
29 facility, and upon application from a certificate of approval holder  
30 shall issue a license for any wholesaling facility that meets such  
31 criteria.

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

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

1 (3) The certificate of approval shall not be granted unless and  
2 until such brewer or manufacturer of beer or strong beer or authorized  
3 representative shall have made a written agreement with the board to  
4 furnish to the board, on or before the twentieth day of each month, a  
5 report under oath, on a form to be prescribed by the board, showing the  
6 quantity of beer and strong beer sold or delivered to each licensed  
7 beer distributor ~~((or))~~, importer, or retailer during the preceding  
8 month, and shall further have agreed with the board, that such brewer  
9 or manufacturer of beer or strong beer or authorized representative and  
10 all general sales corporations or agencies maintained by them, and all  
11 of their trade representatives, corporations, and agencies, shall and  
12 will faithfully comply with all laws of the state of Washington  
13 pertaining to the sale of intoxicating liquors and all rules and  
14 regulations of the Washington state liquor control board. A violation  
15 of the terms of this agreement will cause the board to take action to  
16 suspend or revoke such certificate.

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

24 (5) By applying for and exercising its rights under a certificate  
25 of approval, the holder of the certificate consents to the jurisdiction  
26 of Washington concerning enforcement of this act and all laws and rules  
27 of the state of Washington related to the sale and shipment of beer,  
28 and further consents to the entry of the board or its agents or  
29 designees on the premises of the certificate of approval holder to the  
30 same extent and for all the same purposes as if the certificate of  
31 approval holder were physically located in the state of Washington. In  
32 the event the board determines that there has been any material  
33 discrepancy in the recordkeeping or recording of any person holding a  
34 certificate of approval, the person shall reimburse the board for the  
35 entire cost of determining that such discrepancy occurred.

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

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

7 (a) Every such brewery or beer distributor shall report all sales  
8 to the board monthly, pursuant to the regulations, and shall pay to the  
9 board as an added tax for the privilege of manufacturing and selling  
10 the beer and strong beer within the state a tax of one dollar and  
11 thirty cents per barrel of thirty-one gallons on sales to licensees  
12 within the state and on sales to licensees within the state of bottled  
13 and canned beer, including strong beer, shall pay a tax computed in  
14 gallons at the rate of one dollar and thirty cents per barrel of  
15 thirty-one gallons.

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

21 (c) The moneys collected under this subsection shall be distributed  
22 as follows: (~~(+a)~~) (i) Three-tenths of a percent shall be distributed  
23 to border areas under RCW 66.08.195; and (~~(+b)~~) (ii) of the remaining  
24 moneys: (~~(+i)~~) (A) Twenty percent shall be distributed to counties in  
25 the same manner as under RCW 66.08.200; and (~~(+ii)~~) (B) eighty percent  
26 shall be distributed to incorporated cities and towns in the same  
27 manner as under RCW 66.08.210.

28 (d) Any licensed retailer authorized to purchase beer from a  
29 certificate of approval holder shall make monthly reports to the liquor  
30 control board on beer purchased during the preceding calendar month in  
31 the manner and upon such forms as may be prescribed by the board.

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

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

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

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

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

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

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

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



1 (1) Except as provided in subsection (2) of this section, it shall  
2 be unlawful for any retail beer or wine licensee to purchase beer or  
3 wine, except from a duly licensed (~~wholesaler~~) distributor, domestic  
4 winery, domestic brewer, certificate of approval holder, or the  
5 board(~~, and~~). It shall be unlawful for any brewer, winery, or beer  
6 or wine (~~wholesaler~~) distributor to purchase beer or wine, except  
7 from a duly licensed beer or wine (~~wholesaler~~) distributor, or  
8 importer or certificate of approval holder.

9 (2) A beer or wine retailer licensee may purchase beer or wine from  
10 a government agency which has lawfully seized beer or wine from a  
11 licensed beer or wine retailer, or from a board-authorized retailer, or  
12 from a licensed retailer which has discontinued business if the  
13 (~~wholesaler~~) distributor has refused to accept beer or wine from that  
14 retailer for return and refund. Beer and wine purchased under this  
15 subsection shall meet the quality standards set by its manufacturer.

16 (3) Special occasion licensees holding (~~either~~) a (~~class G or~~  
17 ~~F~~) special occasion license may only purchase beer or wine from a beer  
18 or wine retailer duly licensed to sell beer or wine for off-premises  
19 consumption, the board, or from a duly licensed beer or wine  
20 (~~wholesaler~~) distributor.

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

23 It is unlawful for a person, firm, or corporation holding a  
24 certificate of approval issued under RCW 66.24.270 or 66.24.206, a beer  
25 distributor's license, a domestic brewery license, a microbrewery  
26 license, a beer importer's license, a beer distributor's license, a  
27 domestic winery license, a wine importer's license, or a wine  
28 distributor's license within the state of Washington to modify any  
29 prices without prior notification to and approval of the board.

30 (1) Intent. This section is enacted, pursuant to the authority of  
31 this state under the twenty-first amendment to the United States  
32 Constitution, to promote the public's interest in fostering the orderly  
33 and responsible distribution of malt beverages and wine towards  
34 effective control of consumption; to promote the fair and efficient  
35 three-tier system of distribution of such beverages; and to confirm  
36 existing board rules as the clear expression of state policy to

1 regulate the manner of selling and pricing of wine and malt beverages  
2 by licensed suppliers and distributors.

3 (2) Beer and wine distributor price posting.

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

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

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

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

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

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

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

32 (f) The board may reject any price posting that it deems to be in  
33 violation of this section or any rule, or portion thereof, or that  
34 would tend to disrupt the orderly sale and distribution of beer and  
35 wine. Whenever the board rejects any posting, the licensee submitting  
36 the posting may be heard by the board and shall have the burden of  
37 showing that the posting is not in violation of this section or a rule  
38 or does not tend to disrupt the orderly sale and distribution of beer

1 and wine. If the posting is accepted, it shall become effective at the  
2 time fixed by the board. If the posting is rejected, the last  
3 effective posting shall remain in effect until such time as an amended  
4 posting is filed and approved, in accordance with the provisions of  
5 this section.

6 (g) Prior to the effective date of the posted prices, all price  
7 postings filed as required by this section constitute investigative  
8 information and shall not be subject to disclosure, pursuant to RCW  
9 42.17.310(1)(d).

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

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

20 (ii) Beer and wine sold as provided in this section shall be  
21 delivered by the distributor or an authorized employee either to the  
22 retailer's licensed premises or directly to the retailer at the  
23 distributor's licensed premises. A domestic winery, a domestic  
24 brewery, or a certificate of approval holder acting as a distributor of  
25 its own production may use a common carrier licensed under subsection  
26 (4) of this section to deliver to a Washington retailer. A  
27 distributor's prices to retail licensees shall be the same at both such  
28 places of delivery.

29 (3) Beer and wine suppliers' price filings, contracts, and  
30 memoranda.

31 (a) Every domestic brewery, microbrewery, and domestic winery  
32 offering beer and/or wine for sale within the state shall file with the  
33 board at its office in Olympia a copy of every written contract and a  
34 memorandum of every oral agreement which such brewery or winery may  
35 have with any beer or wine distributor, which contracts or memoranda  
36 shall contain a schedule of prices charged to distributors for all  
37 items and all terms of sale, including all regular and special  
38 discounts; all advertising, sales and trade allowances, and incentive

1 programs; and all commissions, bonuses or gifts, and any and all other  
2 discounts or allowances. Whenever changed or modified, such revised  
3 contracts or memoranda shall forthwith be filed with the board as  
4 provided for by rule. The provisions of this section also apply to  
5 certificate of approval holders, beer and/or wine importers, and beer  
6 and/or wine distributors who sell to other beer and/or wine  
7 distributors.

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

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

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

33 (d) No domestic brewery, microbrewery, domestic winery, or  
34 certificate of approval holder may sell or offer to sell any package or  
35 container of beer or wine to any distributor at a price differing from  
36 the price for such package or container as shown in the schedule of  
37 prices filed by the domestic brewery, microbrewery, domestic winery, or

1 certificate of approval holder and then in effect, according to rules  
2 adopted by the board.

3 (e) The board may reject any supplier's price filing, contract, or  
4 memorandum of oral agreement, or portion thereof that it deems to be in  
5 violation of this section or any rule or that would tend to disrupt the  
6 orderly sale and distribution of beer or wine. Whenever the board  
7 rejects any such price filing, contract, or memorandum, the licensee  
8 submitting the price filing, contract, or memorandum may be heard by  
9 the board and shall have the burden of showing that the price filing,  
10 contract, or memorandum is not in violation of this section or a rule  
11 or does not tend to disrupt the orderly sale and distribution of beer  
12 or wine. If the price filing, contract, or memorandum is accepted, it  
13 shall become effective at a time fixed by the board. If the price  
14 filing, contract, or memorandum, or portion thereof, is rejected, the  
15 last effective price filing, contract, or memorandum shall remain in  
16 effect until such time as an amended price filing, contract, or  
17 memorandum is filed and approved, in accordance with the provisions of  
18 this section.

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

23 (4) No common carrier shall deliver beer or wine products in the  
24 state of Washington until licensed to do so by the board in accordance  
25 with this section. Any such license issued by the board shall be  
26 contingent upon, and application for such a license shall constitute  
27 consent to, the following:

28 (a) The common carrier shall not accept any shipment from any  
29 person located outside the state of Washington for delivery into the  
30 state of Washington without first making reasonable efforts to confirm  
31 that the person holds a certificate of approval issued under RCW  
32 66.24.206(1)(a) or 66.24.170(3);

33 (b) The common carrier shall make its books and records of beer and  
34 wine shipments available to the board for inspection, without prior  
35 notice, during normal business hours;

36 (c) The common carrier shall comply with all statutes and rules  
37 governing the delivery of beer and wine products in the state of  
38 Washington;

1 (d) If a common carrier accepts a shipment of beer or wine in  
2 violation of (a) of this subsection, its license to deliver beer and  
3 wine in Washington shall be suspended for six months upon the first  
4 occasion, suspended for twelve months upon the second occurrence, and  
5 revoked upon the third occasion;

6 (e) No common carrier whose license to deliver beer or wine in  
7 Washington has been revoked under (d) of this subsection shall be  
8 eligible to reapply for such a license for five years from the date of  
9 revocation;

10 (f) In addition to suspension or revocation of its license as set  
11 forth in (d) of this subsection, a common carrier accepting a shipment  
12 of beer or wine in violation of (a) of this subsection, shall be  
13 subject to a fine to be established by the board, but not to exceed ten  
14 times the invoice value of the offending shipment, or ten thousand  
15 dollars, whichever is greater.

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

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

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

34 (2) Beer and wine distributor price posting.

35 (a) Every beer or wine distributor shall file with the board at its  
36 office in Olympia a price posting showing the wholesale prices at which

1 any and all brands of beer and wine sold by such beer and/or wine  
2 distributor shall be sold to retailers within the state.

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

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

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

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

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

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

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

1 (g) Prior to the effective date of the posted prices, all price  
2 postings filed as required by this section constitute investigative  
3 information and shall not be subject to disclosure, pursuant to RCW  
4 42.56.240(1).

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

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

15 (ii) Beer and wine sold as provided in this section shall be  
16 delivered by the distributor or an authorized employee either to the  
17 retailer's licensed premises or directly to the retailer at the  
18 distributor's licensed premises. A domestic winery, a domestic  
19 brewery, or a certificate of approval holder acting as a distributor of  
20 its own production may use a common carrier licensed under subsection  
21 (4) of this section to deliver to a Washington retailer. A  
22 distributor's prices to retail licensees shall be the same at both such  
23 places of delivery.

24 (3) Beer and wine suppliers' price filings, contracts, and  
25 memoranda.

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



1 certificate of approval holders, beer and/or wine importers, and beer  
2 and/or wine distributors who sell to other beer and/or wine  
3 distributors.

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

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

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

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

36 (e) The board may reject any supplier's price filing, contract, or  
37 memorandum of oral agreement, or portion thereof that it deems to be in  
38 violation of this section or any rule or that would tend to disrupt the

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

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

18 (4) No common carrier shall deliver beer or wine products in the  
19 state of Washington until licensed to do so by the board in accordance  
20 with this section. Any such license issued by the board shall be  
21 contingent upon, and application for such a license shall constitute  
22 consent to, the following:

23 (a) The common carrier shall not accept any shipment from any  
24 person located outside the state of Washington for delivery into the  
25 state of Washington without first making reasonable efforts to confirm  
26 that the person holds a certificate of approval issued under RCW  
27 66.24.206(1)(a) or 66.24.170(3);

28 (b) The common carrier shall make its books and records of beer and  
29 wine shipments available to the board for inspection, without prior  
30 notice, during normal business hours;

31 (c) The common carrier shall comply with all statutes and rules  
32 governing the delivery of beer and wine products in the state of  
33 Washington;

34 (d) If a common carrier accepts a shipment of beer or wine in  
35 violation of (a) of this subsection, its license to deliver beer and  
36 wine in Washington shall be suspended for six months upon the first  
37 occasion, suspended for twelve months upon the second occurrence, and  
38 revoked upon the third occasion;

1       (e) No common carrier whose license to deliver beer or wine in  
2 Washington has been revoked under (d) of this subsection shall be  
3 eligible to reapply for such a license for five years from the date of  
4 revocation;

5       (f) In addition to suspension or revocation of its license as set  
6 forth in (d) of this subsection, a common carrier accepting a shipment  
7 of beer or wine in violation of (a) of this subsection, shall be  
8 subject to a fine to be established by the board, but not to exceed ten  
9 times the invoice value of the offending shipment, or ten thousand  
10 dollars, whichever is greater.

11       NEW SECTION. Sec. 11. Section 9 of this act expires July 1, 2006.

12       NEW SECTION. Sec. 12. Section 10 of this act takes effect July 1,  
13 2006.

14       NEW SECTION. Sec. 13. Except for section 10 of this act, this act  
15 is necessary for the immediate preservation of the public peace,  
16 health, or safety, or support of the state government and its existing  
17 public institutions, and takes effect April 14, 2006.

--- END ---