

CERTIFICATION OF ENROLLMENT

ENGROSSED SENATE BILL 6661

59th Legislature
2006 Regular Session

Passed by the Senate March 4, 2006
YEAS 40 NAYS 0

President of the Senate

Passed by the House March 1, 2006
YEAS 95 NAYS 3

Speaker of the House of Representatives

Approved

Governor of the State of Washington

CERTIFICATE

I, Thomas Hoemann, Secretary of the Senate of the State of Washington, do hereby certify that the attached is **ENGROSSED SENATE BILL 6661** as passed by the Senate and the House of Representatives on the dates hereon set forth.

Secretary

FILED

**Secretary of State
State of Washington**

ENGROSSED SENATE BILL 6661

AS AMENDED BY THE HOUSE

Passed Legislature - 2006 Regular Session

State of Washington 59th Legislature 2006 Regular Session

By Senators Rasmussen, Esser, Jacobsen, Schoesler and Kohl-Welles

Read first time 01/18/2006. Referred to Committee on Agriculture & Rural Economic Development.

1 AN ACT Relating to establishing the Washington beer commission;
2 amending RCW 66.44.800, 15.04.200, 42.17.31907, 42.56.380, and
3 43.23.033; reenacting and amending RCW 66.28.010; adding a new section
4 to chapter 66.12 RCW; adding a new chapter to Title 15 RCW; providing
5 an effective date; and providing an expiration date.

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

7 NEW SECTION. **Sec. 1.** The legislature declares that:

8 (1) Marketing is a dynamic and changing part of Washington
9 agriculture and a vital element in expanding the state economy;

10 (2) The sale in this state and export to other states and abroad of
11 beer made in this state contribute substantial benefits to the economy
12 of the state and provide a large number of jobs and sizeable tax
13 revenues;

14 (3) The production of beer in this state is a new and important
15 segment of Washington agriculture that has potential for greater
16 contribution to the economy of the state if it undergoes continued
17 development; and

18 (4) The general welfare of the people of this state will be served
19 by continued development of the activities of the production of beer,

1 that will improve the tax bases of local communities where agricultural
2 land and processing facilities are located, and reduce the need for
3 state and federal funding of local services. The industries are
4 therefore affected with the public interest.

5 NEW SECTION. **Sec. 2.** The definitions in this section apply
6 throughout this chapter unless the context clearly requires otherwise.

7 (1) "Affected producer" means any producer who is subject to this
8 chapter.

9 (2) "Beer" means any malt beverage or malt liquor as the terms are
10 defined in chapter 66.04 RCW.

11 (3) "Commission" means the Washington beer commission.

12 (4) "Department" means the department of agriculture.

13 (5) "Director" means the director of the department or the
14 director's duly authorized representative.

15 (6) "Fiscal year" means the twelve-month period beginning with
16 January 1st of any year and ending December 31st.

17 (7) "Producer" means any person or other entity licensed under
18 Title 66 RCW to produce beer within Washington state and who produces
19 less than one hundred thousand barrels of beer annually per location.

20 (8) "Referendum" means a vote by affected producers that is
21 conducted by secret ballot.

22 NEW SECTION. **Sec. 3.** The history, economy, culture, and future of
23 Washington state's agriculture involve the beer industry. In order to
24 develop and promote beer as part of an existing comprehensive scheme to
25 regulate those products, the legislature declares that:

26 (1) It is vital to the continued economic well-being of the
27 citizens of this state and their general welfare that beer produced in
28 Washington state be properly promoted;

29 (2) It is in the overriding public interest that support for the
30 Washington beer industry be clearly expressed and that beer be promoted
31 individually, and as part of a comprehensive industry to:

32 (a) Enhance the reputation and image of Washington state's
33 agriculture industry;

34 (b) Protect the public by educating the public in reference to the
35 quality, care, and methods used in the production of beer;

1 (c) Increase the knowledge of the qualities and value of
2 Washington's beer; and

3 (d) Support and engage in programs or activities that benefit the
4 production, handling, processing, marketing, and uses of beer;

5 (3) This chapter is enacted in the exercise of the police powers of
6 this state to protect the health, peace, safety, and general welfare of
7 the people of this state; and

8 (4) The production and marketing of beer is a highly regulated
9 industry and this chapter and the rules adopted under it are only one
10 aspect of the regulated industry. Other laws applicable to the beer
11 industry include:

12 (a) The organic food products act, chapter 15.86 RCW;

13 (b) The wholesale distributors and suppliers of malt beverages,
14 chapter 19.126 RCW;

15 (c) Weights and measures, chapter 19.94 RCW;

16 (d) Title 66 RCW, alcoholic beverage control;

17 (e) Title 69 RCW, food, drugs, cosmetics, and poisons;

18 (f) 21 C.F.R. as it relates to general manufacturing practices,
19 food labeling, food standards, food additives, and pesticide
20 tolerances;

21 (g) Chapter 69.07 RCW, Washington food processing act;

22 (h) 27 U.S.C. Secs. 201 through 211, 213 through 219a, and 122A;

23 (i) 27 C.F.R. Parts 1, 6, 9, 10, 12, 16, 240, 251, and 252; and

24 (j) Rules under Title 314 WAC.

25 NEW SECTION. **Sec. 4.** (1) Subject to the referendum conducted
26 under section 5 of this act, there is created an agricultural commodity
27 commission, to be known as the Washington beer commission. The
28 commission shall be comprised of seven voting members; six members
29 shall be producers and one voting member shall be the director.

30 (2) Five voting members of the commission constitute a quorum for
31 the transaction of any commission business.

32 (3) Each producer member shall be a citizen and resident of this
33 state and over the age of twenty-one. Each producer member must be
34 engaged in producing beer, and must, during his or her term of office,
35 derive a substantial portion of income from the production of beer, or
36 have a substantial investment in the production of beer as an owner,
37 lessee, partner, or the manager or executive officer of such a

1 corporation. No more than one board member may be part of the same
2 person as defined by RCW 15.04.010. These qualifications apply
3 throughout each member's term of office but do not apply to the
4 director.

5 (4) The producer members shall serve three-year terms. Of the
6 initial voting members, two members shall be appointed for a one-year
7 term, two members shall be appointed for a two-year term, and two
8 members shall be appointed for a three-year term.

9 NEW SECTION. **Sec. 5.** (1) Upon receipt of a petition containing
10 the signatures of five beer producers from a statewide Washington state
11 craft brewing trade association or other affected producers to
12 implement this chapter and to determine producer participation in the
13 commission and assessment under this chapter, the director shall:

14 (a) Conduct a referendum of beer producers. The requirements of
15 assent or approval of the referendum are met if:

16 (i) At least fifty-one percent by numbers of affected producers
17 participating in the referendum vote affirmatively; and

18 (ii) Thirty percent of the affected producers and thirty percent of
19 the production have been represented in the referendum to determine
20 assent or approval of participation and assessment. The referendum
21 shall be conducted within sixty days of receipt of the petition; and

22 (b) Establish a list of beer producers from information provided by
23 the petitioners, by obtaining information on beer producers from
24 applicable producer organizations or associations or other sources
25 identified as maintaining the information. In establishing a current
26 list of beer producers and their individual production, the director
27 shall use the beer producer's name, mailing address, and production by
28 the producer in the preceding fiscal year. Information on each
29 producer shall be mailed to each beer producer on record with the
30 director for verification. All corrections shall be filed with the
31 director within twenty days from the date of mailing. The list of
32 affected producers shall be kept in a file by the director. The list
33 shall be certified as a true representation of the referendum mailing
34 list. Inadvertent failure to notify an affected producer does not
35 invalidate a proceeding conducted under this chapter. The director
36 shall provide the commission the list of affected producers after
37 assent in a referendum as provided in this section.

1 (2) If the director determines that the requisite assent has been
2 given in the referendum conducted under subsection (1) of this section,
3 the director shall:

4 (a) Within sixty days after assent of the referendum held, appoint
5 the members of the commission; and

6 (b) Direct the commission to put into force the assessment as
7 provided for in section 14 of this act.

8 (3) If the director determines that the requisite assent has not
9 been given in the referendum conducted under subsection (1) of this
10 section, the director shall take no further action to implement or
11 enforce this chapter.

12 (4) Upon completion of the referendum conducted under subsection
13 (1) of this section, the department shall tally the results of the vote
14 and provide the results to affected producers. If an affected producer
15 disputes the results of a vote, that producer within sixty days from
16 the announced results, shall provide in writing a statement of why the
17 vote is disputed and request a recount. Once the vote is tallied and
18 distributed, all disputes are resolved, and all matters in a vote are
19 finalized, the individual ballots may be destroyed.

20 (5) Before conducting the referendum provided for in subsection (1)
21 of this section, the director may require the petitioners to deposit
22 with him or her an amount of money as the director deems necessary to
23 defray the expenses of conducting the referendum. The director shall
24 provide the petitioners an estimate of expenses that may be incurred to
25 conduct a referendum before any service takes place. Petitioners shall
26 deposit funds with the director to pay for expenses incurred by the
27 department. The commission shall reimburse petitioners the amount paid
28 to the department when funds become available. However, if for any
29 reason the referendum process is discontinued, the petitioners shall
30 reimburse the department for expenses incurred by the department up
31 until the time the process is discontinued.

32 (6) The director is not required to hold a referendum under
33 subsection (1) of this section more than once in any twelve-month
34 period.

35 NEW SECTION. **Sec. 6.** (1) The director shall appoint the producer
36 members of the commission. In making appointments, no later than
37 ninety days before an expiration of a commission member's term, the

1 director shall call for recommendations for commission member
2 positions, and the director shall take into consideration
3 recommendations made by a statewide Washington state craft brewing
4 trade association or other affected producers. In appointing persons
5 to the commission, the director shall seek a balanced representation on
6 the commission that reflects the composition of the beer producers
7 throughout the state on the basis of beer produced and geographic
8 location. Information on beer production by geographic location shall
9 be provided by the commission upon the director's request.

10 (2) If a position on the commission becomes vacant due to
11 resignation, disqualification, death, or for any other reason, the
12 commission shall notify the director and the unexpired term shall
13 immediately be filled by appointment by the director.

14 (3) Each member or employee of the commission shall be reimbursed
15 for actual travel expenses incurred in carrying out this chapter as
16 defined by the commission in rule. Otherwise if not defined in rule,
17 reimbursement for travel expenses shall be at the rates allowed by RCW
18 43.03.050 and 43.03.060.

19 NEW SECTION. **Sec. 7.** Obligations incurred by the commission and
20 any other liabilities or claims against the commission shall be
21 enforced only against the assets of the commission and, except to the
22 extent of such assets, no liability for the debts or actions of the
23 commission exists against either the state of Washington or any
24 subdivision or instrumentality thereof or against any member, employee,
25 or agent of the commission or the state of Washington in his or her
26 individual capacity. Except as otherwise provided in this chapter,
27 neither the commission members, nor its employees, may be held
28 individually responsible for errors in judgment, mistakes, or other
29 acts, either of commission or omission, as principal, agent, person, or
30 employee, except for their own individual acts of dishonesty or crime.
31 No person or employee may be held individually responsible for any act
32 or omission of any other commission members. The liability of the
33 commission members shall be several and not joint, and no member is
34 liable for the default of any other member. This provision confirms
35 that commission members have been and continue to be, state officers or
36 volunteers for purposes of RCW 4.92.075 and are entitled to the

1 defenses, indemnifications, limitations of liability, and other
2 protections and benefits of chapter 4.92 RCW.

3 NEW SECTION. **Sec. 8.** The commission shall:

4 (1) Elect a chair and officers. The officers must include a
5 treasurer who is responsible for all receipts and disbursements by the
6 commission and the faithful discharge of whose duties shall be
7 guaranteed by a bond at the sole expense of the commission. The
8 commission must adopt rules for its own governance that provide for the
9 holding of an annual meeting for the election of officers and the
10 transaction of other business and for other meetings the commission may
11 direct;

12 (2) Do all things reasonably necessary to effect the purposes of
13 this chapter. However, the commission has no rule-making power except
14 as provided in this chapter;

15 (3) Employ and discharge managers, secretaries, agents, attorneys,
16 and employees and engage the services of independent contractors;

17 (4) Retain, as necessary, the services of private legal counsel to
18 conduct legal actions on behalf of the commission. The retention of a
19 private attorney is subject to review by the office of the attorney
20 general;

21 (5) Receive donations of beer from producers for promotional
22 purposes under subsections (6) and (7) of this section and for fund-
23 raising purposes under subsection (8) of this section. Donations of
24 beer for promotional purposes may only be disseminated without charge;

25 (6) Engage directly or indirectly in the promotion of Washington
26 beer, including, without limitation, the acquisition in any lawful
27 manner and the dissemination without charge of beer. This
28 dissemination is not deemed a sale for any purpose and the commission
29 is not deemed a producer, supplier, or manufacturer, or the clerk,
30 servant, or agent of a producer, supplier, distributor, or
31 manufacturer. This dissemination without charge shall be for
32 agricultural development or trade promotion, and not for fund-raising
33 purposes under subsection (8) of this section. Dissemination for
34 promotional purposes may include promotional hosting and must in the
35 good faith judgment of the commission be in the aid of the marketing,
36 advertising, sale of beer, or of research related to such marketing,
37 advertising, or sale;

- 1 (7) Promote Washington beer by conducting unique beer tastings
2 without charge;
- 3 (8) Beginning July 1, 2007, fund the Washington beer commission
4 through sponsorship of up to twelve beer festivals annually at which
5 beer may be sold to festival participants. For this purpose, the
6 commission would qualify for issue of a special occasion license as an
7 exception to WAC 314-05-020 but must comply with laws under Title 66
8 RCW and rules adopted by the liquor control board under which such
9 events may be conducted;
- 10 (9) Participate in international, federal, state, and local
11 hearings, meetings, and other proceedings relating to the production,
12 regulation, distribution, sale, or use of beer including activities
13 authorized under RCW 42.17.190, including the reporting of those
14 activities to the public disclosure commission;
- 15 (10) Acquire and transfer personal and real property, establish
16 offices, incur expenses, and enter into contracts, including contracts
17 for the creation and printing of promotional literature. The contracts
18 are not subject to chapter 43.78 RCW, and are cancelable by the
19 commission unless performed under conditions of employment that
20 substantially conform to the laws of this state and the rules of the
21 department of labor and industries. The commission may create debt and
22 other liabilities that are reasonable for proper discharge of its
23 duties under this chapter;
- 24 (11) Maintain accounts with one or more qualified public
25 depositories as the commission may direct, for the deposit of money,
26 and expend money for purposes authorized by this chapter by drafts made
27 by the commission upon such institutions or by other means;
- 28 (12) Cause to be kept and annually closed, in accordance with
29 generally accepted accounting principles, accurate records of all
30 receipts, disbursements, and other financial transactions, available
31 for audit by the state auditor;
- 32 (13) Create and maintain a list of producers and disseminate
33 information among and solicit the opinions of producers with respect to
34 the discharge of the duties of the commission, directly or by
35 arrangement with trade associations or other instrumentalities;
- 36 (14) Employ, designate as an agent, act in concert with, and enter
37 into contracts with any person, council, commission, or other entity to
38 promote the general welfare of the beer industry and particularly to

1 assist in the sale and distribution of Washington beer in domestic and
2 foreign commerce. The commission shall expend money necessary or
3 advisable for this purpose and to pay its proportionate share of the
4 cost of any program providing direct or indirect assistance to the sale
5 and distribution of Washington beer in domestic or foreign commerce,
6 employing and paying for vendors of professional services of all kinds;

7 (15) Sue and be sued as a commission, without individual liability
8 for acts of the commission within the scope of the powers conferred
9 upon it by this chapter; and

10 (16) Serve as liaison with the liquor control board on behalf of
11 the commission and not for any individual producer.

12 NEW SECTION. **Sec. 9.** (1) The commission shall develop and submit
13 to the director for approval any plans, programs, and projects
14 concerning the following:

15 (a) The establishment, issuance, effectuation, and administration
16 of appropriate programs or projects for advertising, promotion, and
17 education programs related to beer; and

18 (b) The establishment and effectuation of market research projects,
19 market development projects, or both to the end that the marketing of
20 beer may be encouraged, expanded, improved, or made more efficient.

21 (2) The director shall review the commission's advertising or
22 promotion program to ensure that no false claims are being made
23 concerning beer.

24 (3) The commission, before the beginning of its fiscal year, shall
25 prepare and submit to the director for approval its research plan, its
26 commodity-related education and training plan, and its budget on a
27 fiscal period basis.

28 (4) The director shall strive to review and make a determination of
29 all submissions described in this section in a timely manner.

30 NEW SECTION. **Sec. 10.** The commission exists primarily for the
31 benefit of the people of the state of Washington and its economy. The
32 legislature hereby charges the commission, with oversight by the
33 director, to speak on behalf of the Washington state government with
34 regard to the marketing and promotion of Washington produced beer.

1 NEW SECTION. **Sec. 11.** The commission may create, provide for, and
2 conduct a comprehensive and extensive research, promotional, and
3 educational campaign as sales and market conditions reasonably require.
4 It shall investigate and ascertain the needs of producers, conditions
5 of markets, and degree of public awareness of products, and take into
6 account this information in the discharge of its duties under this
7 chapter.

8 NEW SECTION. **Sec. 12.** The commission shall adopt as major
9 objectives of its research, promotional, and educational campaign goals
10 that serve the needs of producers. The goals may include efforts to:

11 (1) Establish Washington beer as a major factor in markets
12 everywhere;

13 (2) Promote Washington breweries as tourist attractions;

14 (3) Encourage favorable reporting of Washington beer and breweries
15 in the press throughout the world;

16 (4) Establish Washington beer in markets everywhere as a major
17 source of premium beer;

18 (5) Encourage favorable legislative and regulatory treatment of
19 Washington beer in markets everywhere;

20 (6) Encourage promotion of Washington agriculture related to beer
21 production, specifically hops, malting barley, and wheat grown in the
22 state; and

23 (7) Foster economic conditions favorable to investment in the
24 production of Washington beer.

25 NEW SECTION. **Sec. 13.** (1) The commission shall prepare a list of
26 all affected producers from information available from the liquor
27 control board, the department, or the producers' association. This
28 list must contain the names and addresses of affected producers within
29 this state and the amount, by barrelage, of beer produced during the
30 period designated by the commission. A qualified person may, at any
31 time, have his or her name placed upon the list by delivering or
32 mailing the information to the commission. This list shall be
33 corrected and brought up-to-date in accordance with evidence and
34 information available to the commission by December 31st of each year.
35 For the purposes of giving notice and holding referendums, the list
36 updated before the date for issuing notices or ballots is the list of

1 all producers entitled to notice, to assent or dissent, or to vote.
2 Inadvertent failure to notify a producer does not invalidate a
3 proceeding conducted under this chapter.

4 (2) It is the responsibility of affected producers to ensure that
5 their correct address is filed with the commission. It is also the
6 responsibility of affected producers to submit production data to the
7 commission as prescribed by this chapter.

8 (3) The commission shall develop a reporting system to document
9 that the affected producers in this state are reporting quantities of
10 beer produced and are paying the assessment as provided in section 14
11 of this act.

12 NEW SECTION. **Sec. 14.** (1) Pursuant to referendum in accordance
13 with section 5 of this act, there is levied, and the commission shall
14 collect, upon beer produced by an affected producer, an annual
15 assessment of ten cents per barrel of beer produced, up to ten thousand
16 barrels per location.

17 (2) The commission shall adopt rules prescribing the time, place,
18 and method for payment and collection of this assessment and provide
19 for the collection of assessments from affected producers who ship
20 directly out-of-state.

21 (3) The commission may reduce the assessment per affected producer
22 based upon in-kind contributions to the commission.

23 NEW SECTION. **Sec. 15.** The commission shall deposit money
24 collected under section 14 of this act in a separate account in the
25 name of the commission in any bank that is a state depository. All
26 expenditures and disbursements made from this account under this
27 chapter may be made without the necessity of a specific legislative
28 appropriation. RCW 43.01.050 does not apply to this account or to the
29 money received, collected, or expended as provided in this chapter.

30 NEW SECTION. **Sec. 16.** An assessment levied in an amount
31 determined by the commission under section 14 of this act constitutes
32 a personal debt of every person assessed or who otherwise owes the
33 assessment, and the assessment is due and payable to the commission
34 when payment is called for by the commission. If a producer fails to
35 pay the commission the full amount of the assessment by the date due,

1 the commission may add to the unpaid assessment an amount not exceeding
2 ten percent of the assessment to defray the cost of enforcing its
3 collection. If the person fails to pay an assessment, the commission
4 may bring a civil action for collection against the person or persons
5 in a court of competent jurisdiction. The action shall be tried and
6 judgment rendered as in any other cause of action for a debt due and
7 payable.

8 NEW SECTION. **Sec. 17.** (1) Under RCW 42.56.380, certain
9 agricultural business records, commission records, and department of
10 agriculture records relating to the commission and producers of
11 agricultural commodities are exempt from public disclosure.

12 (2) Financial and commercial information and records submitted to
13 either the department or the commission for the purpose of
14 administering this chapter may be shared between the department and the
15 commission. They may also be used, if required, in any suit or
16 administrative hearing involving this chapter.

17 (3) This section does not prohibit:

18 (a) The issuance of general statements based upon the reports of
19 persons subject to this chapter as long as the statements do not
20 identify the information furnished by any person; or

21 (b) The publication by the director or the commission of the name
22 of any person violating this chapter and a statement of the manner of
23 the violation by that person.

24 NEW SECTION. **Sec. 18.** (1) All costs incurred by the department,
25 including the adoption of rules and other actions necessary to carry
26 out this chapter, shall be reimbursed by the commission.

27 (2) The director may provide by rule for a method to fund staff
28 support for all commodity boards or commissions in accordance with RCW
29 43.23.033 if a position is not directly funded by the legislature and
30 costs are related to the specific activity undertaken on behalf of an
31 individual commodity board or commission. The commission shall provide
32 funds to the department according to the rules adopted by the director.

33 NEW SECTION. **Sec. 19.** County and state law enforcement officers,
34 the liquor control board and its enforcement agents, and employees of
35 the department shall enforce this chapter.

1 NEW SECTION. **Sec. 20.** (1) Any prosecution brought under this
2 chapter may be instituted in any county in which the defendant or any
3 defendant resides, or in which the violation was committed, or in which
4 the defendant or any defendant has his or her principal place of
5 business.

6 (2) The superior courts may enforce this chapter and the rules and
7 regulations of the commission issued hereunder, and may prevent and
8 restrain violations thereof.

9 NEW SECTION. **Sec. 21.** This act shall be liberally construed to
10 effectuate its purposes.

11 **Sec. 22.** RCW 66.44.800 and 1987 c 452 s 17 are each amended to
12 read as follows:

13 (1) Nothing contained in chapter 15.88 RCW shall affect the
14 compliance by the Washington wine commission with this chapter.

15 (2) Nothing contained in chapter 15.-- RCW (sections 1 through 21
16 of this act) shall affect the compliance by the Washington beer
17 commission with this chapter.

18 NEW SECTION. **Sec. 23.** A new section is added to chapter 66.12 RCW
19 to read as follows:

20 The Washington beer commission created under section 4 of this act
21 may purchase or receive donations of beer or malt beverages from any
22 brewery, in any state, or in any country and may use such beer or malt
23 beverages for any promotional purposes as outlined in section 8 of this
24 act. Beer and malt beverages that are furnished to the commission
25 under this section that are used within the state are subject to the
26 taxes imposed under RCW 66.24.290. No license, permit, or bond is
27 required of the Washington beer commission under this title for
28 promotional activities conducted under chapter 15.-- RCW (sections 1
29 through 21 of this act).

30 **Sec. 24.** RCW 15.04.200 and 1987 c 452 s 16 are each amended to
31 read as follows:

32 (1) Under the authority of Article VIII of the state Constitution
33 as amended, agricultural commodity commission expenditures for
34 agricultural development or trade promotion and promotional hosting by

1 an agricultural commodities commission under chapters 15.24, 15.28,
2 15.44, 15.65, 15.66, 15.88, 15.-- (sections 1 through 21 of this act),
3 and 16.67 RCW shall be pursuant to specific budget items as approved by
4 the agricultural commodity commission at the annual public hearings on
5 the agricultural commodity commission budget.

6 (2) Agricultural commodity commissions shall adopt rules governing
7 promotional hosting expenditures by agricultural commodity commission
8 employees, agents or commissioners. The rules shall identify officials
9 and agents authorized to make expenditures and the objectives of the
10 expenditures. Individual agricultural commodity commission
11 commissioners shall make promotional hosting expenditures, or seek
12 reimbursements for these expenditures, only in those instances where
13 the expenditures have been approved by the agricultural commodity
14 commission. All payments and reimbursements shall be identified and
15 supported on vouchers.

16 (3) Agricultural commodity commissions shall be exempt from the
17 requirements of RCW 43.01.090 and 43.19.500 and chapter 43.82 RCW.

18 **Sec. 25.** RCW 42.17.31907 and 2002 c 313 s 66 are each amended to
19 read as follows:

20 The following agricultural business records and commodity board and
21 commission records are exempt from the disclosure requirements of this
22 chapter:

23 (1) Production or sales records required to determine assessment
24 levels and actual assessment payments to commodity boards and
25 commissions formed under chapters 15.24, 15.26, 15.28, 15.44, 15.65,
26 15.66, 15.74, 15.88, 15.100, 15.-- (sections 1 through 21 of this act),
27 and 16.67 RCW or required by the department of agriculture to
28 administer these chapters or the department's programs;

29 (2) Consignment information contained on phytosanitary certificates
30 issued by the department of agriculture under chapters 15.13, 15.49,
31 and 15.17 RCW or federal phytosanitary certificates issued under
32 C.F.R. 353 through cooperative agreements with the animal and plant
33 health inspection service, United States department of agriculture, or
34 on applications for phytosanitary certification required by the
35 department of agriculture; and

36 (3) Financial and commercial information and records supplied by
37 persons (a) to the department of agriculture for the purpose of

1 conducting a referendum for the potential establishment of a commodity
2 board or commission; (b) to the department of agriculture or commodity
3 boards or commissions formed under chapter 15.24, 15.28, 15.44, 15.65,
4 15.66, 15.74, 15.88, 15.100, 15.-- (sections 1 through 21 of this act),
5 or 16.67 RCW with respect to domestic or export marketing activities or
6 individual producer's production information.

7 **Sec. 26.** RCW 42.56.380 and 2005 c 274 s 418 are each amended to
8 read as follows:

9 The following information relating to agriculture and livestock is
10 exempt from disclosure under this chapter:

11 (1) Business-related information under RCW 15.86.110;

12 (2) Information provided under RCW 15.54.362;

13 (3) Production or sales records required to determine assessment
14 levels and actual assessment payments to commodity boards and
15 commissions formed under chapters 15.24, 15.26, 15.28, 15.44, 15.65,
16 15.66, 15.74, 15.88, 15.100, 15.-- (sections 1 through 21 of this act),
17 and 16.67 RCW or required by the department of agriculture to
18 administer these chapters or the department's programs;

19 (4) Consignment information contained on phytosanitary certificates
20 issued by the department of agriculture under chapters 15.13, 15.49,
21 and 15.17 RCW or federal phytosanitary certificates issued under
22 C.F.R. 353 through cooperative agreements with the animal and plant
23 health inspection service, United States department of agriculture, or
24 on applications for phytosanitary certification required by the
25 department of agriculture;

26 (5) Financial and commercial information and records supplied by
27 persons (a) to the department of agriculture for the purpose of
28 conducting a referendum for the potential establishment of a commodity
29 board or commission; or (b) to the department of agriculture or
30 commodity boards or commissions formed under chapter 15.24, 15.28,
31 15.44, 15.65, 15.66, 15.74, 15.88, 15.100, 15.-- (sections 1 through 21
32 of this act), or 16.67 RCW with respect to domestic or export marketing
33 activities or individual producer's production information;

34 (6) Except under RCW 15.19.080, information obtained regarding the
35 purchases, sales, or production of an individual American ginseng
36 grower or dealer;

- 1 (7) Information that can be identified to a particular business and
2 that is collected under section 3(1), chapter 235, Laws of 2002; and
3 (8) Financial statements provided under RCW 16.65.030(1)(d).

4 **Sec. 27.** RCW 43.23.033 and 2002 c 313 s 78 are each amended to
5 read as follows:

6 (1) The director may provide by rule for a method to fund staff
7 support for all commodity boards and commissions if a position is not
8 directly funded by the legislature.

9 (2) Staff support funded under this section and RCW
10 15.65.047(1)(c), 15.66.055(3), 15.24.215, 15.26.265, 15.28.320,
11 15.44.190, 15.88.180, section 18 of this act, and 16.67.190 shall be
12 limited to one-half full-time equivalent employee for all commodity
13 boards and commissions.

14 **Sec. 28.** RCW 66.28.010 and 2004 c 160 s 9 and 2004 c 62 s 1 are
15 each reenacted and amended to read as follows:

16 (1)(a) No manufacturer, importer, distributor, or authorized
17 representative, or person financially interested, directly or
18 indirectly, in such business; whether resident or nonresident, shall
19 have any financial interest, direct or indirect, in any licensed retail
20 business, unless the retail business is owned by a corporation in which
21 a manufacturer or importer has no direct stock ownership and there are
22 no interlocking officers and directors, the retail license is held by
23 a corporation that is not owned directly or indirectly by a
24 manufacturer or importer, the sales of liquor are incidental to the
25 primary activity of operating the property as a hotel, alcoholic
26 beverages produced by the manufacturer or importer or their
27 subsidiaries are not sold at the licensed premises, and the board
28 reviews the ownership and proposed method of operation of all involved
29 entities and determines that there will not be an unacceptable level of
30 control or undue influence over the operation or the retail licensee;
31 nor shall any manufacturer, importer, distributor, or authorized
32 representative own any of the property upon which such licensed persons
33 conduct their business; nor shall any such licensed person, under any
34 arrangement whatsoever, conduct his or her business upon property in
35 which any manufacturer, importer, distributor, or authorized
36 representative has any interest unless title to that property is owned

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

32 (b) Nothing in this section shall prohibit a licensed domestic
33 brewery or microbrewery from being licensed as a retailer pursuant to
34 chapter 66.24 RCW for the purpose of selling beer or wine at retail on
35 the brewery premises and nothing in this section shall prohibit a
36 domestic winery from being licensed as a retailer pursuant to chapter
37 66.24 RCW for the purpose of selling beer or wine at retail on the
38 winery premises. Such beer and wine so sold at retail shall be subject

1 to the taxes imposed by RCW 66.24.290 and 66.24.210 and to reporting
2 and bonding requirements as prescribed by regulations adopted by the
3 board pursuant to chapter 34.05 RCW, and beer and wine that is not
4 produced by the brewery or winery shall be purchased from a licensed
5 beer or wine distributor.

6 (c) Nothing in this section shall prohibit a licensed distiller,
7 domestic brewery, microbrewery, domestic winery, or a lessee of a
8 licensed domestic brewer, microbrewery, or domestic winery, from being
9 licensed as a spirits, beer, and wine restaurant pursuant to chapter
10 66.24 RCW for the purpose of selling liquor at a spirits, beer, and
11 wine restaurant premises on the property on which the primary
12 manufacturing facility of the licensed distiller, domestic brewer,
13 microbrewery, or domestic winery is located or on contiguous property
14 owned or leased by the licensed distiller, domestic brewer,
15 microbrewery, or domestic winery as prescribed by rules adopted by the
16 board pursuant to chapter 34.05 RCW.

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

20 (e) Until July 1, 2007, nothing in this section prohibits a
21 nonprofit statewide organization of microbreweries formed for the
22 purpose of promoting Washington's craft beer industry as a trade
23 association registered as a 501(c) with the internal revenue service
24 from holding a special occasion license to conduct up to six beer
25 festivals.

26 (2) Financial interest, direct or indirect, as used in this
27 section, shall include any interest, whether by stock ownership,
28 mortgage, lien, or through interlocking directors, or otherwise.
29 Pursuant to rules promulgated by the board in accordance with chapter
30 34.05 RCW manufacturers, distributors, and importers may perform, and
31 retailers may accept the service of building, rotating and restocking
32 case displays and stock room inventories; rotating and rearranging can
33 and bottle displays of their own products; provide point of sale
34 material and brand signs; price case goods of their own brands; and
35 perform such similar normal business services as the board may by
36 regulation prescribe.

37 (3)(a) This section does not prohibit a manufacturer, importer, or
38 distributor from providing services to a special occasion licensee for:

1 (i) Installation of draft beer dispensing equipment or advertising,
2 (ii) advertising, pouring, or dispensing of beer or wine at a beer or
3 wine tasting exhibition or judging event, or (iii) a special occasion
4 licensee from receiving any such services as may be provided by a
5 manufacturer, importer, or distributor. Nothing in this section shall
6 prohibit a retail licensee, or any person financially interested,
7 directly or indirectly, in such a retail licensee from having a
8 financial interest, direct or indirect, in a business which provides,
9 for a compensation commensurate in value to the services provided,
10 bottling, canning or other services to a manufacturer, so long as the
11 retail licensee or person interested therein has no direct financial
12 interest in or control of said manufacturer.

13 (b) A person holding contractual rights to payment from selling a
14 liquor distributor's business and transferring the license shall not be
15 deemed to have a financial interest under this section if the person
16 (i) lacks any ownership in or control of the distributor, (ii) is not
17 employed by the distributor, and (iii) does not influence or attempt to
18 influence liquor purchases by retail liquor licensees from the
19 distributor.

20 (c) The board shall adopt such rules as are deemed necessary to
21 carry out the purposes and provisions of subsection (3)(a) of this
22 section in accordance with the administrative procedure act, chapter
23 34.05 RCW.

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

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

29 NEW SECTION. **Sec. 29.** If any provision of this act or its
30 application to any person or circumstance is held invalid, the
31 remainder of the act or the application of the provision to other
32 persons or circumstances is not affected.

33 NEW SECTION. **Sec. 30.** Sections 1 through 21 of this act
34 constitute a new chapter in Title 15 RCW.

1 NEW SECTION. **Sec. 31.** Section 25 of this act expires July 1,
2 2006.

3 NEW SECTION. **Sec. 32.** Section 26 of this act takes effect July 1,
4 2006.

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