

SSB 5721 - H COMM AMD

By Committee on Commerce & Labor

ADOPTED 04/05/2007

1 Strike everything after the enacting clause and insert the
2 following:

3 "Sec. 1. RCW 66.28.010 and 2006 c 330 s 28, 2006 c 92 s 1, and
4 2006 c 43 s 1 are each reenacted and amended to read as follows:

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

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

27 (b) Nothing in this section shall prohibit a licensed domestic
28 brewery or microbrewery from being licensed as a retailer pursuant to
29 chapter 66.24 RCW for the purpose of selling beer or wine at retail on
30 the brewery premises and nothing in this section shall prohibit a
31 domestic winery from being licensed as a retailer pursuant to chapter
32 66.24 RCW for the purpose of selling beer or wine at retail on the
33 winery premises. Such beer and wine so sold at retail shall be subject
34 to the taxes imposed by RCW 66.24.290 and 66.24.210 and to reporting
35 and bonding requirements as prescribed by regulations adopted by the
36 board pursuant to chapter 34.05 RCW, and beer and wine that is not
37 produced by the brewery or winery shall be purchased from a licensed
38 beer or wine distributor.

1 (c) Nothing in this section shall prohibit a licensed distiller,
2 domestic brewery, microbrewery, domestic winery, or a lessee of a
3 licensed domestic brewer, microbrewery, or domestic winery, from being
4 licensed as a spirits, beer, and wine restaurant pursuant to chapter
5 66.24 RCW for the purpose of selling liquor at a spirits, beer, and
6 wine restaurant premises on the property on which the primary
7 manufacturing facility of the licensed distiller, domestic brewer,
8 microbrewery, or domestic winery is located or on contiguous property
9 owned or leased by the licensed distiller, domestic brewer,
10 microbrewery, or domestic winery as prescribed by rules adopted by the
11 board pursuant to chapter 34.05 RCW.

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

15 (e) Nothing in this section prohibits an organization qualifying
16 under RCW 66.24.375 formed for the purpose of constructing and
17 operating a facility to promote Washington wines from holding retail
18 licenses on the facility property or leasing all or any portion of such
19 facility property to a retail licensee on the facility property if the
20 members of the board of directors or officers of the board for the
21 organization include officers, directors, owners, or employees of a
22 licensed domestic winery. Financing for the construction of the
23 facility must include both public and private money.

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

30 (g) Nothing in this section prohibits domestic wineries and
31 retailers licensed under chapter 66.24 RCW from jointly producing
32 brochures and materials promoting tourism in Washington state which
33 contain information regarding retail licensees, domestic wineries, and
34 their products.

35 (h) Nothing in this section prohibits domestic wineries and retail
36 licensees from identifying the wineries on private labels authorized
37 under RCW 66.24.400, 66.24.425, and 66.24.450.

1 (i) Until July 1, 2007, nothing in this section prohibits a
2 nonprofit statewide organization of microbreweries formed for the
3 purpose of promoting Washington's craft beer industry as a trade
4 association registered as a 501(c) with the internal revenue service
5 from holding a special occasion license to conduct up to six beer
6 festivals.

7 (j) Nothing in this section shall prohibit a manufacturer,
8 importer, or distributor from entering into an arrangement with any
9 holder of a sports/entertainment facility license or an affiliated
10 business for brand advertising at the licensed facility or promoting
11 events held at the sports entertainment facility as authorized under
12 RCW 66.24.570.

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

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

1 (b) A person holding contractual rights to payment from selling a
2 liquor distributor's business and transferring the license shall not be
3 deemed to have a financial interest under this section if the person
4 (i) lacks any ownership in or control of the distributor, (ii) is not
5 employed by the distributor, and (iii) does not influence or attempt to
6 influence liquor purchases by retail liquor licensees from the
7 distributor.

8 (c) The board shall adopt such rules as are deemed necessary to
9 carry out the purposes and provisions of subsection (3)(a) of this
10 section in accordance with the administrative procedure act, chapter
11 34.05 RCW.

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

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

17 **Sec. 2.** RCW 66.24.570 and 2003 c 345 s 3 are each amended to read
18 as follows:

19 (1) There is a license for sports entertainment facilities to be
20 designated as a sports/entertainment facility license to sell beer,
21 wine, and spirits at retail, for consumption upon the premises only,
22 the license to be issued to the entity providing food and beverage
23 service at a sports entertainment facility as defined in this section.
24 The cost of the license is two thousand five hundred dollars per annum.

25 (2) For purposes of this section, a sports entertainment facility
26 includes a publicly or privately owned arena, coliseum, stadium, or
27 facility where sporting events are presented for a price of admission.
28 The facility does not have to be exclusively used for sporting events.

29 (3) The board may impose reasonable requirements upon a licensee
30 under this section, such as requirements for the availability of food
31 and victuals including but not limited to hamburgers, sandwiches,
32 salads, or other snack food. The board may also restrict the type of
33 events at a sports entertainment facility at which beer, wine, and
34 spirits may be served. When imposing conditions for a licensee, the
35 board must consider the seating accommodations, eating facilities, and
36 circulation patterns in such a facility, and other amenities available
37 at a sports entertainment facility.

1 (4)(a) The board may issue a caterer's endorsement to the license
2 under this section to allow the licensee to remove from the liquor
3 stocks at the licensed premises, for use as liquor for sale and service
4 at event locations at a specified date and place not currently licensed
5 by the board. If the event is open to the public, it must be sponsored
6 by a society or organization as defined by RCW 66.24.375. If
7 attendance at the event is limited to members or invited guests of the
8 sponsoring individual, society, or organization, the requirement that
9 the sponsor must be a society or organization as defined by RCW
10 66.24.375 is waived. Cost of the endorsement is three hundred fifty
11 dollars.

12 (b) The holder of this license with catering endorsement shall, if
13 requested by the board, notify the board or its designee of the date,
14 time, place, and location of any catered event. Upon request, the
15 licensee shall provide to the board all necessary or requested
16 information concerning the society or organization that will be holding
17 the function at which the endorsed license will be utilized.

18 (5) The board may issue an endorsement to the beer, wine, and
19 spirits sports/entertainment facility license that allows the holder of
20 a beer, wine, and spirits sports/entertainment facility license to sell
21 for off-premises consumption wine vinted and bottled in the state of
22 Washington and carrying a label exclusive to the license holder selling
23 the wine. Spirits and beer may not be sold for off-premises
24 consumption under this section. The annual fee for the endorsement
25 under this section is one hundred twenty dollars.

26 (6)(a) A licensee and an affiliated business may enter into
27 arrangements with a manufacturer, importer, or distributor for brand
28 advertising at the sports/entertainment facility or promotion of events
29 held at the sports/entertainment facility, with a capacity of five
30 thousand people or more. The financial arrangements providing for the
31 brand advertising or promotion of events shall not be used as an
32 inducement to purchase the products of the manufacturer, importer, or
33 distributor entering into the arrangement nor shall it result in the
34 exclusion of brands or products of other companies.

35 (b) The arrangements allowed under this subsection (6) are an
36 exception to arrangements prohibited under RCW 66.28.010. The board
37 shall monitor the impacts of these arrangements. The board may conduct
38 audits of the licensee and the affiliated business to determine

1 compliance with this subsection (6). Audits may include but are not
2 limited to product selection at the facility; purchase patterns of the
3 licensee; contracts with the liquor manufacturer, importer, or
4 distributor; and the amount allocated or used for liquor advertising by
5 the licensee, affiliated business, manufacturer, importer, or
6 distributor under the arrangements.

7 (c) The board shall report to the appropriate committees of the
8 legislature by December 30, 2008, and biennially thereafter, on the
9 impacts of arrangements allowed between sports/entertainment licensees
10 and liquor manufacturers, importers, and distributors for brand
11 advertising and promotion of events at the facility."

12 Correct the title.

EFFECT: Requires the Liquor Control Board to monitor the impacts of arrangements and report to the appropriate committees of the legislature by December 30, 2008, and biennially thereafter. Gives the board authority to conduct audits to determine compliance. Provides that audits may include product selection, purchase patterns, contracts, and the amount allocated or used for liquor advertising.

Gives sports/entertainment facilities explicit authority to enter arrangements, in addition to making a tied-house exception.

Limits authorization to facilities with a capacity of 5,000 people or more.

Deletes expiration date.

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