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**SUBSTITUTE HOUSE BILL 1047**

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**State of Washington**

**60th Legislature**

**2007 Regular Session**

**By** House Committee on Commerce & Labor (originally sponsored by Representatives Williams and Blake)

READ FIRST TIME 02/28/07.

1 AN ACT Relating to alcohol content in food products and  
2 confections; amending RCW 66.24.360 and 69.04.240; and reenacting and  
3 amending RCW 66.04.010.

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

5 **Sec. 1.** RCW 66.04.010 and 2006 c 225 s 1 and 2006 c 101 s 1 are  
6 each reenacted and amended to read as follows:

7 In this title, unless the context otherwise requires:

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

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

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

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

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

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

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

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

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

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

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

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

1       (9) "Confection" means a preparation of sugar, honey, or other  
2 natural or artificial sweeteners in combination with chocolate, fruits,  
3 nuts, dairy products, or flavorings, in the form of bars, drops, or  
4 pieces.

5       (10) "Consume" includes the putting of liquor to any use, whether  
6 by drinking or otherwise.

7       (~~(10)~~) (11) "Contract liquor store" means a business that sells  
8 liquor on behalf of the board through a contract with a contract liquor  
9 store manager.

10       (~~(11)~~) (12) "Dentist" means a practitioner of dentistry duly and  
11 regularly licensed and engaged in the practice of his profession within  
12 the state pursuant to chapter 18.32 RCW.

13       (~~(12)~~) (13) "Distiller" means a person engaged in the business of  
14 distilling spirits.

15       (~~(13)~~) (14) "Domestic brewery" means a place where beer and malt  
16 liquor are manufactured or produced by a brewer within the state.

17       (~~(14)~~) (15) "Domestic winery" means a place where wines are  
18 manufactured or produced within the state of Washington.

19       (~~(15)~~) (16) "Druggist" means any person who holds a valid  
20 certificate and is a registered pharmacist and is duly and regularly  
21 engaged in carrying on the business of pharmaceutical chemistry  
22 pursuant to chapter 18.64 RCW.

23       (~~(16)~~) (17) "Drug store" means a place whose principal business  
24 is, the sale of drugs, medicines and pharmaceutical preparations and  
25 maintains a regular prescription department and employs a registered  
26 pharmacist during all hours the drug store is open.

27       (~~(17)~~) (18) "Employee" means any person employed by the board.

28       (~~(18)~~) (19) "Flavored malt beverage" means:

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

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

37       (~~(19)~~) (20) "Fund" means 'liquor revolving fund.'

1        ~~((20))~~ (21) "Hotel" means every building or other structure kept,  
2 used, maintained, advertised or held out to the public to be a place  
3 where food is served and sleeping accommodations are offered for pay to  
4 transient guests, in which twenty or more rooms are used for the  
5 sleeping accommodation of such transient guests and having one or more  
6 dining rooms where meals are served to such transient guests, such  
7 sleeping accommodations and dining rooms being conducted in the same  
8 building and buildings, in connection therewith, and such structure or  
9 structures being provided, in the judgment of the board, with adequate  
10 and sanitary kitchen and dining room equipment and capacity, for  
11 preparing, cooking and serving suitable food for its guests: PROVIDED  
12 FURTHER, That in cities and towns of less than five thousand  
13 population, the board shall have authority to waive the provisions  
14 requiring twenty or more rooms.

15        ~~((21))~~ (22) "Importer" means a person who buys distilled spirits  
16 from a distillery outside the state of Washington and imports such  
17 spirituous liquor into the state for sale to the board or for export.

18        ~~((22))~~ (23) "Imprisonment" means confinement in the county jail.

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

31        ~~((24))~~ (25) "Manufacturer" means a person engaged in the  
32 preparation of liquor for sale, in any form whatsoever.

33        ~~((25))~~ (26) "Malt beverage" or "malt liquor" means any beverage  
34 such as beer, ale, lager beer, stout, and porter obtained by the  
35 alcoholic fermentation of an infusion or decoction of pure hops, or  
36 pure extract of hops and pure barley malt or other wholesome grain or  
37 cereal in pure water containing not more than eight percent of alcohol  
38 by weight, and not less than one-half of one percent of alcohol by

1 volume. For the purposes of this title, any such beverage containing  
2 more than eight percent of alcohol by weight shall be referred to as  
3 "strong beer."

4 ~~((+26+))~~ (27) "Package" means any container or receptacle used for  
5 holding liquor.

6 ~~((+27+))~~ (28) "Passenger vessel" means any boat, ship, vessel,  
7 barge, or other floating craft of any kind carrying passengers for  
8 compensation.

9 ~~((+28+))~~ (29) "Permit" means a permit for the purchase of liquor  
10 under this title.

11 ~~((+29+))~~ (30) "Person" means an individual, copartnership,  
12 association, or corporation.

13 ~~((+30+))~~ (31) "Physician" means a medical practitioner duly and  
14 regularly licensed and engaged in the practice of his profession within  
15 the state pursuant to chapter 18.71 RCW.

16 ~~((+31+))~~ (32) "Prescription" means a memorandum signed by a  
17 physician and given by him to a patient for the obtaining of liquor  
18 pursuant to this title for medicinal purposes.

19 ~~((+32+))~~ (33) "Public place" includes streets and alleys of  
20 incorporated cities and towns; state or county or township highways or  
21 roads; buildings and grounds used for school purposes; public dance  
22 halls and grounds adjacent thereto; those parts of establishments where  
23 beer may be sold under this title, soft drink establishments, public  
24 buildings, public meeting halls, lobbies, halls and dining rooms of  
25 hotels, restaurants, theatres, stores, garages and filling stations  
26 which are open to and are generally used by the public and to which the  
27 public is permitted to have unrestricted access; railroad trains,  
28 stages, and other public conveyances of all kinds and character, and  
29 the depots and waiting rooms used in conjunction therewith which are  
30 open to unrestricted use and access by the public; publicly owned  
31 bathing beaches, parks, and/or playgrounds; and all other places of  
32 like or similar nature to which the general public has unrestricted  
33 right of access, and which are generally used by the public.

34 ~~((+33+))~~ (34) "Regulations" means regulations made by the board  
35 under the powers conferred by this title.

36 ~~((+34+))~~ (35) "Restaurant" means any establishment provided with  
37 special space and accommodations where, in consideration of payment,

1 food, without lodgings, is habitually furnished to the public, not  
2 including drug stores and soda fountains.

3 ~~((+35+))~~ (36) "Sale" and "sell" include exchange, barter, and  
4 traffic; and also include the selling or supplying or distributing, by  
5 any means whatsoever, of liquor, or of any liquid known or described as  
6 beer or by any name whatever commonly used to describe malt or brewed  
7 liquor or of wine, by any person to any person; and also include a sale  
8 or selling within the state to a foreign consignee or his agent in the  
9 state. "Sale" and "sell" shall not include the giving, at no charge,  
10 of a reasonable amount of liquor by a person not licensed by the board  
11 to a person not licensed by the board, for personal use only. "Sale"  
12 and "sell" also does not include a raffle authorized under RCW  
13 9.46.0315: PROVIDED, That the nonprofit organization conducting the  
14 raffle has obtained the appropriate permit from the board.

15 ~~((+36+))~~ (37) "Soda fountain" means a place especially equipped  
16 with apparatus for the purpose of dispensing soft drinks, whether mixed  
17 or otherwise.

18 ~~((+37+))~~ (38) "Spirits" means any beverage which contains alcohol  
19 obtained by distillation, except flavored malt beverages, but including  
20 wines exceeding twenty-four percent of alcohol by volume.

21 ~~((+38+))~~ (39) "Store" means a state liquor store established under  
22 this title.

23 ~~((+39+))~~ (40) "Tavern" means any establishment with special space  
24 and accommodation for sale by the glass and for consumption on the  
25 premises, of beer, as herein defined.

26 ~~((+40+))~~ (41) "Winery" means a business conducted by any person for  
27 the manufacture of wine for sale, other than a domestic winery.

28 ~~((+41+))~~ (42)(a) "Wine" means any alcoholic beverage obtained by  
29 fermentation of fruits (grapes, berries, apples, et cetera) or other  
30 agricultural product containing sugar, to which any saccharine  
31 substances may have been added before, during or after fermentation,  
32 and containing not more than twenty-four percent of alcohol by volume,  
33 including sweet wines fortified with wine spirits, such as port,  
34 sherry, muscatel and angelica, not exceeding twenty-four percent of  
35 alcohol by volume and not less than one-half of one percent of alcohol  
36 by volume. For purposes of this title, any beverage containing no more  
37 than fourteen percent of alcohol by volume when bottled or packaged by  
38 the manufacturer shall be referred to as "table wine," and any beverage

1 containing alcohol in an amount more than fourteen percent by volume  
2 when bottled or packaged by the manufacturer shall be referred to as  
3 "fortified wine." However, "fortified wine" shall not include: (i)  
4 Wines that are both sealed or capped by cork closure and aged two years  
5 or more; and (ii) wines that contain more than fourteen percent alcohol  
6 by volume solely as a result of the natural fermentation process and  
7 that have not been produced with the addition of wine spirits, brandy,  
8 or alcohol.

9 (b) This subsection shall not be interpreted to require that any  
10 wine be labeled with the designation "table wine" or "fortified wine."

11 (~~(42)~~) (43) "Wine distributor" means a person who buys wine from  
12 a domestic winery, wine certificate of approval holder, or wine  
13 importer, or who acquires foreign produced wine from a source outside  
14 of the United States, for the purpose of selling the same not in  
15 violation of this title, or who represents such vintner or winery as  
16 agent.

17 (~~(43)~~) (44) "Wine importer" means a person or business within  
18 Washington who purchases wine from a wine certificate of approval  
19 holder or who acquires foreign produced wine from a source outside of  
20 the United States for the purpose of selling the same pursuant to this  
21 title.

22 **Sec. 2.** RCW 66.24.360 and 2003 c 167 s 8 are each amended to read  
23 as follows:

24 There shall be a beer and/or wine retailer's license to be  
25 designated as a grocery store license to sell beer, strong beer, and/or  
26 wine at retail in bottles, cans, and original containers, not to be  
27 consumed upon the premises where sold, at any store other than the  
28 state liquor stores.

29 (1) Licensees obtaining a written endorsement from the board may  
30 also sell malt liquor in kegs or other containers capable of holding  
31 less than five and one-half gallons of liquid.

32 (2) The annual fee for the grocery store license is one hundred  
33 fifty dollars for each store.

34 (3) The board shall issue a restricted grocery store license  
35 authorizing the licensee to sell beer and only table wine, if the board  
36 finds upon issuance or renewal of the license that the sale of strong

1 beer or fortified wine would be against the public interest. In  
2 determining the public interest, the board shall consider at least the  
3 following factors:

4 (a) The likelihood that the applicant will sell strong beer or  
5 fortified wine to persons who are intoxicated;

6 (b) Law enforcement problems in the vicinity of the applicant's  
7 establishment that may arise from persons purchasing strong beer or  
8 fortified wine at the establishment; and

9 (c) Whether the sale of strong beer or fortified wine would be  
10 detrimental to or inconsistent with a government-operated or funded  
11 alcohol treatment or detoxification program in the area.

12 If the board receives no evidence or objection that the sale of  
13 strong beer or fortified wine would be against the public interest, it  
14 shall issue or renew the license without restriction, as applicable.  
15 The burden of establishing that the sale of strong beer or fortified  
16 wine by the licensee would be against the public interest is on those  
17 persons objecting.

18 (4) Licensees holding a grocery store license must maintain a  
19 minimum three thousand dollar inventory of food products for human  
20 consumption, not including pop, beer, strong beer, or wine.

21 (5) Upon approval by the board, the grocery store licensee may also  
22 receive an endorsement to permit the international export of beer,  
23 strong beer, and wine.

24 (a) Any beer, strong beer, or wine sold under this endorsement must  
25 have been purchased from a licensed beer or wine distributor licensed  
26 to do business within the state of Washington.

27 (b) Any beer, strong beer, and wine sold under this endorsement  
28 must be intended for consumption outside the state of Washington and  
29 the United States and appropriate records must be maintained by the  
30 licensee.

31 (c) A holder of this special endorsement to the grocery store  
32 license shall be considered not in violation of RCW 66.28.010.

33 (d) Any beer, strong beer, or wine sold under this license must be  
34 sold at a price no less than the acquisition price paid by the holder  
35 of the license.

36 (e) The annual cost of this endorsement is five hundred dollars and  
37 is in addition to the license fees paid by the licensee for a grocery  
38 store license.



1       (6) A grocery store licensee holding a snack bar license under RCW  
2 66.24.350 may receive an endorsement to allow the sale of confections  
3 containing more than one percent but not more than ten percent alcohol  
4 by weight to persons twenty-one years of age or older.

5       **Sec. 3.** RCW 69.04.240 and 1984 c 78 s 2 are each amended to read  
6 as follows:

7       A food shall be deemed to be adulterated if it is confectionery and  
8 it bears or contains any alcohol from natural or artificial alcohol  
9 flavoring in excess of one percent of the weight of the confection or  
10 any nonnutritive article or substance except harmless coloring,  
11 harmless flavoring, harmless resinous glaze not in excess of four-  
12 tenths of one percent, natural gum, and pectin(~~(:—PROVIDED, That)~~).  
13 This section shall not apply to any chewing gum by reason of its  
14 containing harmless nonnutritive masticatory substances, or to any  
15 confection permitted to be sold by an endorsement from the liquor  
16 control board under RCW 66.24.360.

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