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HOUSE BILL 1215

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State of Washington                      60th Legislature                      2007 Regular Session

By Representative McDonald

Read first time 01/15/2007. Referred to Committee on Commerce & Labor.

1            AN ACT Relating to regulating alcohol vaporizing devices;  
2 reenacting and amending RCW 66.04.010; adding a new section to chapter  
3 66.44 RCW; and prescribing penalties.

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

5            NEW SECTION.    **Sec. 1.** A new section is added to chapter 66.44 RCW  
6 to read as follows:

7            (1) A person may not sell, offer for sale, purchase, use, or offer  
8 for use an alcohol vaporizing device.

9            (2) In addition to any other penalties that may apply by rule, a  
10 violation of this section is punishable under RCW 66.44.180.

11            (3) This section does not apply to vaporizing devices used for  
12 medical or scientific research purposes.

13            **Sec. 2.** RCW 66.04.010 and 2006 c 225 s 1 and 2006 c 101 s 1 are  
14 each reenacted and amended to read as follows:

15            In this title, unless the context otherwise requires:

16            (1) "Alcohol" is that substance known as ethyl alcohol, hydrated  
17 oxide of ethyl, or spirit of wine, which is commonly produced by the  
18 fermentation or distillation of grain, starch, molasses, or sugar, or

1 other substances including all dilutions and mixtures of this  
2 substance. The term "alcohol" does not include alcohol in the  
3 possession of a manufacturer or distiller of alcohol fuel, as described  
4 in RCW 66.12.130, which is intended to be denatured and used as a fuel  
5 for use in motor vehicles, farm implements, and machines or implements  
6 of husbandry.

7 (2) "Alcohol vaporizing device" means any device that mixes liquor  
8 or other alcohol product with oxygen or other gas to produce a vapor or  
9 mist for the purpose of inhaling.

10 (3) "Authorized representative" means a person who:

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

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

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

19 (d) Is appointed by the brewery or winery referenced in (c) of this  
20 subsection as its exclusive authorized representative for marketing and  
21 selling its products within the United States in accordance with a  
22 written agreement between the authorized representative and such  
23 brewery or winery pursuant to this title. The board may waive the  
24 requirement for the written agreement of exclusivity in situations  
25 consistent with the normal marketing practices of certain products,  
26 such as classified growths.

27 (~~(+3)~~) (4) "Beer" means any malt beverage, flavored malt beverage,  
28 or malt liquor as these terms are defined in this chapter.

29 (~~(+4)~~) (5) "Beer distributor" means a person who buys beer from a  
30 domestic brewery, microbrewery, beer certificate of approval holder, or  
31 beer importers, or who acquires foreign produced beer from a source  
32 outside of the United States, for the purpose of selling the same  
33 pursuant to this title, or who represents such brewer or brewery as  
34 agent.

35 (~~(+5)~~) (6) "Beer importer" means a person or business within  
36 Washington who purchases beer from a beer certificate of approval  
37 holder or who acquires foreign produced beer from a source outside of

1 the United States for the purpose of selling the same pursuant to this  
2 title.

3 ~~((+6+))~~ (7) "Brewer" or "brewery" means any person engaged in the  
4 business of manufacturing beer and malt liquor. Brewer includes a  
5 brand owner of malt beverages who holds a brewer's notice with the  
6 federal bureau of alcohol, tobacco, and firearms at a location outside  
7 the state and whose malt beverage is contract-produced by a licensed  
8 in-state brewery, and who may exercise within the state, under a  
9 domestic brewery license, only the privileges of storing, selling to  
10 licensed beer distributors, and exporting beer from the state.

11 ~~((+7+))~~ (8) "Board" means the liquor control board, constituted  
12 under this title.

13 ~~((+8+))~~ (9) "Club" means an organization of persons, incorporated  
14 or unincorporated, operated solely for fraternal, benevolent,  
15 educational, athletic or social purposes, and not for pecuniary gain.

16 ~~((+9+))~~ (10) "Consume" includes the putting of liquor to any use,  
17 whether by drinking or otherwise.

18 ~~((+10+))~~ (11) "Contract liquor store" means a business that sells  
19 liquor on behalf of the board through a contract with a contract liquor  
20 store manager.

21 ~~((+11+))~~ (12) "Dentist" means a practitioner of dentistry duly and  
22 regularly licensed and engaged in the practice of his profession within  
23 the state pursuant to chapter 18.32 RCW.

24 ~~((+12+))~~ (13) "Distiller" means a person engaged in the business of  
25 distilling spirits.

26 ~~((+13+))~~ (14) "Domestic brewery" means a place where beer and malt  
27 liquor are manufactured or produced by a brewer within the state.

28 ~~((+14+))~~ (15) "Domestic winery" means a place where wines are  
29 manufactured or produced within the state of Washington.

30 ~~((+15+))~~ (16) "Druggist" means any person who holds a valid  
31 certificate and is a registered pharmacist and is duly and regularly  
32 engaged in carrying on the business of pharmaceutical chemistry  
33 pursuant to chapter 18.64 RCW.

34 ~~((+16+))~~ (17) "Drug store" means a place whose principal business  
35 is, the sale of drugs, medicines and pharmaceutical preparations and  
36 maintains a regular prescription department and employs a registered  
37 pharmacist during all hours the drug store is open.

38 ~~((+17+))~~ (18) "Employee" means any person employed by the board.

1        ~~((18))~~ (19) "Flavored malt beverage" means:

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

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

10       ~~((19))~~ (20) "Fund" means 'liquor revolving fund.'

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

25       ~~((21))~~ (22) "Importer" means a person who buys distilled spirits  
26 from a distillery outside the state of Washington and imports such  
27 spirituous liquor into the state for sale to the board or for export.

28       ~~((22))~~ (23) "Imprisonment" means confinement in the county jail.

29       ~~((23))~~ (24) "Liquor" includes the four varieties of liquor herein  
30 defined (alcohol, spirits, wine and beer), and all fermented,  
31 spirituous, vinous, or malt liquor, or combinations thereof, and mixed  
32 liquor, a part of which is fermented, spirituous, vinous or malt  
33 liquor, or otherwise intoxicating; and every liquid or solid or  
34 semisolid or other substance, patented or not, containing alcohol,  
35 spirits, wine or beer, and all drinks or drinkable liquids and all  
36 preparations or mixtures capable of human consumption, and any liquid,  
37 semisolid, solid, or other substance, which contains more than one

1 percent of alcohol by weight shall be conclusively deemed to be  
2 intoxicating. Liquor does not include confections or food products  
3 that contain one percent or less of alcohol by weight.

4 ~~((+24+))~~ (25) "Manufacturer" means a person engaged in the  
5 preparation of liquor for sale, in any form whatsoever.

6 ~~((+25+))~~ (26) "Malt beverage" or "malt liquor" means any beverage  
7 such as beer, ale, lager beer, stout, and porter obtained by the  
8 alcoholic fermentation of an infusion or decoction of pure hops, or  
9 pure extract of hops and pure barley malt or other wholesome grain or  
10 cereal in pure water containing not more than eight percent of alcohol  
11 by weight, and not less than one-half of one percent of alcohol by  
12 volume. For the purposes of this title, any such beverage containing  
13 more than eight percent of alcohol by weight shall be referred to as  
14 "strong beer."

15 ~~((+26+))~~ (27) "Package" means any container or receptacle used for  
16 holding liquor.

17 ~~((+27+))~~ (28) "Passenger vessel" means any boat, ship, vessel,  
18 barge, or other floating craft of any kind carrying passengers for  
19 compensation.

20 ~~((+28+))~~ (29) "Permit" means a permit for the purchase of liquor  
21 under this title.

22 ~~((+29+))~~ (30) "Person" means an individual, copartnership,  
23 association, or corporation.

24 ~~((+30+))~~ (31) "Physician" means a medical practitioner duly and  
25 regularly licensed and engaged in the practice of his profession within  
26 the state pursuant to chapter 18.71 RCW.

27 ~~((+31+))~~ (32) "Prescription" means a memorandum signed by a  
28 physician and given by him to a patient for the obtaining of liquor  
29 pursuant to this title for medicinal purposes.

30 ~~((+32+))~~ (33) "Public place" includes streets and alleys of  
31 incorporated cities and towns; state or county or township highways or  
32 roads; buildings and grounds used for school purposes; public dance  
33 halls and grounds adjacent thereto; those parts of establishments where  
34 beer may be sold under this title, soft drink establishments, public  
35 buildings, public meeting halls, lobbies, halls and dining rooms of  
36 hotels, restaurants, theatres, stores, garages and filling stations  
37 which are open to and are generally used by the public and to which the  
38 public is permitted to have unrestricted access; railroad trains,

1 stages, and other public conveyances of all kinds and character, and  
2 the depots and waiting rooms used in conjunction therewith which are  
3 open to unrestricted use and access by the public; publicly owned  
4 bathing beaches, parks, and/or playgrounds; and all other places of  
5 like or similar nature to which the general public has unrestricted  
6 right of access, and which are generally used by the public.

7 ~~((+33+))~~ (34) "Regulations" means regulations made by the board  
8 under the powers conferred by this title.

9 ~~((+34+))~~ (35) "Restaurant" means any establishment provided with  
10 special space and accommodations where, in consideration of payment,  
11 food, without lodgings, is habitually furnished to the public, not  
12 including drug stores and soda fountains.

13 ~~((+35+))~~ (36) "Sale" and "sell" include exchange, barter, and  
14 traffic; and also include the selling or supplying or distributing, by  
15 any means whatsoever, of liquor, or of any liquid known or described as  
16 beer or by any name whatever commonly used to describe malt or brewed  
17 liquor or of wine, by any person to any person; and also include a sale  
18 or selling within the state to a foreign consignee or his agent in the  
19 state. "Sale" and "sell" shall not include the giving, at no charge,  
20 of a reasonable amount of liquor by a person not licensed by the board  
21 to a person not licensed by the board, for personal use only. "Sale"  
22 and "sell" also does not include a raffle authorized under RCW  
23 9.46.0315: PROVIDED, That the nonprofit organization conducting the  
24 raffle has obtained the appropriate permit from the board.

25 ~~((+36+))~~ (37) "Soda fountain" means a place especially equipped  
26 with apparatus for the purpose of dispensing soft drinks, whether mixed  
27 or otherwise.

28 ~~((+37+))~~ (38) "Spirits" means any beverage which contains alcohol  
29 obtained by distillation, except flavored malt beverages, but including  
30 wines exceeding twenty-four percent of alcohol by volume.

31 ~~((+38+))~~ (39) "Store" means a state liquor store established under  
32 this title.

33 ~~((+39+))~~ (40) "Tavern" means any establishment with special space  
34 and accommodation for sale by the glass and for consumption on the  
35 premises, of beer, as herein defined.

36 ~~((+40+))~~ (41) "Winery" means a business conducted by any person for  
37 the manufacture of wine for sale, other than a domestic winery.

1       (~~(41)~~) (42)(a) "Wine" means any alcoholic beverage obtained by  
2 fermentation of fruits (grapes, berries, apples, et cetera) or other  
3 agricultural product containing sugar, to which any saccharine  
4 substances may have been added before, during or after fermentation,  
5 and containing not more than twenty-four percent of alcohol by volume,  
6 including sweet wines fortified with wine spirits, such as port,  
7 sherry, muscatel and angelica, not exceeding twenty-four percent of  
8 alcohol by volume and not less than one-half of one percent of alcohol  
9 by volume. For purposes of this title, any beverage containing no more  
10 than fourteen percent of alcohol by volume when bottled or packaged by  
11 the manufacturer shall be referred to as "table wine," and any beverage  
12 containing alcohol in an amount more than fourteen percent by volume  
13 when bottled or packaged by the manufacturer shall be referred to as  
14 "fortified wine." However, "fortified wine" shall not include: (i)  
15 Wines that are both sealed or capped by cork closure and aged two years  
16 or more; and (ii) wines that contain more than fourteen percent alcohol  
17 by volume solely as a result of the natural fermentation process and  
18 that have not been produced with the addition of wine spirits, brandy,  
19 or alcohol.

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

22       (~~(42)~~) (43) "Wine distributor" means a person who buys wine from  
23 a domestic winery, wine certificate of approval holder, or wine  
24 importer, or who acquires foreign produced wine from a source outside  
25 of the United States, for the purpose of selling the same not in  
26 violation of this title, or who represents such vintner or winery as  
27 agent.

28       (~~(43)~~) (44) "Wine importer" means a person or business within  
29 Washington who purchases wine from a wine certificate of approval  
30 holder or who acquires foreign produced wine from a source outside of  
31 the United States for the purpose of selling the same pursuant to this  
32 title.

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