
HOUSE BILL 2804

State of Washington

61st Legislature

2010 Regular Session

By Representatives Green, Hudgins, Goodman, Conway, Chandler, Crouse, Condotta, Moeller, Miloscia, Darneille, Hunt, Kagi, and McCune; by request of Liquor Control Board

Read first time 01/14/10. Referred to Committee on Commerce & Labor.

1 AN ACT Relating to beer and caffeinated or stimulant-enhanced malt
2 beverages; reenacting and amending RCW 66.04.010; and adding a new
3 section to chapter 66.28 RCW.

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

5 **Sec. 1.** RCW 66.04.010 and 2009 c 373 s 1 and 2009 c 271 s 2 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 by a brewery or winery in the United States outside of the state of
6 Washington; and

7 (d) Is appointed by the brewery or winery referenced in (c) of this
8 subsection as its authorized representative for marketing and selling
9 its products within the United States in accordance with a written
10 agreement between the authorized representative and such brewery or
11 winery pursuant to this title.

12 (3) "Beer" means any malt beverage, flavored malt beverage, or malt
13 liquor as these terms are defined in this chapter. "Beer" does not
14 include caffeinated or stimulant-enhanced malt beverages.

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

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

24 (6) "Board" means the liquor control board, constituted under this
25 title.

26 (7) "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 (8) "Caffeinated or stimulant-enhanced malt beverage" means a
35 beverage to which is added caffeine or other stimulants including, but
36 not limited to, guarana, ginseng, and taurine, and contains at least
37 one-half of one percent alcohol by volume.

1 (9) "Club" means an organization of persons, incorporated or
2 unincorporated, operated solely for fraternal, benevolent, educational,
3 athletic or social purposes, and not for pecuniary gain.

4 ~~((+9))~~ (10) "Confection" means a preparation of sugar, honey, or
5 other natural or artificial sweeteners in combination with chocolate,
6 fruits, nuts, dairy products, or flavorings, in the form of bars,
7 drops, or pieces.

8 ~~((+10))~~ (11) "Consume" includes the putting of liquor to any use,
9 whether by drinking or otherwise.

10 ~~((+11))~~ (12) "Contract liquor store" means a business that sells
11 liquor on behalf of the board through a contract with a contract liquor
12 store manager.

13 ~~((+12))~~ (13) "Craft distillery" means a distillery that pays the
14 reduced licensing fee under RCW 66.24.140.

15 ~~((+13))~~ (14) "Dentist" means a practitioner of dentistry duly and
16 regularly licensed and engaged in the practice of his profession within
17 the state pursuant to chapter 18.32 RCW.

18 ~~((+14))~~ (15) "Distiller" means a person engaged in the business of
19 distilling spirits.

20 ~~((+15))~~ (16) "Domestic brewery" means a place where beer and malt
21 liquor are manufactured or produced by a brewer within the state.

22 ~~((+16))~~ (17) "Domestic winery" means a place where wines are
23 manufactured or produced within the state of Washington.

24 ~~((+17))~~ (18) "Drug store" means a place whose principal business
25 is, the sale of drugs, medicines and pharmaceutical preparations and
26 maintains a regular prescription department and employs a registered
27 pharmacist during all hours the drug store is open.

28 ~~((+18))~~ (19) "Druggist" means any person who holds a valid
29 certificate and is a registered pharmacist and is duly and regularly
30 engaged in carrying on the business of pharmaceutical chemistry
31 pursuant to chapter 18.64 RCW.

32 ~~((+19))~~ (20) "Employee" means any person employed by the board.

33 ~~((+20))~~ (21) "Flavored malt beverage" means:

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

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

5 ~~((+21+))~~ (22) "Fund" means 'liquor revolving fund.'

6 ~~((+22+))~~ (23) "Hotel" means buildings, structures, and grounds,
7 having facilities for preparing, cooking, and serving food, that are
8 kept, used, maintained, advertised, or held out to the public to be a
9 place where food is served and sleeping accommodations are offered for
10 pay to transient guests, in which twenty or more rooms are used for the
11 sleeping accommodation of such transient guests. The buildings,
12 structures, and grounds must be located on adjacent property either
13 owned or leased by the same person or persons.

14 ~~((+23+))~~ (24) "Importer" means a person who buys distilled spirits
15 from a distillery outside the state of Washington and imports such
16 spirituous liquor into the state for sale to the board or for export.

17 ~~((+24+))~~ (25) "Imprisonment" means confinement in the county jail.

18 ~~((+25+))~~ (26) "Liquor" includes the four varieties of liquor herein
19 defined (alcohol, spirits, wine and beer), and all fermented,
20 spirituous, vinous, or malt liquor, or combinations thereof, and mixed
21 liquor, a part of which is fermented, spirituous, vinous or malt
22 liquor, or otherwise intoxicating; and every liquid or solid or
23 semisolid or other substance, patented or not, containing alcohol,
24 spirits, wine or beer, and all drinks or drinkable liquids and all
25 preparations or mixtures capable of human consumption, and any liquid,
26 semisolid, solid, or other substance, which contains more than one
27 percent of alcohol by weight shall be conclusively deemed to be
28 intoxicating. Liquor does not include confections or food products
29 that contain one percent or less of alcohol by weight.

30 ~~((+26+))~~ (27) "Malt beverage" or "malt liquor" means any beverage
31 such as beer, ale, lager beer, stout, and porter obtained by the
32 alcoholic fermentation of an infusion or decoction of pure hops, or
33 pure extract of hops and pure barley malt or other wholesome grain or
34 cereal in pure water containing not more than eight percent of alcohol
35 by weight, and not less than one-half of one percent of alcohol by
36 volume. For the purposes of this title, any such beverage containing
37 more than eight percent of alcohol by weight shall be referred to as
38 "strong beer."

1 ~~((+27+))~~ (28) "Manufacturer" means a person engaged in the
2 preparation of liquor for sale, in any form whatsoever.

3 ~~((+28+))~~ (29) "Nightclub" means an establishment that provides
4 entertainment and has as its primary source of revenue (a) the sale of
5 alcohol for consumption on the premises, (b) cover charges, or (c)
6 both, and has an occupancy load of one hundred or more.

7 ~~((+29+))~~ (30) "Package" means any container or receptacle used for
8 holding liquor.

9 ~~((+30+))~~ (31) "Passenger vessel" means any boat, ship, vessel,
10 barge, or other floating craft of any kind carrying passengers for
11 compensation.

12 ~~((+31+))~~ (32) "Permit" means a permit for the purchase of liquor
13 under this title.

14 ~~((+32+))~~ (33) "Person" means an individual, copartnership,
15 association, or corporation.

16 ~~((+33+))~~ (34) "Physician" means a medical practitioner duly and
17 regularly licensed and engaged in the practice of his profession within
18 the state pursuant to chapter 18.71 RCW.

19 ~~((+34+))~~ (35) "Prescription" means a memorandum signed by a
20 physician and given by him to a patient for the obtaining of liquor
21 pursuant to this title for medicinal purposes.

22 ~~((+35+))~~ (36) "Public place" includes streets and alleys of
23 incorporated cities and towns; state or county or township highways or
24 roads; buildings and grounds used for school purposes; public dance
25 halls and grounds adjacent thereto; those parts of establishments where
26 beer may be sold under this title, soft drink establishments, public
27 buildings, public meeting halls, lobbies, halls and dining rooms of
28 hotels, restaurants, theatres, stores, garages and filling stations
29 which are open to and are generally used by the public and to which the
30 public is permitted to have unrestricted access; railroad trains,
31 stages, and other public conveyances of all kinds and character, and
32 the depots and waiting rooms used in conjunction therewith which are
33 open to unrestricted use and access by the public; publicly owned
34 bathing beaches, parks, and/or playgrounds; and all other places of
35 like or similar nature to which the general public has unrestricted
36 right of access, and which are generally used by the public.

37 ~~((+36+))~~ (37) "Regulations" means regulations made by the board
38 under the powers conferred by this title.

1 (~~(37)~~) (38) "Restaurant" means any establishment provided with
2 special space and accommodations where, in consideration of payment,
3 food, without lodgings, is habitually furnished to the public, not
4 including drug stores and soda fountains.

5 (~~(38)~~) (39) "Sale" and "sell" include exchange, barter, and
6 traffic; and also include the selling or supplying or distributing, by
7 any means whatsoever, of liquor, or of any liquid known or described as
8 beer or by any name whatever commonly used to describe malt or brewed
9 liquor or of wine, by any person to any person; and also include a sale
10 or selling within the state to a foreign consignee or his agent in the
11 state. "Sale" and "sell" shall not include the giving, at no charge,
12 of a reasonable amount of liquor by a person not licensed by the board
13 to a person not licensed by the board, for personal use only. "Sale"
14 and "sell" also does not include a raffle authorized under RCW
15 9.46.0315: PROVIDED, That the nonprofit organization conducting the
16 raffle has obtained the appropriate permit from the board.

17 (~~(39)~~) (40) "Soda fountain" means a place especially equipped
18 with apparatus for the purpose of dispensing soft drinks, whether mixed
19 or otherwise.

20 (~~(40)~~) (41) "Spirits" means any beverage which contains alcohol
21 obtained by distillation, except flavored malt beverages, but including
22 wines exceeding twenty-four percent of alcohol by volume.

23 (~~(41)~~) (42) "Store" means a state liquor store established under
24 this title.

25 (~~(42)~~) (43) "Tavern" means any establishment with special space
26 and accommodation for sale by the glass and for consumption on the
27 premises, of beer, as herein defined.

28 (~~(43)~~) (44)(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 ~~((44))~~ (45) "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 ~~((45))~~ (46) "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 ~~((46))~~ (47) "Winery" means a business conducted by any person for
23 the manufacture of wine for sale, other than a domestic winery.

24 NEW SECTION. **Sec. 2.** A new section is added to chapter 66.28 RCW
25 to read as follows:

26 Any caffeinated or stimulant-enhanced malt beverage, as defined in
27 RCW 66.04.010, are prohibited for sale in the state of Washington.

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