
SENATE BILL 5834

State of Washington

61st Legislature

2009 Regular Session

By Senators Kohl-Welles and Holmquist

Read first time 02/04/09. Referred to Committee on Labor, Commerce & Consumer Protection.

1 AN ACT Relating to alcoholic beverage regulation; amending RCW
2 66.24.452, 66.24.170, 66.28.010, 66.24.371, 66.28.200, 66.28.220,
3 66.28.180, and 15.89.070; reenacting and amending RCW 66.28.040; and
4 adding a new section to chapter 66.28 RCW.

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

6 **Sec. 1.** RCW 66.24.452 and 2003 c 167 s 10 are each amended to read
7 as follows:

8 (1) There shall be a beer and wine license to be issued to a
9 private club for sale of beer, strong beer, and wine for on-premises
10 consumption.

11 (2) Beer, strong beer, and wine sold by the licensee may be on tap
12 or by open bottles or cans.

13 (3) The fee for the private club beer and wine license is one
14 hundred eighty dollars per year.

15 (4) The board may issue an endorsement to the private club beer and
16 wine license that allows the holder of a private club beer and wine
17 license to sell bottled wine for off-premises consumption (~~wine vinted~~
18 ~~and bottled in the state of Washington and carrying a label exclusive~~
19 ~~to the license holder selling the wine)). Spirits, strong beer, and~~

1 beer may not be sold for off-premises consumption under this section.
2 The annual fee for the endorsement under this section is one hundred
3 twenty dollars.

4 **Sec. 2.** RCW 66.24.170 and 2008 c 41 s 5 are each amended to read
5 as follows:

6 (1) There shall be a license for domestic wineries; fee to be
7 computed only on the liters manufactured: Less than two hundred fifty
8 thousand liters per year, one hundred dollars per year; and two hundred
9 fifty thousand liters or more per year, four hundred dollars per year.

10 (2) The license allows for the manufacture of wine in Washington
11 state from grapes or other agricultural products.

12 (3) Any domestic winery licensed under this section may also act as
13 a retailer of wine of its own production. Any domestic winery licensed
14 under this section may act as a distributor of its own production.
15 Notwithstanding any language in this title to the contrary, a domestic
16 winery may use a common carrier to deliver up to one hundred cases of
17 its own production, in the aggregate, per month to licensed Washington
18 retailers. A domestic winery may not arrange for any such common
19 carrier shipments to licensed retailers of wine not of its own
20 production. Except as provided in this section, any winery operating
21 as a distributor and/or retailer under this subsection shall comply
22 with the applicable laws and rules relating to distributors and/or
23 retailers, except that a winery operating as a distributor may maintain
24 a warehouse off the premises of the winery for the distribution of wine
25 of its own production provided that: (a) The warehouse has been
26 approved by the board under RCW 66.24.010; and (b) the number of
27 warehouses off the premises of the winery does not exceed one.

28 (4) A domestic winery licensed under this section, at locations
29 separate from any of its production or manufacturing sites, may serve
30 samples of its own products, with or without charge, and sell wine of
31 its own production at retail, provided that: (a) Each additional
32 location has been approved by the board under RCW 66.24.010; (b) the
33 total number of additional locations does not exceed two; (c) a winery
34 may not act as a distributor at any such additional location; and (d)
35 any person selling or serving wine at an additional location for on-
36 premise consumption must obtain a class 12 or class 13 alcohol server
37 permit. Each additional location is deemed to be part of the winery

1 license for the purpose of this title. At additional locations
2 operated by multiple wineries under this section, if the board cannot
3 connect a violation of RCW 66.44.200 or 66.44.270 to a single licensee,
4 the board may hold all licensees operating the additional location
5 jointly liable. Nothing in this subsection shall be construed to
6 prevent a domestic winery from holding multiple domestic winery
7 licenses.

8 (5)(a) A domestic winery licensed under this section may apply to
9 the board for an endorsement to sell wine of its own production at
10 retail for off-premises consumption at a qualifying farmers market.
11 The annual fee for this endorsement is seventy-five dollars. An
12 endorsement issued pursuant to this subsection does not count toward
13 the two additional retail locations limit specified in this section.

14 (b) For each month during which a domestic winery will sell wine at
15 a qualifying farmers market, the winery must provide the board or its
16 designee a list of the dates, times, and locations at which bottled
17 wine may be offered for sale. This list must be received by the board
18 before the winery may offer wine for sale at a qualifying farmers
19 market.

20 (c) The wine sold at qualifying farmers markets must be made
21 entirely from grapes grown in a recognized Washington appellation or
22 from other agricultural products grown in this state.

23 (d) Each approved location in a qualifying farmers market is deemed
24 to be part of the winery license for the purpose of this title. The
25 approved locations under an endorsement granted under this subsection
26 do not include the tasting or sampling privilege of a winery. The
27 winery may not store wine at a farmers market beyond the hours that the
28 winery offers bottled wine for sale. The winery may not act as a
29 distributor from a farmers market location.

30 (e) Before a winery may sell bottled wine at a qualifying farmers
31 market, the farmers market must apply to the board for authorization
32 for any winery with an endorsement approved under this subsection to
33 sell bottled wine at retail at the farmers market. This application
34 shall include, at a minimum: (i) A map of the farmers market showing
35 all booths, stalls, or other designated locations at which an approved
36 winery may sell bottled wine; and (ii) the name and contact information
37 for the on-site market managers who may be contacted by the board or
38 its designee to verify the locations at which bottled wine may be sold.

1 Before authorizing a qualifying farmers market to allow an approved
2 winery to sell bottled wine at retail at its farmers market location,
3 the board shall notify the persons or entities of such application for
4 authorization pursuant to RCW 66.24.010 (8) and (9). An authorization
5 granted under this subsection (5)(e) may be withdrawn by the board for
6 any violation of this title or any rules adopted under this title.

7 (f) The board may adopt rules establishing the application and
8 approval process under this section and such additional rules as may be
9 necessary to implement this section.

10 (g) For the purposes of this subsection:

11 (i) "Qualifying farmers market" means an entity that sponsors a
12 regular assembly of vendors at a defined location for the purpose of
13 promoting the sale of agricultural products grown or produced in this
14 state directly to the consumer under conditions that meet the following
15 minimum requirements:

16 (A) There are at least five participating vendors who are farmers
17 selling their own agricultural products;

18 (B) The total combined gross annual sales of vendors who are
19 farmers exceeds the total combined gross annual sales of vendors who
20 are processors or resellers;

21 (C) The total combined gross annual sales of vendors who are
22 farmers, processors, or resellers exceeds the total combined gross
23 annual sales of vendors who are not farmers, processors, or resellers;

24 (D) The sale of imported items and secondhand items by any vendor
25 is prohibited; and

26 (E) No vendor is a franchisee.

27 (ii) "Farmer" means a natural person who sells, with or without
28 processing, agricultural products that he or she raises on land he or
29 she owns or leases in this state or in another state's county that
30 borders this state.

31 (iii) "Processor" means a natural person who sells processed food
32 that he or she has personally prepared on land he or she owns or leases
33 in this state or in another state's county that borders this state.

34 (iv) "Reseller" means a natural person who buys agricultural
35 products from a farmer and resells the products directly to the
36 consumer.

37 (6) Wine produced in Washington state by a domestic winery licensee
38 may be shipped out-of-state for the purpose of making it into sparkling

1 wine and then returned to such licensee for resale. Such wine shall be
2 deemed wine manufactured in the state of Washington for the purposes of
3 RCW 66.24.206, and shall not require a special license.

4 **Sec. 3.** RCW 66.28.010 and 2008 c 94 s 5 are each amended to read
5 as follows:

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

1 operation of the retail licensee. Except as provided in subsection (3)
2 of this section, no manufacturer, importer, distributor, or authorized
3 representative shall advance moneys or moneys' worth to a licensed
4 person under an arrangement, nor shall such licensed person receive,
5 under an arrangement, an advance of moneys or moneys' worth. "Person"
6 as used in this section only shall not include those state or federally
7 chartered banks, state or federally chartered savings and loan
8 associations, state or federally chartered mutual savings banks, or
9 institutional investors which are not controlled directly or indirectly
10 by a manufacturer, importer, distributor, or authorized representative
11 as long as the bank, savings and loan association, or institutional
12 investor does not influence or attempt to influence the purchasing
13 practices of the retailer with respect to alcoholic beverages. Except
14 as otherwise provided in this section, no manufacturer, importer,
15 distributor, or authorized representative shall be eligible to receive
16 or hold a retail license under this title, nor shall such manufacturer,
17 importer, distributor, or authorized representative sell at retail any
18 liquor as herein defined. A corporation granted an exemption under
19 this subsection may use debt instruments issued in connection with
20 financing construction or operations of its facilities.

21 (b) Nothing in this section shall prohibit a licensed domestic
22 brewery or microbrewery from being licensed as a retailer pursuant to
23 chapter 66.24 RCW for the purpose of selling beer or wine at retail on
24 the brewery premises and at one additional off-site retail only
25 location and nothing in this section shall prohibit a domestic winery
26 from being licensed as a retailer pursuant to chapter 66.24 RCW for the
27 purpose of selling beer or wine at retail on the winery premises. Such
28 beer and wine so sold at retail shall be subject to the taxes imposed
29 by RCW 66.24.290 and 66.24.210 and to reporting and bonding
30 requirements as prescribed by regulations adopted by the board pursuant
31 to chapter 34.05 RCW, and beer and wine that is not produced by the
32 brewery or winery shall be purchased from a licensed beer or wine
33 distributor. Nothing in this section shall prohibit a microbrewery
34 holding a beer and/or wine restaurant license under RCW 66.24.320 from
35 holding the same privileges and endorsements attached to the beer
36 and/or wine restaurant license. Nothing in this section shall prohibit
37 a licensed craft distillery from selling spirits of its own production
38 under RCW 66.24.145.

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. Nothing in this section shall
12 prohibit a microbrewery holding a spirits, beer, and wine restaurant
13 license under RCW 66.24.420 from holding the same privileges and
14 endorsements attached to the spirits, beer, and wine restaurant
15 license. This section does not prohibit a brewery or microbrewery
16 holding a spirits, beer, and wine restaurant license or a beer and/or
17 wine license under chapter 66.24 RCW operated on the premises of the
18 brewery or microbrewery from holding a second retail only license at a
19 location separate from the premises of the brewery or microbrewery.

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

23 (e) Nothing in this section prohibits an organization qualifying
24 under RCW 66.24.375 formed for the purpose of constructing and
25 operating a facility to promote Washington wines from holding retail
26 licenses on the facility property or leasing all or any portion of such
27 facility property to a retail licensee on the facility property if the
28 members of the board of directors or officers of the board for the
29 organization include officers, directors, owners, or employees of a
30 licensed domestic winery. Financing for the construction of the
31 facility must include both public and private money.

32 (f) Nothing in this section prohibits a bona fide charitable
33 nonprofit society or association registered under section 501(c)(3) of
34 the internal revenue code, or a local wine industry association
35 registered under section 501(c)(6) of the internal revenue code as it
36 exists on July 22, 2007, and having an officer, director, owner, or
37 employee of a licensed domestic winery or a wine certificate of

1 approval holder on its board of directors from holding a special
2 occasion license under RCW 66.24.380.

3 (g)(i) Nothing in this section prohibits domestic wineries and
4 retailers licensed under chapter 66.24 RCW from producing, jointly or
5 together with regional, state, or local wine industry associations,
6 brochures and materials promoting tourism in Washington state which
7 contain information regarding retail licensees, domestic wineries, and
8 their products.

9 (ii) Nothing in this section prohibits: (A) Domestic wineries,
10 domestic breweries, microbreweries, and certificate of approval holders
11 licensed under this chapter from listing on their internet web sites
12 information related to retailers who sell or promote their products,
13 including direct links to the retailers' internet web sites; and (B)
14 retailers licensed under this chapter from listing on their internet
15 web sites information related to domestic wineries, domestic breweries,
16 microbreweries, and certificate of approval holders whose products
17 those retailers sell or promote, including direct links to the domestic
18 wineries', domestic breweries', microbreweries', and certificate of
19 approval holders' web sites.

20 (h) Nothing in this section prohibits the performance of personal
21 services offered from time to time by a domestic winery or certificate
22 of approval holder licensed under RCW 66.24.206(1)(a) for or on behalf
23 of a licensed retail business when the personal services are (i)
24 conducted at a licensed premises, and (ii) intended to inform, educate,
25 or enhance customers' knowledge or experience of the manufacturer's
26 products. The performance of personal services may include
27 participation and pouring at the premises of a retailer holding a
28 spirits, beer, and wine restaurant license, a wine and/or beer
29 restaurant license, ~~((or))~~ a specialty wine shop license, a special
30 occasion license, or a private club license; bottle signings; and other
31 similar informational or educational activities. A domestic winery or
32 certificate of approval holder is not obligated to perform any such
33 personal services, and a retail licensee may not require a domestic
34 winery or certificate of approval holder to conduct any personal
35 service as a condition for selling any alcohol to the retail licensee.
36 Except as provided in RCW 66.28.150, the cost of sampling may not be
37 borne, directly or indirectly, by any liquor manufacturer, importer, or
38 distributor. Nothing in this section prohibits domestic wineries and

1 retail licensees from identifying the wineries on private labels
2 authorized under RCW 66.24.400, 66.24.425, ~~((and))~~ 66.24.450,
3 66.24.360, and 66.24.371.

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

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

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

27 (3)(a) This section does not prohibit a manufacturer, importer, or
28 distributor from providing services to a special occasion licensee for:
29 (i) Installation of draft beer dispensing equipment or advertising,
30 (ii) advertising, pouring, or dispensing of beer or wine at a beer or
31 wine tasting exhibition or judging event, or (iii) a special occasion
32 licensee from receiving any such services as may be provided by a
33 manufacturer, importer, or distributor. Nothing in this section shall
34 prohibit a retail licensee, or any person financially interested,
35 directly or indirectly, in such a retail licensee from having a
36 financial interest, direct or indirect, in a business which provides,
37 for a compensation commensurate in value to the services provided,

1 bottling, canning or other services to a manufacturer, so long as the
2 retail licensee or person interested therein has no direct financial
3 interest in or control of said manufacturer.

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

11 (c) The board shall adopt such rules as are deemed necessary to
12 carry out the purposes and provisions of subsections (1)(g) and (h) and
13 (3)(a) of this section in accordance with the administrative procedure
14 act, chapter 34.05 RCW.

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

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

20 **Sec. 4.** RCW 66.24.371 and 2003 c 167 s 9 are each amended to read
21 as follows:

22 (1) There shall be a beer and/or wine retailer's license to be
23 designated as a beer and/or wine specialty shop license to sell beer,
24 strong beer, and/or wine at retail in bottles, cans, and original
25 containers, not to be consumed upon the premises where sold, at any
26 store other than the state liquor stores. Licensees obtaining a
27 written endorsement from the board may also sell malt liquor in kegs or
28 other containers capable of holding (~~less than five and one-half~~)
29 four gallons or more of liquid. The annual fee for the beer and/or
30 wine specialty shop license is one hundred dollars for each store. The
31 sale of any container holding four gallons or more must comply with RCW
32 66.28.200 and 66.28.220.

33 (2) Licensees under this section may provide, free or for a charge,
34 single-serving samples of two ounces or less to customers for the
35 purpose of sales promotion. Sampling activities of licensees under
36 this section are subject to RCW 66.28.010 and 66.28.040 and the cost of

1 sampling under this section may not be borne, directly or indirectly,
2 by any manufacturer, importer, or distributor of liquor.

3 (3) The board shall issue a restricted beer and/or wine specialty
4 shop license, authorizing the licensee to sell beer and only table
5 wine, if the board finds upon issuance or renewal of the license that
6 the sale of strong beer or fortified wine would be against the public
7 interest. In determining the public interest, the board shall consider
8 at least the following factors:

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

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

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

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

23 (4) Licensees holding a beer and/or wine specialty shop license
24 must maintain a minimum three thousand dollar wholesale inventory of
25 beer, strong beer, and/or wine.

26 **Sec. 5.** RCW 66.28.200 and 2007 c 53 s 2 are each amended to read
27 as follows:

28 (1) Licensees holding a beer and/or wine restaurant or a tavern
29 license in combination with an off-premises beer and wine retailer's
30 license (~~(or)~~), licensees holding a spirits, beer, and wine restaurant
31 license with an endorsement issued under RCW 66.24.400(4), and
32 licensees holding a beer and/or wine specialty shop license with an
33 endorsement issued under RCW 66.24.371(1) may sell malt liquor in kegs
34 or other containers capable of holding four gallons or more of liquid.
35 Under a special endorsement from the board, a grocery store licensee
36 may sell malt liquor in containers no larger than five and one-half

1 gallons. The sale of any container holding four gallons or more must
2 comply with the provisions of this section and RCW 66.28.210 through
3 66.28.240.

4 (2) Any person who sells or offers for sale the contents of kegs or
5 other containers containing four gallons or more of malt liquor, or
6 leases kegs or other containers that will hold four gallons of malt
7 liquor, to consumers who are not licensed under chapter 66.24 RCW shall
8 do the following for any transaction involving the container:

9 (a) Require the purchaser of the malt liquor to sign a declaration
10 and receipt for the keg or other container or beverage in substantially
11 the form provided in RCW 66.28.220;

12 (b) Require the purchaser to provide one piece of identification
13 pursuant to RCW 66.16.040;

14 (c) Require the purchaser to sign a sworn statement, under penalty
15 of perjury, that:

16 (i) The purchaser is of legal age to purchase, possess, or use malt
17 liquor;

18 (ii) The purchaser will not allow any person under the age of
19 twenty-one years to consume the beverage except as provided by RCW
20 66.44.270;

21 (iii) The purchaser will not remove, obliterate, or allow to be
22 removed or obliterated, the identification required under RCW 66.28.220
23 to be affixed to the container;

24 (d) Require the purchaser to state the particular address where the
25 malt liquor will be consumed, or the particular address where the keg
26 or other container will be physically located; and

27 (e) Require the purchaser to maintain a copy of the declaration and
28 receipt next to or adjacent to the keg or other container, in no event
29 a distance greater than five feet, and visible without a physical
30 barrier from the keg, during the time that the keg or other container
31 is in the purchaser's possession or control.

32 (3) A violation of this section is a gross misdemeanor.

33 **Sec. 6.** RCW 66.28.220 and 2007 c 53 s 3 are each amended to read
34 as follows:

35 (1) The board shall adopt rules requiring retail licensees to affix
36 appropriate identification on all containers of four gallons or more of

1 malt liquor for the purpose of tracing the purchasers of such
2 containers. The rules may provide for identification to be done on a
3 statewide basis or on the basis of smaller geographical areas.

4 (2) The board shall develop and make available forms for the
5 declaration and receipt required by RCW 66.28.200. The board may
6 charge spirits, beer, and wine restaurant licensees with an endorsement
7 issued under RCW 66.24.400(4), beer and/or wine retailer's licensees
8 designated as beer and/or wine specialty shop licensees with an
9 endorsement issued under RCW 66.24.371(1), and grocery store licensees
10 for the costs of providing the forms and that money collected for the
11 forms shall be deposited into the liquor revolving fund for use by the
12 board, without further appropriation, to continue to administer the
13 cost of the keg registration program.

14 (3) It is unlawful for any person to sell or offer for sale kegs or
15 other containers containing four gallons or more of malt liquor to
16 consumers who are not licensed under chapter 66.24 RCW if the kegs or
17 containers are not identified in compliance with rules adopted by the
18 board.

19 (4) A violation of this section is a gross misdemeanor.

20 **Sec. 7.** RCW 66.28.040 and 2008 c 94 s 6 and 2008 c 41 s 12 are
21 each reenacted and amended to read as follows:

22 Except as permitted by the board under RCW 66.20.010, no domestic
23 brewery, microbrewery, distributor, distiller, domestic winery,
24 importer, rectifier, certificate of approval holder, or other
25 manufacturer of liquor shall, within the state of Washington, give to
26 any person any liquor; but nothing in this section nor in RCW 66.28.010
27 shall prevent a domestic brewery, microbrewery, distributor, domestic
28 winery, distiller, certificate of approval holder, or importer from
29 furnishing samples of beer, wine, or spirituous liquor to authorized
30 licensees for the purpose of negotiating a sale, in accordance with
31 regulations adopted by the liquor control board, provided that the
32 samples are subject to taxes imposed by RCW 66.24.290 and 66.24.210,
33 and in the case of spirituous liquor, any product used for samples must
34 be purchased at retail from the board; nothing in this section shall
35 prevent the furnishing of samples of liquor to the board for the
36 purpose of negotiating the sale of liquor to the state liquor control
37 board; nothing in this section shall prevent a domestic brewery,

1 microbrewery, domestic winery, distillery, certificate of approval
2 holder, or distributor from furnishing beer, wine, or spirituous liquor
3 for instructional purposes under RCW 66.28.150; nothing in this section
4 shall prevent a domestic winery, certificate of approval holder, or
5 distributor from furnishing wine without charge, subject to the taxes
6 imposed by RCW 66.24.210, to a not-for-profit group organized and
7 operated solely for the purpose of enology or the study of viticulture
8 which has been in existence for at least six months and that uses wine
9 so furnished solely for such educational purposes or a domestic winery,
10 or an out-of-state certificate of approval holder, from furnishing wine
11 without charge or a domestic brewery, or an out-of-state certificate of
12 approval holder, from furnishing beer without charge, subject to the
13 taxes imposed by RCW 66.24.210 or 66.24.290, or a domestic distillery
14 from furnishing spirits without a charge, to a nonprofit charitable
15 corporation or association exempt from taxation under section 501(c)(3)
16 or (6) of the internal revenue code of 1986 (26 U.S.C. Sec. 501(c)(3)
17 or (6)) for use consistent with the purpose or purposes entitling it to
18 such exemption; nothing in this section shall prevent a domestic
19 brewery or microbrewery from serving beer without charge, on the
20 brewery premises; nothing in this section shall prevent donations of
21 wine for the purposes of RCW 66.12.180; nothing in this section shall
22 prevent a domestic winery from serving wine without charge, on the
23 winery premises; and nothing in this section shall prevent a craft
24 distillery from serving spirits without charge, on the distillery
25 premises subject to RCW 66.24.145.

26 **Sec. 8.** RCW 66.28.180 and 2006 c 302 s 10 are each amended to read
27 as follows:

28 It is unlawful for a person, firm, or corporation holding a
29 certificate of approval issued under RCW 66.24.270 or 66.24.206, a beer
30 distributor's license, a domestic brewery license, a microbrewery
31 license, a beer importer's license, a beer distributor's license, a
32 domestic winery license, a wine importer's license, or a wine
33 distributor's license within the state of Washington to modify any
34 prices without prior notification to and approval of the board.

35 (1) Intent. This section is enacted, pursuant to the authority of
36 this state under the twenty-first amendment to the United States
37 Constitution, to promote the public's interest in fostering the orderly

1 and responsible distribution of malt beverages and wine towards
2 effective control of consumption; to promote the fair and efficient
3 three-tier system of distribution of such beverages; and to confirm
4 existing board rules as the clear expression of state policy to
5 regulate the manner of selling and pricing of wine and malt beverages
6 by licensed suppliers and distributors.

7 (2) Beer and wine distributor price posting.

8 (a) Every beer or wine distributor shall file with the board at its
9 office in Olympia a price posting showing the wholesale prices at which
10 any and all brands of beer and wine sold by such beer and/or wine
11 distributor shall be sold to retailers within the state.

12 (b) Each price posting shall be made on a form prepared and
13 furnished by the board, or a reasonable facsimile thereof, and shall
14 set forth:

15 (i) All brands, types, packages, and containers of beer offered for
16 sale by such beer and/or wine distributor;

17 (ii) The wholesale prices thereof to retail licensees, including
18 allowances, if any, for returned empty containers.

19 (c) No beer and/or wine distributor may sell or offer to sell any
20 package or container of beer or wine to any retail licensee at a price
21 differing from the price for such package or container as shown in the
22 price posting filed by the beer and/or wine distributor and then in
23 effect, according to rules adopted by the board.

24 (d) Quantity discounts are prohibited. No price may be posted that
25 is below acquisition cost plus ten percent of acquisition cost.
26 However, the board is empowered to review periodically, as it may deem
27 appropriate, the amount of the percentage of acquisition cost as a
28 minimum mark-up over cost and to modify such percentage by rule of the
29 board, except such percentage shall be not less than ten percent.

30 (e) Distributor prices on a "close-out" item shall be accepted by
31 the board if the item to be discontinued has been listed on the state
32 market for a period of at least six months, and upon the further
33 condition that the distributor who posts such a close-out price shall
34 not restock the item for a period of one year following the first
35 effective date of such close-out price.

36 (f) The board may reject any price posting that it deems to be in
37 violation of this section or any rule, or portion thereof, or that
38 would tend to disrupt the orderly sale and distribution of beer and

1 wine. Whenever the board rejects any posting, the licensee submitting
2 the posting may be heard by the board and shall have the burden of
3 showing that the posting is not in violation of this section or a rule
4 or does not tend to disrupt the orderly sale and distribution of beer
5 and wine. If the posting is accepted, it shall become effective at the
6 time fixed by the board. If the posting is rejected, the last
7 effective posting shall remain in effect until such time as an amended
8 posting is filed and approved, in accordance with the provisions of
9 this section.

10 (g) Prior to the effective date of the posted prices, all price
11 postings filed as required by this section constitute investigative
12 information and shall not be subject to disclosure, pursuant to RCW
13 42.56.240(1).

14 (h) Any beer and/or wine distributor or employee authorized by the
15 distributor-employer may sell beer and/or wine at the distributor's
16 posted prices to any annual or special occasion retail licensee upon
17 presentation to the distributor or employee at the time of purchase of
18 a special permit issued by the board to such licensee.

19 (i) Every annual or special occasion retail licensee, upon
20 purchasing any beer and/or wine from a distributor, shall immediately
21 cause such beer or wine to be delivered to the licensed premises, and
22 the licensee shall not thereafter permit such beer to be disposed of in
23 any manner except as authorized by the license.

24 (ii) Beer and wine sold as provided in this section shall be
25 delivered by the distributor or an authorized employee either to the
26 retailer's licensed premises or directly to the retailer at the
27 distributor's licensed premises. When a domestic winery, brewery,
28 microbrewery, or certificate of approval holder with a direct shipping
29 endorsement is acting as a distributor of its own production, a
30 licensed retailer may contract with a common carrier to obtain the
31 product directly from the domestic winery, brewery, microbrewery, or
32 certificate of approval holder with a direct shipping endorsement. A
33 distributor's prices to retail licensees shall be the same at both such
34 places of delivery.

35 (3) Beer and wine suppliers' price filings, contracts, and
36 memoranda.

37 (a) Every domestic brewery, microbrewery, and domestic winery
38 offering beer and/or wine for sale within the state shall file with the

1 board at its office in Olympia a copy of every written contract and a
2 memorandum of every oral agreement which such brewery or winery may
3 have with any beer or wine distributor, which contracts or memoranda
4 shall contain a schedule of prices charged to distributors for all
5 items and all terms of sale, including all regular and special
6 discounts; all advertising, sales and trade allowances, and incentive
7 programs; and all commissions, bonuses or gifts, and any and all other
8 discounts or allowances. Whenever changed or modified, such revised
9 contracts or memoranda shall forthwith be filed with the board as
10 provided for by rule. The provisions of this section also apply to
11 certificate of approval holders, beer and/or wine importers, and beer
12 and/or wine distributors who sell to other beer and/or wine
13 distributors. Wine may be transferred from one licensed location to
14 another licensed location so long as both locations are under common
15 ownership. A licensed site may transfer up to a total of twenty cases
16 of wine per calendar year.

17 Each price schedule shall be made on a form prepared and furnished
18 by the board, or a reasonable facsimile thereof, and shall set forth
19 all brands, types, packages, and containers of beer or wine offered for
20 sale by such licensed brewery or winery; all additional information
21 required may be filed as a supplement to the price schedule forms.

22 (b) Prices filed by a domestic brewery, microbrewery, domestic
23 winery, or certificate of approval holder shall be uniform prices to
24 all distributors or retailers on a statewide basis less bona fide
25 allowances for freight differentials. Quantity discounts are
26 prohibited. No price shall be filed that is below
27 acquisition/production cost plus ten percent of that cost, except that
28 acquisition cost plus ten percent of acquisition cost does not apply to
29 sales of beer or wine between a beer or wine importer who sells beer or
30 wine to another beer or wine importer or to a beer or wine distributor,
31 or to a beer or wine distributor who sells beer or wine to another beer
32 or wine distributor. However, the board is empowered to review
33 periodically, as it may deem appropriate, the amount of the percentage
34 of acquisition/production cost as a minimum mark-up over cost and to
35 modify such percentage by rule of the board, except such percentage
36 shall be not less than ten percent.

37 (c) No domestic brewery, microbrewery, domestic winery, certificate
38 of approval holder, beer or wine importer, or beer or wine distributor

1 may sell or offer to sell any beer or wine to any persons whatsoever in
2 this state until copies of such written contracts or memoranda of such
3 oral agreements are on file with the board.

4 (d) No domestic brewery, microbrewery, domestic winery, or
5 certificate of approval holder may sell or offer to sell any package or
6 container of beer or wine to any distributor at a price differing from
7 the price for such package or container as shown in the schedule of
8 prices filed by the domestic brewery, microbrewery, domestic winery, or
9 certificate of approval holder and then in effect, according to rules
10 adopted by the board.

11 (e) The board may reject any supplier's price filing, contract, or
12 memorandum of oral agreement, or portion thereof that it deems to be in
13 violation of this section or any rule or that would tend to disrupt the
14 orderly sale and distribution of beer or wine. Whenever the board
15 rejects any such price filing, contract, or memorandum, the licensee
16 submitting the price filing, contract, or memorandum may be heard by
17 the board and shall have the burden of showing that the price filing,
18 contract, or memorandum is not in violation of this section or a rule
19 or does not tend to disrupt the orderly sale and distribution of beer
20 or wine. If the price filing, contract, or memorandum is accepted, it
21 shall become effective at a time fixed by the board. If the price
22 filing, contract, or memorandum, or portion thereof, is rejected, the
23 last effective price filing, contract, or memorandum shall remain in
24 effect until such time as an amended price filing, contract, or
25 memorandum is filed and approved, in accordance with the provisions of
26 this section.

27 (f) Prior to the effective date of the posted prices, all prices,
28 contracts, and memoranda filed as required by this section constitute
29 investigative information and shall not be subject to disclosure,
30 pursuant to RCW 42.56.240(1).

31 **Sec. 9.** RCW 15.89.070 and 2007 c 211 s 1 are each amended to read
32 as follows:

33 The commission shall:

34 (1) Elect a chair and officers. The officers must include a
35 treasurer who is responsible for all receipts and disbursements by the
36 commission and the faithful discharge of whose duties shall be
37 guaranteed by a bond at the sole expense of the commission. The

1 commission must adopt rules for its own governance that provide for the
2 holding of an annual meeting for the election of officers and the
3 transaction of other business and for other meetings the commission may
4 direct;

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

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

10 (4) Retain, as necessary, the services of private legal counsel to
11 conduct legal actions on behalf of the commission. The retention of a
12 private attorney is subject to review by the office of the attorney
13 general;

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

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

31 (7) Promote Washington beer by conducting unique beer tastings
32 without charge;

33 (8) Beginning July 1, 2007, fund the Washington beer commission
34 through sponsorship of up to twelve beer festivals annually at which
35 beer may be sold to festival participants. For this purpose, the
36 commission would qualify for issue of a special occasion license as an
37 exception to WAC 314-05-020 but must comply with laws under Title 66

1 RCW and rules adopted by the liquor control board under which such
2 events may be conducted;

3 (9) Participate in international, federal, state, and local
4 hearings, meetings, and other proceedings relating to the production,
5 regulation, distribution, sale, or use of beer including activities
6 authorized under RCW 42.17.190, including the reporting of those
7 activities to the public disclosure commission;

8 (10) Acquire and transfer personal and real property, establish
9 offices, incur expenses, and enter into contracts, including contracts
10 for the creation and printing of promotional literature. The contracts
11 are not subject to chapter 43.78 RCW, and are cancelable by the
12 commission unless performed under conditions of employment that
13 substantially conform to the laws of this state and the rules of the
14 department of labor and industries. The commission may create debt and
15 other liabilities that are reasonable for proper discharge of its
16 duties under this chapter;

17 (11) Maintain accounts with one or more qualified public
18 depositories as the commission may direct, for the deposit of money,
19 and expend money for purposes authorized by this chapter by drafts made
20 by the commission upon such institutions or by other means;

21 (12) Cause to be kept and annually closed, in accordance with
22 generally accepted accounting principles, accurate records of all
23 receipts, disbursements, and other financial transactions, available
24 for audit by the state auditor;

25 (13) Create and maintain a list of producers and disseminate
26 information among and solicit the opinions of producers with respect to
27 the discharge of the duties of the commission, directly or by
28 arrangement with trade associations or other instrumentalities;

29 (14) Employ, designate as an agent, act in concert with, and enter
30 into contracts with any person, council, commission, or other entity to
31 promote the general welfare of the beer industry and particularly to
32 assist in the sale and distribution of Washington beer in domestic and
33 foreign commerce. The commission shall expend money necessary or
34 advisable for this purpose and to pay its proportionate share of the
35 cost of any program providing direct or indirect assistance to the sale
36 and distribution of Washington beer in domestic or foreign commerce,
37 employing and paying for vendors of professional services of all kinds;

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

4 (16) Serve as liaison with the liquor control board on behalf of
5 the commission and not for any individual producer;

6 (17) (~~Until July 1, 2009,~~) Receive such gifts, grants, and
7 endowments from public or private sources as may be made from time to
8 time, in trust or otherwise, for the use and benefit of the purposes of
9 the commission and expend the same or any income therefrom according to
10 the terms of the gifts, grants, or endowments.

11 NEW SECTION. Sec. 10. A new section is added to chapter 66.28 RCW
12 to read as follows:

13 Nothing in this chapter prohibits the use of checks, credit or
14 debit cards, prepaid accounts, electronic funds transfers, and other
15 similar methods as approved by the board, as cash payments for purposes
16 of this title. Electronic fund transfers must be: (1) Voluntary; (2)
17 conducted pursuant to a prior written agreement of the parties that
18 includes a provision that the purchase be initiated by an irrevocable
19 invoice or sale order before the time of delivery; (3) initiated by the
20 retailer, manufacturer, importer, or distributor no later than the
21 first business day following delivery; and (4) completed as promptly as
22 is reasonably practical, and in no event, later than five business days
23 following delivery.

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