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SENATE BILL 6744

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State of Washington

61st Legislature

2010 Regular Session

By Senator King

Read first time 01/25/10. Referred to Committee on Labor, Commerce & Consumer Protection.

1 AN ACT Relating to prohibiting the liquor control board from  
2 increasing the markup of any liquor product; reenacting and amending  
3 RCW 66.04.010; adding a new section to chapter 66.08 RCW; and declaring  
4 an emergency.

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

6 **Sec. 1.** RCW 66.04.010 and 2009 c 373 s 1 and 2009 c 271 s 2 are  
7 each reenacted and amended to read as follows:

8 In this title, unless the context otherwise requires:

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

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

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

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

5 (c) Acquires ownership of beer or wine for transportation into and  
6 resale in the state of Washington; and which beer or wine is produced  
7 by a brewery or winery in the United States outside of the state of  
8 Washington; and

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

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

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

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

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

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

35 (8) "Club" means an organization of persons, incorporated or  
36 unincorporated, operated solely for fraternal, benevolent, educational,  
37 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 (11) "Contract liquor store" means a business that sells liquor on  
8 behalf of the board through a contract with a contract liquor store  
9 manager.

10 (12) "Craft distillery" means a distillery that pays the reduced  
11 licensing fee under RCW 66.24.140.

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

15 (14) "Distiller" means a person engaged in the business of  
16 distilling spirits.

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

19 (16) "Domestic winery" means a place where wines are manufactured  
20 or produced within the state of Washington.

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

25 (18) "Druggist" means any person who holds a valid certificate and  
26 is a registered pharmacist and is duly and regularly engaged in  
27 carrying on the business of pharmaceutical chemistry pursuant to  
28 chapter 18.64 RCW.

29 (19) "Employee" means any person employed by the board.

30 (20) "Flavored malt beverage" means:

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

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

1 (21) "Fund" means 'liquor revolving fund.'

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

10 (23) "Importer" means a person who buys distilled spirits from a  
11 distillery outside the state of Washington and imports such spirituous  
12 liquor into the state for sale to the board or for export.

13 (24) "Imprisonment" means confinement in the county jail.

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

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

34 (27) "Manufacturer" means a person engaged in the preparation of  
35 liquor for sale, in any form whatsoever.

36 (28) "Markup" means the amount added by the board to the consumer's  
37 cost of a liquor product. "Markup" does not include the distillery

1 price, shipping costs, state or federal taxes, nor any other direct  
2 cost incurred by the board in obtaining liquor to provide for sale.

3 (29) "Nightclub" means an establishment that provides entertainment  
4 and has as its primary source of revenue (a) the sale of alcohol for  
5 consumption on the premises, (b) cover charges, or (c) both, and has an  
6 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 66.08 RCW  
25 to read as follows:

26 Notwithstanding any other provision in this title, the board may  
27 not increase the markup on any product.

28 NEW SECTION. **Sec. 3.** This act is necessary for the immediate  
29 preservation of the public peace, health, or safety, or support of the  
30 state government and its existing public institutions, and takes effect  
31 immediately.

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