

CERTIFICATION OF ENROLLMENT
SUBSTITUTE SENATE BILL 6329

61st Legislature
2010 Regular Session

Passed by the Senate February 13, 2010
YEAS 29 NAYS 17

President of the Senate

Passed by the House March 4, 2010
YEAS 77 NAYS 21

Speaker of the House of Representatives

Approved

Governor of the State of Washington

CERTIFICATE

I, Thomas Hoemann, Secretary of the Senate of the State of Washington, do hereby certify that the attached is **SUBSTITUTE SENATE BILL 6329** as passed by the Senate and the House of Representatives on the dates hereon set forth.

Secretary

FILED

**Secretary of State
State of Washington**

SUBSTITUTE SENATE BILL 6329

Passed Legislature - 2010 Regular Session

State of Washington 61st Legislature 2010 Regular Session

By Senate Labor, Commerce & Consumer Protection (originally sponsored by Senators Kohl-Welles, King, Franklin, Hewitt, Keiser, Kline, and Delvin)

READ FIRST TIME 01/19/10.

1 AN ACT Relating to creating a beer and wine tasting endorsement to
2 the grocery store liquor license; amending RCW 66.28.310; reenacting
3 and amending RCW 66.20.310 and 66.20.300; and adding a new section to
4 chapter 66.24 RCW.

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

6 NEW SECTION. **Sec. 1.** A new section is added to chapter 66.24 RCW
7 to read as follows:

8 (1) A grocery store licensed under RCW 66.24.360 may apply for an
9 endorsement to offer beer and wine tasting under this section.

10 (2) To be issued an endorsement, a licensee must meet the following
11 criteria:

12 (a) The licensee has retail sales of grocery products for off-
13 premises consumption that are more than fifty percent of the licensee's
14 gross sales or the licensee is a membership organization that requires
15 members to be at least eighteen years of age;

16 (b) The licensee operates a fully enclosed retail area encompassing
17 at least nine thousand square feet, except that the board may issue an
18 endorsement to a licensee with a retail area encompassing less than
19 nine thousand square feet if the board determines that no licensee in

1 the community the licensee serves meets the square footage requirement
2 and the licensee meets operational requirements established by the
3 board by rule; and

4 (c) The licensee has not had more than one public safety violation
5 within the past two years.

6 (3) A tasting must be conducted under the following conditions:

7 (a) Each sample must be two ounces or less, up to a total of four
8 ounces, per customer during any one visit to the premises;

9 (b) No more than one sample of the same product offering of beer or
10 wine may be provided to a customer during any one visit to the
11 premises;

12 (c) The licensee must have food available for the tasting
13 participants;

14 (d) Customers must remain in the service area while consuming
15 samples; and

16 (e) The service area and facilities must be located within the
17 licensee's fully enclosed retail area and must be of a size and design
18 such that the licensee can observe and control persons in the area to
19 ensure that persons under twenty-one years of age and apparently
20 intoxicated persons cannot possess or consume alcohol.

21 (4) Employees of licensees whose duties include serving during
22 tasting activities under this section must hold a class 12 alcohol
23 server permit.

24 (5) Tasting activities under this section are subject to RCW
25 66.28.305 and 66.28.040 and the cost of sampling may not be borne,
26 directly or indirectly, by any liquor manufacturer, importer, or
27 distributor.

28 (6) A licensee may advertise a tasting event only within the store,
29 on a store web site, in store newsletters and flyers, and via e-mail
30 and mail to customers who have requested notice of events. Advertising
31 under this subsection may not be targeted to or appeal principally to
32 youth.

33 (7)(a) If a licensee is found to have committed a public safety
34 violation in conjunction with tasting activities, the board may suspend
35 the licensee's tasting endorsement and not reissue the endorsement for
36 up to two years from the date of the violation. If mitigating
37 circumstances exist, the board may offer a monetary penalty in lieu of
38 suspension during a settlement conference.

1 (b) The board may revoke an endorsement granted to a licensee that
2 is located within the boundaries of an alcohol impact area recognized
3 by resolution of the board if the board finds that the tasting
4 activities by the licensee are having an adverse effect on the
5 reduction of chronic public inebriation in the area.

6 (c) RCW 66.08.150 applies to the suspension or revocation of an
7 endorsement.

8 (8) The board may establish additional requirements under this
9 section to assure that persons under twenty-one years of age and
10 apparently intoxicated persons cannot possess or consume alcohol.

11 (9) The annual fee for the endorsement is two hundred dollars. The
12 board shall review the fee annually and may increase the fee by rule to
13 a level sufficient to defray the cost of administration and enforcement
14 of the endorsement, except that the board may not increase the fee by
15 more than ten percent annually.

16 (10) The board must adopt rules to implement this section.

17 **Sec. 2.** RCW 66.20.310 and 2009 c 271 s 5 and 2009 c 187 s 4 are
18 each reenacted and amended to read as follows:

19 (1)(a) There shall be an alcohol server permit, known as a class 12
20 permit, for a manager or bartender selling or mixing alcohol, spirits,
21 wines, or beer for consumption at an on-premises licensed facility.

22 (b) There shall be an alcohol server permit, known as a class 13
23 permit, for a person who only serves alcohol, spirits, wines, or beer
24 for consumption at an on-premises licensed facility.

25 (c) As provided by rule by the board, a class 13 permit holder may
26 be allowed to act as a bartender without holding a class 12 permit.

27 (2)(a) Effective January 1, 1997, except as provided in (d) of this
28 subsection, every alcohol server employed, under contract or otherwise,
29 at a retail licensed premise shall be issued a class 12 or class 13
30 permit.

31 (b) Every class 12 and class 13 permit issued shall be issued in
32 the name of the applicant and no other person may use the permit of
33 another permit holder. The holder shall present the permit upon
34 request to inspection by a representative of the board or a peace
35 officer. The class 12 or class 13 permit shall be valid for employment
36 at any retail licensed premises described in (a) of this subsection.

1 (c) Except as provided in (d) of this subsection, no licensee
2 holding a license as authorized by RCW 66.24.320, 66.24.330, 66.24.350,
3 66.24.400, 66.24.425, 66.24.450, 66.24.570, and 66.24.600 may employ or
4 accept the services of any person without the person first having a
5 valid class 12 or class 13 permit.

6 (d) Within sixty days of initial employment, every person whose
7 duties include the compounding, sale, service, or handling of liquor
8 shall have a class 12 or class 13 permit.

9 (e) No person may perform duties that include the sale or service
10 of alcoholic beverages on a retail licensed premises without possessing
11 a valid alcohol server permit.

12 (3) A permit issued by a training entity under this section is
13 valid for employment at any retail licensed premises described in
14 subsection (2)(a) of this section for a period of five years unless
15 suspended by the board.

16 (4) The board may suspend or revoke an existing permit if any of
17 the following occur:

18 (a) The applicant or permittee has been convicted of violating any
19 of the state or local intoxicating liquor laws of this state or has
20 been convicted at any time of a felony; or

21 (b) The permittee has performed or permitted any act that
22 constitutes a violation of this title or of any rule of the board.

23 (5) The suspension or revocation of a permit under this section
24 does not relieve a licensee from responsibility for any act of the
25 employee or agent while employed upon the retail licensed premises.
26 The board may, as appropriate, revoke or suspend either the permit of
27 the employee who committed the violation or the license of the licensee
28 upon whose premises the violation occurred, or both the permit and the
29 license.

30 (6)(a) After January 1, 1997, it is a violation of this title for
31 any retail licensee or agent of a retail licensee as described in
32 subsection (2)(a) of this section to employ in the sale or service of
33 alcoholic beverages, any person who does not have a valid alcohol
34 server permit or whose permit has been revoked, suspended, or denied.

35 (b) It is a violation of this title for a person whose alcohol
36 server permit has been denied, suspended, or revoked to accept
37 employment in the sale or service of alcoholic beverages.

1 (7) Grocery stores licensed under RCW 66.24.360, the primary
2 commercial activity of which is the sale of grocery products and for
3 which the sale and service of beer and wine for on-premises consumption
4 with food is incidental to the primary business, and employees of such
5 establishments, are exempt from RCW 66.20.300 through 66.20.350, except
6 for employees whose duties include serving during tasting activities
7 under section 1 of this act.

8 **Sec. 3.** RCW 66.20.300 and 2008 c 94 s 10 and 2008 c 41 s 1 are
9 each reenacted and amended to read as follows:

10 Unless the context clearly requires otherwise, the definitions in
11 this section apply throughout RCW 66.20.310 through 66.20.350.

12 (1) "Alcohol" has the same meaning as "liquor" in RCW 66.04.010.

13 (2) "Alcohol server" means any person who as part of his or her
14 employment participates in the sale or service of alcoholic beverages
15 for on-premise consumption at a retail licensed premise as a regular
16 requirement of his or her employment, and includes those persons
17 eighteen years of age or older permitted by the liquor laws of this
18 state to serve alcoholic beverages with meals.

19 (3) "Board" means the Washington state liquor control board.

20 (4) "Training entity" means any liquor licensee associations,
21 independent contractors, private persons, and private or public
22 schools, that have been certified by the board.

23 (5) "Retail licensed premises" means any:

24 (a) Premises licensed to sell alcohol by the glass or by the drink,
25 or in original containers primarily for consumption on the premises as
26 authorized by RCW 66.24.320, 66.24.330, 66.24.350, 66.24.400,
27 66.24.425, 66.24.450, and 66.24.570;

28 (b) Distillery licensed pursuant to RCW 66.24.140 that is
29 authorized to serve samples of its own production; (~~and~~)

30 (c) Facility established by a domestic winery for serving and
31 selling wine pursuant to RCW 66.24.170(4); and

32 (d) Grocery store licensed under RCW 66.24.360, but only with
33 respect to employees whose duties include serving during tasting
34 activities under section 1 of this act.

35 **Sec. 4.** RCW 66.28.310 and 2009 c 506 s 7 are each amended to read
36 as follows:

1 (1)(a) Nothing in RCW 66.28.305 prohibits an industry member from
2 providing retailers branded promotional items which are of nominal
3 value, singly or in the aggregate. Such items include but are not
4 limited to: Trays, lighters, blotters, postcards, pencils, coasters,
5 menu cards, meal checks, napkins, clocks, mugs, glasses, bottles or can
6 openers, corkscrews, matches, printed recipes, shirts, hats, visors,
7 and other similar items. Branded promotional items:

8 (i) Must be used exclusively by the retailer or its employees in a
9 manner consistent with its license;

10 (ii) Must bear imprinted advertising matter of the industry member
11 only;

12 (iii) May be provided by industry members only to retailers and
13 their employees and may not be provided by or through retailers or
14 their employees to retail customers; and

15 (iv) May not be targeted to or appeal principally to youth.

16 (b) An industry member is not obligated to provide any such branded
17 promotional items, and a retailer may not require an industry member to
18 provide such branded promotional items as a condition for selling any
19 alcohol to the retailer.

20 (c) Any industry member or retailer or any other person asserting
21 that the provision of branded promotional items as allowed in (a) of
22 this subsection has resulted or is more likely than not to result in
23 undue influence or an adverse impact on public health and safety, or is
24 otherwise inconsistent with the criteria in (a) of this subsection may
25 file a complaint with the board. Upon receipt of a complaint the board
26 may conduct such investigation as it deems appropriate in the
27 circumstances. If the investigation reveals the provision of branded
28 promotional items has resulted in or is more likely than not to result
29 in undue influence or has resulted or is more likely than not to result
30 in an adverse impact on public health and safety or is otherwise
31 inconsistent with (a) of this subsection the board may issue an
32 administrative violation notice to the industry member, to the
33 retailer, or both. The recipient of the administrative violation
34 notice may request a hearing under chapter 34.05 RCW.

35 (2) Nothing in RCW 66.28.305 prohibits an industry member from
36 providing to a special occasion licensee and a special occasion
37 licensee from receiving services for:

1 (a) Installation of draft beer dispensing equipment or advertising;
2 or

3 (b) Advertising, pouring, or dispensing of beer or wine at a beer
4 or wine tasting exhibition or judging event.

5 (3) Nothing in RCW 66.28.305 prohibits industry members from
6 performing, and retailers from accepting the service of building,
7 rotating, and restocking displays and stockroom inventories; rotating
8 and rearranging can and bottle displays of their own products;
9 providing point of sale material and brand signs; pricing case goods of
10 their own brands; and performing such similar business services
11 consistent with board rules, or personal services as described in
12 subsection (5) of this section.

13 (4) Nothing in RCW 66.28.305 prohibits:

14 (a) Industry members from listing on their internet web sites
15 information related to retailers who sell or promote their products,
16 including direct links to the retailers' internet web sites; and

17 (b) Retailers from listing on their internet web sites information
18 related to industry members whose products those retailers sell or
19 promote, including direct links to the industry members' web sites; or

20 (c) Industry members and retailers from producing, jointly or
21 together with regional, state, or local industry associations,
22 brochures and materials promoting tourism in Washington state which
23 contain information regarding retail licensees, industry members, and
24 their products.

25 (5) Nothing in RCW 66.28.305 prohibits the performance of personal
26 services offered from time to time by a domestic winery or certificate
27 of approval holder to retailers when the personal services are (a)
28 conducted at a licensed premises, and (b) intended to inform, educate,
29 or enhance customers' knowledge or experience of the manufacturer's
30 products. The performance of personal services may include
31 participation and pouring, bottle signing events, and other similar
32 informational or educational activities at the premises of a retailer
33 holding a spirits, beer, and wine restaurant license, a wine and/or
34 beer restaurant license, a specialty wine shop license, a special
35 occasion license, a grocery store license with a tasting endorsement,
36 or a private club license. A domestic winery or certificate of
37 approval holder is not obligated to perform any such personal services,
38 and a retail licensee may not require a domestic winery or certificate

1 of approval holder to conduct any personal service as a condition for
2 selling any alcohol to the retail licensee, or as a condition for
3 including any product of the domestic winery or certificate of approval
4 holder in any tasting conducted by the licensee. Except as provided in
5 RCW 66.28.150, the cost of sampling may not be borne, directly or
6 indirectly, by any domestic winery or certificate of approval holder or
7 any distributor. Nothing in this section prohibits wineries,
8 certificate of approval holders, and retail licensees from identifying
9 the producers on private labels authorized under RCW 66.24.400,
10 66.24.425, and 66.24.450.

11 (6) Nothing in RCW 66.28.305 prohibits an industry member from
12 entering into an arrangement with any holder of a sports entertainment
13 facility license or an affiliated business for brand advertising at the
14 licensed facility or promoting events held at the sports entertainment
15 facility as authorized under RCW 66.24.570.

16 (7) Nothing in RCW 66.28.305 prohibits the performance of personal
17 services offered from time to time by a domestic brewery, microbrewery,
18 or beer certificate of approval holder to grocery store licensees with
19 a tasting endorsement when the personal services are (a) conducted at
20 a licensed premises in conjunction with a tasting event, and (b)
21 intended to inform, educate, or enhance customers' knowledge or
22 experience of the manufacturer's products. The performance of personal
23 services may include participation and pouring, bottle signing events,
24 and other similar informational or educational activities. A domestic
25 brewery, microbrewery, or beer certificate of approval holder is not
26 obligated to perform any such personal services, and a grocery store
27 licensee may not require the performance of any personal service as a
28 condition for including any product in any tasting conducted by the
29 licensee.

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