

# SENATE BILL REPORT

## SB 5029

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As Reported by Senate Committee On:  
Labor, Commerce & Consumer Protection, January 20, 2011

**Title:** An act relating to beer and wine tasting at farmers markets.

**Brief Description:** Concerning beer and wine tasting at farmers markets.

**Sponsors:** Senators Kohl-Welles, White, King, Honeyford, Holmquist Newbry, Kline, Conway, Tom, Chase, Hewitt, Harper, Nelson and McAuliffe.

**Brief History:**

**Committee Activity:** Labor, Commerce & Consumer Protection: 1/18/11, 1/20/11 [DPS].

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### SENATE COMMITTEE ON LABOR, COMMERCE & CONSUMER PROTECTION

**Majority Report:** That Substitute Senate Bill No. 5029 be substituted therefor, and the substitute bill do pass.

Signed by Senators Kohl-Welles, Chair; Conway, Vice Chair; Holmquist Newbry, Ranking Minority Member; King, Assistant Ranking Minority Member; Hewitt, Keiser and Kline.

**Staff:** Edith Rice (786-7444)

**Background:** A winery and/or brewery licensed by the Liquor Control Board (Board) may apply to the Board for an endorsement to sell bottled wine or beer of its own production at retail for off premises consumption at a qualifying farmers market. The endorsement does not include the tasting or sampling privilege of a winery or microbrewery.

Similarly, a license issued by the Board to grocery stores and beer and/or wine specialty shops allows the sale of beer and/or wine for off-premises consumption. As permitted by the Board, specialty shops may provide up to 2 ounce samples for purposes of sales promotion.

Current law allows other giving away of liquor by licensees in limited circumstances. A brewery, distributor, winery, distiller, certificate of approval holder, or importer may furnish samples of beer, wine, or spirits to a licensee to negotiate sales. Except for importers, these licensees are also allowed to provide samples of beer, wine, or spirits to licensees and their employees to instruct them on the history, nature, values, and characteristics of the beer, wine, or spirits. A winery, brewery, certificate of approval holder, or distributor may also

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furnish wine and beer to certain nonprofit groups. Finally, a brewery or winery may serve beer or wine without charge on its premises.

An alcohol impact area (AIA) is a geographic area, designated by a local government and recognized by resolution of the Board, that is adversely affected by chronic public inebriation or illegal activity associated with alcohol sales or consumption. The Board has established a process for recognizing alcohol impact areas and placing restrictions on licensees located in an AIA. These may include restrictions on hours of operation, sales of certain products, and availability of container sizes.

In 2003 the Legislature passed a bill allowing licensed microbreweries and small breweries qualifying for a reduced federal excise tax to obtain an endorsement to sell bottled beer at qualified farmers markets. The following year, in the 2004 legislative session, the Legislature passed a bill allowing domestic wineries to apply to the Board for an endorsement to sell wine of their own production for off-premises consumption at a qualifying farmers market.

**Summary of Bill (Recommended Substitute):** The Board is directed to establish a pilot project for beer and wine tasting at farmers markets. The pilot project is for ten farmers markets with at least six days of tasting (but no more than one winery or microbrewery per day) at each location between July 1, 2011, and September 30, 2012.

Farmers markets chosen to participate by the Board must already be authorized to sell bottled wine and bottled beer at retail under statute. A winery or microbrewery offering samples must have an endorsement from the Board to sell wine or beer of its own production at a farmers market by May 1, 2011.

A number of conditions for sampling must be met:

- samples must be two ounces or less, up to a total of four ounces, and no more than one sample of any single brand may be provided to a customer during one visit;
- a winery or microbrewery must have food available or must be adjacent to a vendor offering food;
- a winery or microbrewery may advertise the sampling only in their designated location at the farmers market;
- customers must remain in the designated location while sampling beer or wine;
- employees of both wineries and microbreweries who are involved in sampling activities must complete a Board approved limited alcohol server training program that addresses only those subjects reasonably related to the sampling activities, or a class 12 or class 13 alcohol server permit.

The Board may establish additional requirements by rule to ensure that persons under 21 years of age and apparently intoxicated persons cannot possess or consume alcohol from a sampling.

The Board may prohibit sampling at a farmers market that is within an AIA if the Board finds that tastings at the farmers market are having an adverse effect on the reduction of chronic public inebriation in the area.

The Board must report on the pilot project to the Legislature by December 1, 2012, and the provisions expire on December 1, 2012.

**EFFECT OF CHANGES MADE BY LABOR, COMMERCE & CONSUMER PROTECTION COMMITTEE (Recommended Substitute):** The date by which a winery or microbrewery must have an endorsement to sell wine or beer at a farmers market is changed from January 1, 2011, to May 1, 2011. This will allow time for a winery or microbrewery that doesn't already have such an endorsement to get one.

**Appropriation:** None.

**Fiscal Note:** Available.

**Committee/Commission/Task Force Created:** No.

**Effective Date:** Ninety days after adjournment of session in which bill is passed.

**Staff Summary of Public Testimony on Original Bill:** PRO: Permitting sampling showcases small businesses and allows them to compete on a scale that they wouldn't normally be able to sustain. We support efforts to get Washington wines to the public and support having a separate statute to define farmers markets.

CON: We oppose sampling of alcoholic beverages where children are present, since they are likely to mimic adult behavior.

**Persons Testifying:** PRO: Wade Bennett, Rockridge Farms; Wayne Corey, Des Moines Farmers Market; Jean Leonard, Washington Wine Institute; Ron Main, Washington Beer and Wine Wholesalers Association; TK Bentler, Washington Brewers Guild; Paul Benz, Lutheran Public Policy Office, Washington Sustainable Food and Farms Network.

CON: Jim Cooper, Washington Association for Substance Abuse and Violence Prevention.