
HOUSE BILL 1172

State of Washington

62nd Legislature

2011 Regular Session

By Representatives Kenney, Hasegawa, Maxwell, Finn, Ryu, Reykdal, and Upthegrove

Read first time 01/13/11. Referred to Committee on State Government & Tribal Affairs.

1 AN ACT Relating to beer and wine tasting at farmers markets;
2 amending RCW 66.24.170 and 66.28.040; reenacting and amending RCW
3 66.24.244; creating a new section; and providing an expiration date.

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

5 NEW SECTION. **Sec. 1.** (1) The liquor control board shall establish
6 a pilot project as provided in this section to allow beer and wine
7 tasting at farmers markets.

8 (2) The pilot project shall consist of ten farmers markets with at
9 least six days of tastings to be conducted by a winery or microbrewery
10 at each farmers market between September 1, 2011, and November 1, 2012.
11 The pilot project farmers markets shall be selected by the liquor
12 control board in consultation with statewide organizations of farmers
13 markets. The board shall make an effort to select farmers markets
14 throughout the entire state.

15 (3) Farmers markets chosen to participate in the pilot project must
16 be authorized on January 1, 2011, to allow wineries to sell bottled
17 wine at retail under RCW 66.24.170. A farmers market with a
18 microbrewery providing samples under this section must also be
19 authorized on January 1, 2011, to allow microbreweries to sell bottled

1 beer at retail under RCW 66.24.244. A winery or microbrewery offering
2 samples under this section must have an endorsement on January 1, 2011,
3 from the board to sell wine or beer, as the case may be, of its own
4 production at a farmers market under RCW 66.24.170 or 66.24.244,
5 respectively.

6 (4) Only one winery or microbrewery may offer samples at a farmers
7 market per day.

8 (5) Samples may be offered only under the following conditions:

9 (a) Each sample must be two ounces or less, up to a total of four
10 ounces per customer per day. A winery or microbrewery may provide only
11 one sample of any single brand and type of wine or beer to a customer
12 per day.

13 (b) A winery or microbrewery may advertise that it offers samples
14 only at its designated booth, stall, or other designated location at
15 the farmers market.

16 (c) Customers must remain at the designated booth, stall, or other
17 designated location while sampling beer or wine.

18 (d) Winery and microbrewery licensees and employees who are
19 involved in sampling activities under this section must hold a class 12
20 or class 13 alcohol server permit.

21 (e) A winery or microbrewery must have food available for customers
22 to consume while sampling beer or wine, or must be adjacent to a vendor
23 offering prepared food.

24 (6) The board may establish additional requirements to ensure that
25 persons under twenty-one years of age and apparently intoxicated
26 persons cannot possess or consume alcohol under the authority granted
27 in this section.

28 (7) The board may prohibit sampling at a farmers market that is
29 within the boundaries of an alcohol impact area recognized by
30 resolution of the board if the board finds that the sampling activities
31 at the farmers market are having an adverse effect on the reduction of
32 chronic public inebriation in the area.

33 (8) The board shall report on the pilot project to the appropriate
34 committees of the legislature by December 1, 2012.

35 **Sec. 2.** RCW 66.24.170 and 2009 c 373 s 4 are each amended to read
36 as follows:

37 (1) There shall be a license for domestic wineries; fee to be

1 computed only on the liters manufactured: Less than two hundred fifty
2 thousand liters per year, one hundred dollars per year; and two hundred
3 fifty thousand liters or more per year, four hundred dollars per year.

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

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

22 (4) A domestic winery licensed under this section, at locations
23 separate from any of its production or manufacturing sites, may serve
24 samples of its own products, with or without charge, and sell wine of
25 its own production at retail, provided that: (a) Each additional
26 location has been approved by the board under RCW 66.24.010; (b) the
27 total number of additional locations does not exceed two; (c) a winery
28 may not act as a distributor at any such additional location; and (d)
29 any person selling or serving wine at an additional location for on-
30 premise consumption must obtain a class 12 or class 13 alcohol server
31 permit. Each additional location is deemed to be part of the winery
32 license for the purpose of this title. At additional locations
33 operated by multiple wineries under this section, if the board cannot
34 connect a violation of RCW 66.44.200 or 66.44.270 to a single licensee,
35 the board may hold all licensees operating the additional location
36 jointly liable. Nothing in this subsection shall be construed to
37 prevent a domestic winery from holding multiple domestic winery
38 licenses.

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

7 (b) For each month during which a domestic winery will sell wine at
8 a qualifying farmers market, the winery must provide the board or its
9 designee a list of the dates, times, and locations at which bottled
10 wine may be offered for sale. This list must be received by the board
11 before the winery may offer wine for sale at a qualifying farmers
12 market.

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

16 (d) Each approved location in a qualifying farmers market is deemed
17 to be part of the winery license for the purpose of this title. Except
18 as provided in section 1 of this act, the approved locations under an
19 endorsement granted under this subsection do not include the tasting or
20 sampling privilege of a winery. The winery may not store wine at a
21 farmers market beyond the hours that the winery offers bottled wine for
22 sale. The winery may not act as a distributor from a farmers market
23 location.

24 (e) Before a winery may sell bottled wine at a qualifying farmers
25 market, the farmers market must apply to the board for authorization
26 for any winery with an endorsement approved under this subsection to
27 sell bottled wine at retail at the farmers market. This application
28 shall include, at a minimum: (i) A map of the farmers market showing
29 all booths, stalls, or other designated locations at which an approved
30 winery may sell bottled wine; and (ii) the name and contact information
31 for the on-site market managers who may be contacted by the board or
32 its designee to verify the locations at which bottled wine may be sold.
33 Before authorizing a qualifying farmers market to allow an approved
34 winery to sell bottled wine at retail at its farmers market location,
35 the board shall notify the persons or entities of such application for
36 authorization pursuant to RCW 66.24.010 (8) and (9). An authorization
37 granted under this subsection (5)(e) may be withdrawn by the board for
38 any violation of this title or any rules adopted under this title.

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

4 (g) For the purposes of this subsection:

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

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

12 (B) The total combined gross annual sales of vendors who are
13 farmers exceeds the total combined gross annual sales of vendors who
14 are processors or resellers;

15 (C) The total combined gross annual sales of vendors who are
16 farmers, processors, or resellers exceeds the total combined gross
17 annual sales of vendors who are not farmers, processors, or resellers;

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

20 (E) No vendor is a franchisee.

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

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

28 (iv) "Reseller" means a natural person who buys agricultural
29 products from a farmer and resells the products directly to the
30 consumer.

31 (6) Wine produced in Washington state by a domestic winery licensee
32 may be shipped out-of-state for the purpose of making it into sparkling
33 wine and then returned to such licensee for resale. Such wine shall be
34 deemed wine manufactured in the state of Washington for the purposes of
35 RCW 66.24.206, and shall not require a special license.

36 **Sec. 3.** RCW 66.24.244 and 2008 c 248 s 2 and 2008 c 41 s 9 are
37 each reenacted and amended to read as follows:

1 (1) There shall be a license for microbreweries; fee to be one
2 hundred dollars for production of less than sixty thousand barrels of
3 malt liquor, including strong beer, per year.

4 (2) Any microbrewery licensed under this section may also act as a
5 distributor and/or retailer for beer and strong beer of its own
6 production. Strong beer may not be sold at a farmers market or under
7 any endorsement which may authorize microbreweries to sell beer at
8 farmers markets. Any microbrewery operating as a distributor and/or
9 retailer under this subsection shall comply with the applicable laws
10 and rules relating to distributors and/or retailers, except that a
11 microbrewery operating as a distributor may maintain a warehouse off
12 the premises of the microbrewery for the distribution of beer provided
13 that (a) the warehouse has been approved by the board under RCW
14 66.24.010 and (b) the number of warehouses off the premises of the
15 microbrewery does not exceed one. A microbrewery holding a spirits,
16 beer, and wine restaurant license may sell beer of its own production
17 for off-premises consumption from its restaurant premises in kegs or in
18 a sanitary container brought to the premises by the purchaser or
19 furnished by the licensee and filled at the tap by the licensee at the
20 time of sale.

21 (3) The board may issue up to two retail licenses allowing a
22 microbrewery to operate an on or off-premise tavern, beer and/or wine
23 restaurant, or spirits, beer, and wine restaurant.

24 (4) A microbrewery that holds a tavern license, spirits, beer, and
25 wine restaurant license, or a beer and/or wine restaurant license shall
26 hold the same privileges and endorsements as permitted under RCW
27 66.24.320, 66.24.330, and 66.24.420.

28 (5)(a) A microbrewery licensed under this section may apply to the
29 board for an endorsement to sell bottled beer of its own production at
30 retail for off-premises consumption at a qualifying farmers market.
31 The annual fee for this endorsement is seventy-five dollars.

32 (b) For each month during which a microbrewery will sell beer at a
33 qualifying farmers market, the microbrewery must provide the board or
34 its designee a list of the dates, times, and locations at which bottled
35 beer may be offered for sale. This list must be received by the board
36 before the microbrewery may offer beer for sale at a qualifying farmers
37 market.

1 (c) The beer sold at qualifying farmers markets must be produced in
2 Washington.

3 (d) Each approved location in a qualifying farmers market is deemed
4 to be part of the microbrewery license for the purpose of this title.
5 Except as provided in section 1 of this act, the approved locations
6 under an endorsement granted under this subsection (5) do not
7 constitute the tasting or sampling privilege of a microbrewery. The
8 microbrewery may not store beer at a farmers market beyond the hours
9 that the microbrewery offers bottled beer for sale. The microbrewery
10 may not act as a distributor from a farmers market location.

11 (e) Before a microbrewery may sell bottled beer at a qualifying
12 farmers market, the farmers market must apply to the board for
13 authorization for any microbrewery with an endorsement approved under
14 this subsection (5) to sell bottled beer at retail at the farmers
15 market. This application shall include, at a minimum: (i) A map of
16 the farmers market showing all booths, stalls, or other designated
17 locations at which an approved microbrewery may sell bottled beer; and
18 (ii) the name and contact information for the on-site market managers
19 who may be contacted by the board or its designee to verify the
20 locations at which bottled beer may be sold. Before authorizing a
21 qualifying farmers market to allow an approved microbrewery to sell
22 bottled beer at retail at its farmers market location, the board shall
23 notify the persons or entities of the application for authorization
24 pursuant to RCW 66.24.010 (8) and (9). An authorization granted under
25 this subsection (5)(e) may be withdrawn by the board for any violation
26 of this title or any rules adopted under this title.

27 (f) The board may adopt rules establishing the application and
28 approval process under this section and any additional rules necessary
29 to implement this section.

30 (g) For the purposes of this subsection (5):

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

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

1 (B) The total combined gross annual sales of vendors who are
2 farmers exceeds the total combined gross annual sales of vendors who
3 are processors or resellers;

4 (C) The total combined gross annual sales of vendors who are
5 farmers, processors, or resellers exceeds the total combined gross
6 annual sales of vendors who are not farmers, processors, or resellers;

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

9 (E) No vendor is a franchisee.

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

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

17 (iv) "Reseller" means a natural person who buys agricultural
18 products from a farmer and resells the products directly to the
19 consumer.

20 (6) Any microbrewery licensed under this section may
21 contract-produce beer for another microbrewer. This contract-
22 production is not a sale for the purposes of RCW 66.28.170 and
23 66.28.180.

24 **Sec. 4.** RCW 66.28.040 and 2009 c 373 s 8 are each amended to read
25 as follows:

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

1 be purchased at retail from the board; nothing in this section shall
2 prevent the furnishing of samples of liquor to the board for the
3 purpose of negotiating the sale of liquor to the state liquor control
4 board; nothing in this section shall prevent a domestic brewery,
5 microbrewery, domestic winery, distillery, certificate of approval
6 holder, or distributor from furnishing beer, wine, or spirituous liquor
7 for instructional purposes under RCW 66.28.150; nothing in this section
8 shall prevent a domestic winery, certificate of approval holder, or
9 distributor from furnishing wine without charge, subject to the taxes
10 imposed by RCW 66.24.210, to a not-for-profit group organized and
11 operated solely for the purpose of enology or the study of viticulture
12 which has been in existence for at least six months and that uses wine
13 so furnished solely for such educational purposes or a domestic winery,
14 or an out-of-state certificate of approval holder, from furnishing wine
15 without charge or a domestic brewery, or an out-of-state certificate of
16 approval holder, from furnishing beer without charge, subject to the
17 taxes imposed by RCW 66.24.210 or 66.24.290, or a domestic distiller
18 licensed under RCW 66.24.140 or an accredited representative of a
19 distiller, manufacturer, importer, or distributor of spirituous liquor
20 licensed under RCW 66.24.310, from furnishing spirits without charge,
21 to a nonprofit charitable corporation or association exempt from
22 taxation under section 501(c)(3) or (6) of the internal revenue code of
23 1986 (26 U.S.C. Sec. 501(c)(3) or (6)) for use consistent with the
24 purpose or purposes entitling it to such exemption; nothing in this
25 section shall prevent a domestic brewery or microbrewery from serving
26 beer without charge, on the brewery premises; nothing in this section
27 shall prevent donations of wine for the purposes of RCW 66.12.180;
28 nothing in this section shall prevent a domestic winery from serving
29 wine without charge, on the winery premises; ~~((and))~~ nothing in this
30 section shall prevent a craft distillery from serving spirits without
31 charge, on the distillery premises subject to RCW 66.24.145; and
32 nothing in this section shall prevent a winery or microbrewery from
33 serving samples at a farmers market under section 1 of this act.

34 NEW SECTION. **Sec. 5.** This act expires December 1, 2012.

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