

CERTIFICATION OF ENROLLMENT

SUBSTITUTE HOUSE BILL 1172

62nd Legislature
2011 Regular Session

Passed by the House March 3, 2011
Yeas 77 Nays 21

Speaker of the House of Representatives

Passed by the Senate April 5, 2011
Yeas 37 Nays 12

President of the Senate

Approved

Governor of the State of Washington

CERTIFICATE

I, Barbara Baker, Chief Clerk of the House of Representatives of the State of Washington, do hereby certify that the attached is **SUBSTITUTE HOUSE BILL 1172** as passed by the House of Representatives and the Senate on the dates hereon set forth.

Chief Clerk

FILED

**Secretary of State
State of Washington**

SUBSTITUTE HOUSE BILL 1172

Passed Legislature - 2011 Regular Session

State of Washington

62nd Legislature

2011 Regular Session

By House State Government & Tribal Affairs (originally sponsored by Representatives Kenney, Hasegawa, Maxwell, Finn, Ryu, Reykdal, and Upthegrove)

READ FIRST TIME 02/07/11.

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

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

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

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

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

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

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

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

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

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

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

22 (d) Each approved location in a qualifying farmers market is deemed
23 to be part of the winery license for the purpose of this title. Except
24 as provided in section 1 of this act, the approved locations under an
25 endorsement granted under this subsection do not include the tasting or
26 sampling privilege of a winery. The winery may not store wine at a
27 farmers market beyond the hours that the winery offers bottled wine for
28 sale. The winery may not act as a distributor from a farmers market
29 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 66.24.244 and 2008 c 248 s 2 and 2008 c 41 s 9 are
5 each reenacted and amended to read as follows:

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

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

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

29 (4) A microbrewery that holds a tavern license, spirits, beer, and
30 wine restaurant license, or a beer and/or wine restaurant license shall
31 hold the same privileges and endorsements as permitted under RCW
32 66.24.320, 66.24.330, and 66.24.420.

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

1 (b) For each month during which a microbrewery will sell beer at a
2 qualifying farmers market, the microbrewery must provide the board or
3 its designee a list of the dates, times, and locations at which bottled
4 beer may be offered for sale. This list must be received by the board
5 before the microbrewery may offer beer for sale at a qualifying farmers
6 market.

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

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

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

33 (f) The board may adopt rules establishing the application and
34 approval process under this section and any additional rules necessary
35 to implement this section.

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

37 (i) "Qualifying farmers market" means an entity that sponsors a
38 regular assembly of vendors at a defined location for the purpose of

1 promoting the sale of agricultural products grown or produced in this
2 state directly to the consumer under conditions that meet the following
3 minimum requirements:

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

6 (B) The total combined gross annual sales of vendors who are
7 farmers exceeds the total combined gross annual sales of vendors who
8 are processors or resellers;

9 (C) The total combined gross annual sales of vendors who are
10 farmers, processors, or resellers exceeds the total combined gross
11 annual sales of vendors who are not farmers, processors, or resellers;

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

14 (E) No vendor is a franchisee.

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

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

22 (iv) "Reseller" means a natural person who buys agricultural
23 products from a farmer and resells the products directly to the
24 consumer.

25 (6) Any microbrewery licensed under this section may
26 contract-produce beer for another microbrewer. This contract-
27 production is not a sale for the purposes of RCW 66.28.170 and
28 66.28.180.

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

31 Except as permitted by the board under RCW 66.20.010, no domestic
32 brewery, microbrewery, distributor, distiller, domestic winery,
33 importer, rectifier, certificate of approval holder, or other
34 manufacturer of liquor shall, within the state of Washington, give to
35 any person any liquor; but nothing in this section nor in RCW 66.28.010
36 shall prevent a domestic brewery, microbrewery, distributor, domestic
37 winery, distiller, certificate of approval holder, or importer from

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

1 serving samples at a farmers market under section 1 of this act.

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

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